

FIRE AND RESCUE SERVICES ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4: Employment

Negotiating bodies

Section 32 Negotiating bodies

57. **Section 32** provides the Secretary of State with reserve powers to establish negotiating machinery for the Fire and Rescue Service. The powers allow the Secretary of State to determine the number, composition and chair of the negotiating bodies following consultation.
58. Subsection (2) requires that a statutory body includes employers and employee representative bodies and an independent chairman. No member or employee of a fire and rescue authority, employee representative body, civil service or a Minister may serve as the chairman.
59. Should any negotiating body be set up under these powers, subsections (4) and (5) would prevent the body being undermined by negotiations being held in another forum. Subsections (5) to (8) however would allow the statutory body to make arrangements for certain conditions of service to be negotiated locally (either in their entirety or within nationally agreed parameters).

Section 33: Guidance

60. **Section 33** allows the Secretary of State to issue guidance to negotiating bodies. Any negotiating body, whether established voluntarily or under section 32, would be required to have regard to the guidance issued to them.

Pensions etc.

Section 34: Pensions etc.

61. This section re-enacts existing powers in section 26 of the Fire Services Act 1947. It will enable more than one pension scheme to operate at any one time. This section also allows a range of financial arrangements for funding these schemes.

Section 35: Information in connection with pensions etc.

62. This section re-enacts provisions in the Fire Services Act 1947 which enable the Secretary of State to prescribe the circumstances in which a fire and rescue authority or a Scottish fire authority may provide information to a person who has opted or transferred out of any pension scheme for fire-fighters. It also re-enacts the existing provisions about charging for administrative expenses.

Section 36: Preservation of existing pension scheme

63. Pension arrangements for fire-fighters are currently provided by the [Firemen's Pension Scheme Order 1992 \(S.I. 1992/129 as amended\)](#) made under section 26 of the Fire Services Act 1947. The purpose of section 36 is to ensure that the scheme can continue in operation despite the repeal of the 1947 Act and to enable the 1992 Order to be modified.

Supplementary

Section 37: Prohibition on employment of police

64. This section re-enacts section 32 of the Fire Services Act 1947 and provides that no member of a police force (i.e. a police constable) may be employed as a fire-fighter. If an off-duty police officer were employed by a fire and rescue authority, for example as a retained (part-time) fire-fighter, difficulties might arise at the scene of a fire or other emergency due to confusion over which employer had the primary claim on the officer's services.