

FIRE AND RESCUE SERVICES ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Functions of Fire and Rescue Authorities

Core functions

19. Sections 6, 7, 8 and 9 establish the core duties of fire and rescue authorities.

Section 6: Fire safety

20. The Fire and Rescue Service already carries out a wide range of activities to promote community fire safety, with the aim of preventing deaths and injuries in the home and reducing the impact of fire on the community as a whole. This includes fire safety education (especially for vulnerable groups), smoke alarm installation, chip pan safety demonstrations and fire safety checks for householders and others. Many fire and rescue authorities also provide training programmes for young people and work with local businesses, agencies and partnerships (such as crime and disorder partnerships and local strategic partnerships). This work is currently carried out on a discretionary basis and the effect of section 6 is to impose a statutory duty.

Sections 7 and 8: Fires and road traffic accidents

21. Section 7 re-enacts the existing statutory duty for a fire and rescue authority to plan and provide arrangements for fighting fires and protecting life and property from fires within its area. A fire and rescue authority is required to secure the provision of sufficient personnel, services and equipment to deal with all normal circumstances, as well as adequate training. A fire and rescue authority must also put in place effective arrangements for receiving and responding to calls for help and for obtaining information which it needs to carry out its functions; the latter might include, for example, information about the nature and characteristics of buildings within the authority's area or availability of and access to water supplies.
22. Section 8 places a duty on fire and rescue authorities to make provision for rescuing persons from road traffic accidents and for dealing with the aftermath of such accidents. Historically, the risk of fire was the trigger for attendance at such an incident. While advances in vehicle design have seen the incidence of fire following an accident decrease, calls to assist with the rescue of people from wreckage and protect them from harm from spillage of hazardous substances have increased dramatically. A fire and rescue authority is required, therefore, to secure sufficient resources and training to deal with all normal circumstances. A fire and rescue authority must also put in place effective arrangements for receiving and responding to calls for help and for obtaining information to exercise its functions (for example, knowledge of local road and trunk road network).
23. Under sections 7 and 8 fire and rescue authorities must seek to mitigate the damage, or potential damage, to property in exercising their statutory functions. As a consequence,

the actions a fire and rescue authority must take in responding to an incident which could damage property should be proportionate to the incident and the risk to life.

Section 9: Emergencies

24. This section empowers the Secretary of State, by order following consultation, to place a duty on fire and rescue authorities to respond to particular types of emergency, as defined by order, such as flooding and terrorist incidents.
25. The Secretary of State can also, by order following consultation, direct fire and rescue authorities as to how they should plan, equip for and respond to such emergencies. This may include, for example, directions as to the deployments of mass decontamination equipment for civil resilience purposes. The intention is to ensure consistency of approach towards emergencies, particularly in response to terrorist incidents.
26. [Section 9](#) also allows the order to require an authority to respond to an emergency that has arisen outside its own area if, for example, it has more appropriate equipment and training than the authority in whose area the emergency has occurred.
27. The term “emergency” is defined in section 58.

Other functions

Section 10: Directions relating to particular fires and emergencies

28. This section enables the Secretary of State to direct a fire and rescue authority to respond to a particular fire or emergency incident in the event of an extreme or unusual event such as a terrorist attack or natural disaster, where there is no time to revise or make an order under section 9, or where a level of central co-ordination is required. Such a direction can require a fire and rescue authority to act outside as well as inside its own area. The Secretary of State can also direct an authority not to take any action in the event of such an emergency if, for example, another fire and rescue authority is better equipped to do so.

Sections 11 and 12: Power to respond to other eventualities; and other services

29. [Section 11](#) replaces section 3(1)(e) of the Fire Services Act 1947, and provides fire and rescue authorities with discretion to equip and respond to events beyond its core functions provided for elsewhere in the Act. A fire and rescue authority will be free to act where it believes there is a risk to life or the environment. This would allow, for example, a fire and rescue authority to engage in specialist activities such as rope rescue. A fire and rescue authority will be able to exercise the power in support of another fire and rescue authority - for example, under a reinforcement scheme (see sections 13 and 14).
30. [Section 12](#) provides a fire and rescue authority with the power to agree to the use of its equipment or personnel for any purpose it believes appropriate and wherever it so chooses. For example, a fire and rescue authority may agree to help pump out a pond as a service to its community.

Assistance in discharge of functions

Sections 13 and 14: Reinforcement schemes and directions as to reinforcement schemes

31. These sections re-enact the existing provisions of the Fire Services Act 1947 on reinforcement schemes and extend them to apply to road traffic accidents and other serious emergencies (as defined by order under section 9). Section 13 obliges fire and rescue authorities to group together, so far as practicable, to provide mutual assistance. If there are cases where fire and rescue authorities are unable to come to an agreement

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(c.21) which received Royal Assent on Thursday 22 July 2004*

about forming such a group, and one of the authorities concerned requests it, section 14 enables the Secretary of State to direct the fire and rescue authorities involved to make, vary or revoke such a scheme.

32. Before giving a direction, the Secretary of State must give all authorities concerned the opportunity to make representations to him and he may hold an inquiry.

Section 15: Arrangements with other employers of fire-fighters

33. This section extends existing powers in the Fire Services Act 1947 which allow fire and rescue authorities to enter into agreements with organisations that employ their own fire-fighters. For example, if fire-fighters are employed by an airport to respond to plane crashes, an agreement could be entered into so that the airport fire-fighters will respond to and assist with incidents within a certain range of the airport. Fire and rescue authorities could pay the airport for each call that their fire-fighters respond to. These arrangements can also apply to the non-fire emergencies covered by sections 8 and 9. The arrangements under this section cannot be between two fire and rescue authorities as this type of relationship would be covered by sections 13 and 14.

Discharge of functions by others

Sections 16 and 17: Arrangements for discharge of functions by others

34. **Section 16** extends existing powers in the Fire Services Act 1947 to provide fire and rescue authorities with the ability to enter into contractual arrangements with others (including other fire and rescue authorities) to provide services in the execution of their functions (covered by sections 6 to 9 and 11). An example would be an agreement where a fire and rescue authority contracts with a local education authority to promote fire safety within its schools. Another example would be where a fire and rescue authority specialises in rope rescue and a neighbouring authority contracts with it to provide some or all of its response to incidents requiring rope rescue.
35. However, a fire and rescue authority can only delegate its fire-fighting functions to another fire and rescue authority or others that employ fire-fighters. An example of such an agreement could be delegating to the licence-holder of a nuclear site, which employs its own fire service, the responsibility for preparing for, and dealing with, fires within the area of the site.
36. **Section 17** re-enacts provisions in the Fire Services Act 1947 that provide the Secretary of State with the ability to require fire and rescue authorities to enter into contractual arrangements under section 16 (or to vary or cancel any such arrangements). The Secretary of State can exercise the power on his own initiative or where one of the authorities has asked him to intervene, but the power must be exercised in the interests of economy, efficiency and effectiveness. Before issuing a direction the Secretary of State must give the fire and rescue authorities affected the opportunity to make representations to him and he may hold an inquiry.

Supplementary

Section 18: Training centres

37. This section re-enacts provisions in the Fire Services Act 1947 that allow a fire and rescue authority to set up and run training centres.

Section 19: Charging

38. **Section 19** allows the Secretary of State to set out by order, following consultation, the services for which a fire and rescue authority may charge and the persons who may be subject to the charge. Section 3(1)(e) of the Fire Services Act 1947 already provides fire and rescue authorities with a discretionary power to charge for certain functions.

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As with the existing legislation, fire and rescue authorities will not be able to charge for extinguishing fires or protecting life and property in the event of fires, except in respect of incidents at sea or under the sea. There is also a prohibition on charging for the provision of emergency medical assistance.

39. Subsection (4) allows any order made under subsection (1) to include a provision for charges to be imposed on, or recovered from, third parties. Subsection (5) maintains the existing arrangement that allows fire and rescue authorities to set their own level of charge, and to vary the charge depending on the type of service provided and the circumstances of a particular incident, or to choose not to charge at all. Subsection (6) limits the amount charged to the cost of providing the service.

Section 20: Exercise of powers at or under sea

40. The Maritime Coastguard Agency (MCA) has a general duty to manage the response of UK authorities to maritime incidents both in territorial waters and beyond. To support such response the MCA will enter into agreements with other service providers. Fire and rescue authorities may indicate to the MCA a willingness to provide a response to fires and other emergencies at sea and to provide fire crews equipped and trained to undertake such work.
41. **Section 20** will enable fire and rescue authorities to continue to provide a response to incidents at sea and under the sea.