



Fire and Rescue Services Act 2004

2004 CHAPTER 21

PART 1

FIRE AND RESCUE AUTHORITIES

[^{F1}Combined fire and rescue authorities]

Textual Amendments

- F1** S. 2 crossheading inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), [Sch. 1 para. 4](#); S.I. 2017/399, reg. 2, Sch. para. 38

2 Power to create combined fire and rescue authorities

- (1) The Secretary of State may by order make a scheme constituting a fire and rescue authority for the combined area of two or more existing fire and rescue authorities.
- (2) A scheme under this section may be made only if it appears to the Secretary of State that, in the interests of—
 - (a) economy, efficiency and effectiveness, or
 - (b) public safety,there should be a single fire and rescue authority for the combined area.
- (3) A scheme under this section may be made by the Secretary of State—
 - (a) to give effect to a draft scheme submitted to him by the existing authorities in question, or
 - (b) on his own initiative.
- (4) A scheme under this section made as mentioned in subsection (3)(a) may include any modifications to the draft scheme which seem appropriate to the Secretary of State after consulting the existing authorities in question.

Changes to legislation: There are currently no known outstanding effects for the Fire and Rescue Services Act 2004, Cross Heading: Combined fire and rescue authorities. (See end of Document for details)

- (5) Before making a scheme under this section as mentioned in subsection (3)(b) the Secretary of State must consult—
- (a) the existing authorities in question,
 - (b) any local authority all or part of whose area forms part of the combined area, and
 - (c) any other persons he considers appropriate.

- (6) The Secretary of State may by order vary or revoke a scheme under this section but before doing so must consult—
- (a) any fire and rescue authority which appears to him likely to be affected,
 - (b) any other authority which would, apart from the scheme, be a fire and rescue authority under section 1 and which appears to him likely to be affected,
 - (c) any local authority all or part of whose area forms part of the combined area or would, under the scheme as varied, form part of the combined area, and
 - (d) any other persons he considers appropriate.

[^{F2}(6A) The duty to consult under subsection (6) does not apply if—

- (a) the scheme constituted a fire and rescue authority for an area in England, and
- (b) the variation or revocation has been proposed by the fire and rescue authority.]

- (7) An order under subsection (6) varying or revoking a scheme may include provision for the transfer of staff, property, rights and liabilities from the combined fire and rescue authority to any other fire and rescue authority.

(8) The Secretary of State ^{F3} ...—

- (a) [^{F4}must cause an inquiry to be held] before making a scheme as mentioned in subsection (3)(b), ^{F5}...

[^{F6}(b) where a scheme constituted a fire and rescue authority for an area in England, must cause an inquiry to be held before varying or revoking the scheme under this section, or]

[^{F7}(c) where a scheme constituted a fire and rescue authority for an area in Wales, must cause an inquiry to be held before—

- (i) varying the scheme in a way which changes the combined area (and may cause an inquiry to be held before varying the scheme in any other way), or
- (ii) revoking the scheme.]

(9) The Secretary of State is not required to cause an inquiry to be held under subsection (8) (but may do so) if—

- (a) in a case within subsection (8)(a), the existing authorities in question agree to the making of the scheme,
- (b) in a case within subsection (8)(b) [^{F8}or (c)], the combined fire and rescue authority and any other authority which would, apart from the scheme, be a fire and rescue authority under section 1 and which would be affected by the variation or revocation, agree to the variation or revocation,
- (c) in [^{F9}any] case, it appears to the Secretary of State that the scheme, variation or revocation is to be made solely for the purpose of giving effect to an order under Part 4 of the Local Government Act 1972 (c. 70), ^{F10}[^{F11}... Part 1 of the Local Government and Public Involvement in Health Act 2007 [^{F12}or Part 3 of the Local Government (Democracy) (Wales) Act 2013, or to regulations under Part 7 of the Local Government and Elections (Wales) Act 2021]], or

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- (d) in ^{F13}any] case, the Secretary of State considers that, in the interests of public safety, the scheme should be made, varied or revoked without delay.
- (10) Subsection (11) applies if—
- (a) an order is made under Part 4 of the Local Government Act 1972 (c. 70), ^{F14}... ^{F15}Part 1 of the Local Government and Public Involvement in Health Act 2007 ^{F16}or Part 3 of the Local Government (Democracy) (Wales) Act 2013, or regulations are made under Part 7 of the Local Government and Elections (Wales) Act 2021,]] in relation to any area, but
- (b) the order, or any provision of the order, has not come into force.
- (11) If this subsection applies—
- (a) a scheme under this section may be made as if the order or provision referred to in subsection (10)(b) were in force, and
- (b) this section has effect in relation to any scheme so made, or proposed to be so made, as if the order or provision were in force;
- but a scheme so made may not come into force before the order or provision does.

Textual Amendments

- F2** S. 2(6A) inserted (26.5.2015) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(3)(l), **Sch. 22 para. 16(2)**
- F3** Words in s. 2(8) omitted (20.3.2021) by virtue of [Local Government and Elections \(Wales\) Act 2021 \(asc 1\)](#), **ss. 166(2)(a)(i)**, 175(3)(r)
- F4** Words in s. 2(8)(a) inserted (20.3.2021) by [Local Government and Elections \(Wales\) Act 2021 \(asc 1\)](#), **ss. 166(2)(a)(ii)**, 175(3)(r)
- F5** Word in s. 2(8)(a) omitted (20.3.2021) by virtue of [Local Government and Elections \(Wales\) Act 2021 \(asc 1\)](#), **ss. 166(2)(a)(iii)**, 175(3)(r)
- F6** S. 2(8)(b) substituted (20.3.2021) by [Local Government and Elections \(Wales\) Act 2021 \(asc 1\)](#), **ss. 166(2)(a)(iv)**, 175(3)(r)
- F7** S. 2(8)(c) inserted (20.3.2021) by [Local Government and Elections \(Wales\) Act 2021 \(asc 1\)](#), **ss. 166(2)(a)(v)**, 175(3)(r)
- F8** Words in s. 2(9)(b) inserted (20.3.2021) by [Local Government and Elections \(Wales\) Act 2021 \(asc 1\)](#), **ss. 166(2)(b)(i)**, 175(3)(r)
- F9** Word in s. 2(9)(c) substituted (20.3.2021) by [Local Government and Elections \(Wales\) Act 2021 \(asc 1\)](#), **ss. 166(2)(b)(ii)**, 175(3)(r)
- F10** Words in s. 2(9)(c) repealed (1.4.2010) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), ss. 146(3), 148(5), 148(5), **Sch. 7 Pt. 4**; S.I. 2009/3318, art. 4(ii)
- F11** Words in s. 2(9)(c) substituted (1.11.2007 for E.) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), **Sch. 1 para. 22(2)**; S.I. 2007/3136, art. 2(b)
- F12** Words in s. 2(9)(c) inserted (21.1.2021) by [Local Government and Elections \(Wales\) Act 2021 \(asc 1\)](#), **ss. 166(2)(b)(iii)**, 175(1)(i)
- F13** Word in s. 2(9)(d) substituted (20.3.2021) by [Local Government and Elections \(Wales\) Act 2021 \(asc 1\)](#), **ss. 166(2)(b)(iv)**, 175(3)(r)
- F14** Words in s. 2(10)(a) repealed (1.4.2010) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), ss. 146(3), 148(5), 148(5), **Sch. 7 Pt. 4**; S.I. 2009/3318, art. 4(ii)
- F15** Words in s. 2(10)(a) substituted (1.11.2007 for E.) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), **Sch. 1 para. 22(2)**; S.I. 2007/3136, art. 2(b)
- F16** Words in s. 2(10) inserted (21.1.2021) by [Local Government and Elections \(Wales\) Act 2021 \(asc 1\)](#), **ss. 166(2)(c)**, 175(1)(i)

Changes to legislation: There are currently no known outstanding effects for the Fire and Rescue Services Act 2004, Cross Heading: Combined fire and rescue authorities. (See end of Document for details)

Commencement Information

- I1** S. 2 in force at 7.9.2004 for specified purposes except in relation to W. and 1.10.2004 otherwise except in relation to W. by [S.I. 2004/2304](#), [art. 2](#) (with [art. 3](#))
- I2** S. 2 in force at 10.11.2004 for W. by [S.I. 2004/2917](#), [art. 2](#)

3 Creation of combined fire and rescue authorities: supplementary

- (1) A combined fire and rescue authority constituted under a scheme under section 2 must be constituted as a body corporate.
- (2) A scheme under section 2 may, subject to this section, make any supplementary and incidental provision which the Secretary of State considers appropriate.
- (3) In particular, a scheme under section 2 may make provision about—
 - (a) the composition of the combined authority (including provision for the appointment of members by the existing authorities [^{F17}or by the Secretary of State]^{F17}, by the Secretary of State or, in the case of a combined authority for an area which is wholly within England, by the combined authority);
 - (b) the proceedings of the combined authority (including different provision in respect of the voting rights of different categories of member);
 - (c) the financing of the combined authority (including provision for the payment of expenses out of a combined fire and rescue service fund maintained by the existing authorities);
 - (d) the discharge of the functions of the combined authority (including provision for the discharge of functions by committees);
 - (e) officers of the combined authority;
 - (f) the acquisition, appropriation and disposal of land by the combined authority (including provision for the acquisition of land by agreement or compulsorily);
 - (g) the transfer of staff, property, rights and liabilities to or from the combined authority;
 - (h) the payment of compensation in respect of loss suffered by any person in consequence of the constitution of the combined authority.
- (4) A scheme under section 2 may not make provision for the appointment by the Secretary of State of a number of members equal to, or exceeding, half the total number of members capable of being appointed.
- (5) If a scheme under section 2 provides for members of a combined authority to be appointed by the Secretary of State, it must also provide that any decision of the authority to—
 - (a) issue a precept under section 40 of the Local Government Finance Act 1992 (c. 14), or
 - (b) make the calculations required by section 43 of that Act,
 must be approved by more than half of the members of the authority not appointed by the Secretary of State.
- ^{F18}(6) The following provisions apply if a scheme under section 2 provides for members of a combined authority to be appointed by the authority.
- (7) The scheme must provide that a relevant police and crime commissioner may only be appointed as a member of the authority in response to a request by the commissioner.

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- (8) The scheme must provide that, if such a request is made to the authority, the authority must—
- (a) consider the request,
 - (b) give reasons for its decision to agree to or refuse the request, and
 - (c) publish those reasons in such manner as it thinks appropriate.
- (9) In this section “relevant police and crime commissioner”, in relation to a combined authority, means a police and crime commissioner—
- (a) whose area is the same as, or contains all of, the area of the authority, or
 - (b) all or part of whose area falls within the area of the authority.]

Textual Amendments

- F17** Words in s. 3(3)(a) substituted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), [ss. 7\(11\)](#), [183\(1\)](#), [\(5\)\(e\)](#); [S.I. 2017/399](#), [reg. 2](#), [Sch. para. 3](#)
- F18** S. 3(6)-(9) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), [ss. 7\(12\)](#), [183\(1\)](#), [\(5\)\(e\)](#); [S.I. 2017/399](#), [reg. 2](#), [Sch. para. 3](#)

Modifications etc. (not altering text)

- C1** S. 3(7)(9) excluded (8.5.2017) by [The Greater Manchester Combined Authority \(Transfer of Police and Crime Commissioner Functions to the Mayor\) Order 2017 \(S.I. 2017/470\)](#), [art. 1\(2\)](#), [Sch. 2 para. 20\(a\)](#)

Commencement Information

- I3** S. 3 in force at 7.9.2004 for specified purposes except in relation to W. and 1.10.2004 otherwise except in relation to W. by [S.I. 2004/2304](#), [art. 2](#) (with [art. 3](#))
- I4** S. 3 in force at 10.11.2004 for W. by [S.I. 2004/2917](#), [art. 2](#)

4 Combined authorities under the Fire Services Act 1947

- (1) This section applies to a scheme approved under section 5 of the Fire Services Act 1947 (c. 41) (voluntary schemes for combining fire authorities), or made under section 6 of that Act (combination schemes made by the Secretary of State), which is in force immediately before the repeal of those sections by this Act.
- (2) A scheme to which this section applies continues to have effect despite that repeal.
- (3) The combined authority constituted by a scheme to which this section applies is the fire and rescue authority for the area for which it is constituted.
- (4) The Secretary of State may by order vary or revoke a scheme to which this section applies.
- (5) Before making an order under subsection (4) in relation to a scheme the Secretary of State must consult—
- (a) any fire and rescue authority which appears to him likely to be affected,
 - (b) any other authority which would, apart from the scheme, be a fire and rescue authority under section 1 and which appears to him likely to be affected,
 - (c) any local authority all or part of whose area forms part of the combined area or would, under the scheme as varied, form part of the combined area, and

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(d) any other persons he considers appropriate.

[^{F19}(5A) The duty to consult under subsection (5) does not apply if—

- (a) the scheme constituted a fire and rescue authority for an area in England, and
- (b) the variation or revocation has been proposed by the fire and rescue authority.]

(6) Before making an order under subsection (4) varying or revoking a scheme the Secretary of State [^{F20}—

- (a) where the scheme constituted a fire and rescue authority for an area in England, must cause an inquiry to be held, and
- (b) where the scheme constituted a fire and rescue authority for an area in Wales, must cause an inquiry to be held if under the order—
 - (i) the scheme would be varied in a way which changes the combined area (and may cause an inquiry to be held if the scheme would be varied in any other way), or
 - (ii) the scheme would be revoked.]

(7) The Secretary of State is not required to cause an inquiry to be held under subsection (6) (but may do so) if—

- (a) the combined authority and any other authority which would, apart from the scheme, be a fire and rescue authority under section 1 and which would be affected by the variation or revocation, agree to the variation or revocation,
- (b) it appears to the Secretary of State that the scheme is to be varied or revoked solely for the purpose of giving effect to an order made under Part 4 of the Local Government Act 1972 (c. 70), ^{F21}[^{F22}... Part 1 of the Local Government and Public Involvement in Health Act 2007][^{F23}or Part 3 of the Local Government (Democracy) (Wales) Act 2013, or to regulations under Part 7 of the Local Government and Elections (Wales) Act 2021], or
- (c) the Secretary of State considers that, in the interests of public safety, the scheme should be varied or revoked without delay.

Textual Amendments

- F19** S. 4(5A) inserted (26.5.2015) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(3)(l), [Sch. 22 para. 16\(3\)](#)
- F20** S. 4(6)(a)(b) substituted for words in s. 4(6) (20.3.2021) by [Local Government and Elections \(Wales\) Act 2021 \(asc 1\)](#), [ss. 166\(3\)\(a\)](#), 175(3)(r)
- F21** Words in s. 4(7)(b) repealed (1.4.2010) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), [ss. 146\(3\)](#), 148(5), 148(5), [Sch. 7 Pt. 4](#); S.I. 2009/3318, art. 4(ii)
- F22** Words in s. 4(7)(b) substituted (1.11.2007 for E.) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), [Sch. 1 para. 22\(3\)](#); S.I. 2007/3136, art. 2(b)
- F23** Words in s. 4(7)(b) inserted (21.1.2021) by [Local Government and Elections \(Wales\) Act 2021 \(asc 1\)](#), [ss. 166\(3\)\(b\)](#), 175(1)(i)

Commencement Information

- I5** S. 4 in force at 7.9.2004 for specified purposes except in relation to W. and 1.10.2004 otherwise except in relation to W. by [S.I. 2004/2304](#), [art. 2](#) (with [art. 3](#))
- I6** S. 4 in force at 10.11.2004 for W. by [S.I. 2004/2917](#), [art. 2](#)

Changes to legislation:

There are currently no known outstanding effects for the Fire and Rescue Services Act 2004,
Cross Heading: Combined fire and rescue authorities.