

2006 No. 2790

FIRE AND RESCUE SERVICES, ENGLAND

**The Devon and Somerset Fire and Rescue Authority
(Combination Scheme) Order 2006**

Made - - - - - *16th October 2006*

Laid before Parliament *23rd October 2006*

Coming into force in accordance with Article 1

This Order is made in exercise of the powers conferred by sections 2 to 4 and 60 of the Fire and Rescue Services Act 2004(a).

It appears to the Secretary of State that, in the interests of economy, efficiency and effectiveness, there should be a single fire and rescue authority for the combined area of the Devon and Somerset fire and rescue authorities.

This Order is made to give effect to a draft scheme constituting a fire and rescue authority for that combined area which has been submitted to the Secretary of State by those authorities.

This Order also revokes the scheme made under the Devon Fire Services (Combination Scheme) Order 1997(b).

In accordance with section 4(5) of that Act, she has consulted with fire and rescue authorities, local authorities and other persons likely to be affected by the revocation of the scheme made under the 1997 Order.

Devon Fire Authority and its constituent authorities agree to the revocation of that scheme(c).

Accordingly, the Secretary of State makes the following Order:

Citation and commencement

1.—(1) This Order may be cited as the Devon and Somerset Fire and Rescue Authority (Combination Scheme) Order 2006 and shall come into force in accordance with paragraphs (2) and (3).

(2) This article and article 2 shall come into force on 20th November 2006.

(a) 2004 c. 21. The power of the Secretary of State under section 2 and 4 is, in relation to Wales, exercisable by the National Assembly for Wales by virtue of section 62.
(b) S.I. 1997/2698.
(c) See section 4(7). The Secretary of State is, accordingly, not required to cause an inquiry to be held.

(3) Article 3 shall come into force on 1st April 2007.

Combination Scheme

2. The scheme set out in the Schedule to this Order, which shall be known as the Devon and Somerset Fire and Rescue Authority Combination Scheme, shall have effect.

Revocation and transitional provision

3.—(1) The Devon Fire Services (Combination Scheme) Order 1997 is revoked.

(2) The Devon and Somerset Fire and Rescue Authority shall have power to do anything necessary for the purpose of winding-up the affairs of Devon Fire Authority.

(3) For the purpose mentioned in paragraph (2) any function which would have been exercisable by Devon Fire Authority on or after 1st April 2007 but for the revocation effected by paragraph (1) may be exercised by Devon and Somerset Fire and Rescue Authority.

Signed by authority of the Secretary of State for Communities and Local Government

Phil Woolas

Minister of State

16th October 2006

Department for Communities and Local Government

SCHEDULE

Article 2

THE DEVON AND SOMERSET FIRE AND RESCUE AUTHORITY COMBINATION SCHEME

PART 1

COMMENCEMENT AND INTERPRETATION

Commencement

1. This scheme shall come into force—

- (a) for the purposes of constituting an authority as the fire and rescue authority for the combined area constituted by the scheme, and the performance by that authority of any functions necessary for bringing the scheme into full operation on 1st April 2007, on the day on which article 2 of the Devon and Somerset Fire and Rescue Authority (Combination Scheme) Order 2006 comes into force, and
- (b) for all other purposes, on 1st April 2007.

Interpretation

2. In this scheme any reference to a paragraph or a part is a reference to a paragraph or a part of this scheme, and—

“the Authority” means the fire and rescue authority constituted for the combined area by virtue of paragraph 4;

“the combined area” means the area comprising the areas referred to in paragraph 3;

“constituent authority” means Devon County Council, Plymouth City Council and Torbay Borough Council and Somerset County Council(a).

PART 2 GENERAL

The combined area

3. The areas of the Devon Fire Authority and Somerset County Council become the combined area of the Authority.

The combined fire and rescue authority

4.—(1) There shall be constituted, for the purposes of discharging fire and rescue authority functions for the combined area, a body corporate to be known as the Devon and Somerset Fire and Rescue Authority.

(2) The Authority shall be constituted in accordance with the provisions of Part 3 of the Scheme.

(3) The Authority shall appoint a Chief Fire Officer.

Financial provisions etc.

5.—(1) The Authority shall appoint a Treasurer.

(2) The Authority shall have the power to pay compensation to persons employed by Somerset County Council and the Devon Fire Authority who in consequence of this scheme, or anything done under it, suffer direct pecuniary loss by reason of the determination of their appointments or diminution of their emoluments.

PART 3

COMPOSITION AND PROCEEDINGS OF THE COMBINED FIRE AND RESCUE AUTHORITY

6.—(1) Subject to sub-paragraph (2), the Authority shall consist of not more than 25 members.

(2) Where the minimum number of members of the Authority resulting from the operation of paragraph 7 would be greater than 25, the Authority shall consist of that number of members.

(3) Each member of the Authority shall be appointed by a constituent authority from its own members in accordance with this Part.

7. Each constituent authority shall, so far as it practicable, appoint such number of persons to be members of the Authority as is proportionate to the number of local government electors in its area in relation to the number of such electors in each of the other constituent authorities' areas.

8. A member of the Authority shall come into office on the date of his appointment and shall, subject to paragraphs 9 to 11, hold office for such period or periods as shall be determined by the constituent authority which appoints him.

9. A member of the Authority may resign his membership by giving notice in writing to that effect to the officer of the Authority whose function it is to receive such notice.

10.—(1) A member of the Authority who ceases to be a member of the constituent authority which appointed him shall cease to be a member of the Authority.

(a) Devon County Council, Plymouth City Council and Torbay Borough Council are the constituent authorities of the Devon Fire Authority.

(2) A person shall be disqualified from being a member of the Authority if he holds any paid office or employment (other than the office of chairperson or vice-chairperson), appointments to which are or may be made or confirmed by the Authority, by any committee or sub-committee of the Authority, or by a joint committee or board on which the Authority are represented.

11.—(1) Subject to sub-paragraphs (3) and (4), if a member of the Authority resigns, becomes disqualified or otherwise ceases to be a member of the Authority before the expiry of his period of office, the constituent authority which appointed him shall appoint a one of its members to replace him.

(2) A member so appointed shall—

- (a) come into office on the date of his appointment and,
- (b) unless he resigns, becomes disqualified or otherwise ceases to be a member of the Authority, hold office for the remainder of the period for which his predecessor would have held office had he not resigned, become disqualified or otherwise ceased to be a member of the Authority.

(3) If a member of the Authority resigns, becomes disqualified or otherwise ceases to be a member of the Authority within six months before the end of his period of office, the constituent authority which appointed him shall not be required to appoint a member to replace him for the remainder of such period unless sub-paragraph (4) applies.

(4) This sub-paragraph applies where, on the occurrence of the vacancy (or in the case of a number of simultaneous vacancies, the occurrence of the vacancies) the total number of unfilled vacancies in the membership of the Authority exceeds one third of the number of members of the Authority referred to in paragraph 6.

12.—(1) The Authority shall elect a chairperson, and may elect a vice-chairperson, from among its members.

(2) The chairperson or vice-chairperson, if elected, shall, subject to paragraphs 9 to 11, hold office for such period not exceeding one year as the Authority shall determine and shall remain in office until his successor becomes entitled to act as chairperson or vice-chairperson.

(3) Sub-paragraph (2) shall not prevent a person who holds or has held office as chairperson or vice-chairperson, as the case may be, from being elected or re-elected to either of those offices.

(4) On a casual vacancy occurring in the office of chairperson or vice-chairperson, the Authority shall elect from its members a person to replace the chairperson, and may so elect a person to replace the vice-chairperson, as the case may be.

(5) The election of a chairperson under sub-paragraph (4) shall take place not later than the next ordinary meeting of the Authority following the occurrence of the casual vacancy.

13. The first meeting of the Authority shall be held as soon as it is practicable to do so and shall be convened by the Secretary to the Devon Fire Authority, and subsequent meetings shall be convened in such a manner as the Authority shall determine.

14. At a meeting of the Authority the quorum shall be one third of the total number of members of the Authority, or such greater number of members as the Authority may determine.

15. Sections 82(1), 99, 101 to 104, 106, 120, 121, and 123 and Part 6 of Schedule 12 of the Local Government Act 1972(a) shall apply to the Authority and its members as if references in those provisions to a principal council or a local authority, other than references to a parish council, were references to the Authority.

(a) 1972 c. 70.

PART 4

OFFICERS AND EMPLOYEES OF THE AUTHORITY

16. There shall be transferred to employment by the Authority persons employed by Somerset County Council and Devon Fire Authority wholly or mainly for the purposes of discharging fire and rescue authority functions.

17. The Authority may appoint such other officers and employees as it considers necessary for the efficient discharge of its functions.

18. The Authority may make arrangements with any constituent authority for the use by the Authority of the services of officers and employees of the constituent authority and for the making of contracts and payments on behalf of the Authority by the constituent authority.

19. Sections 114, 115, 116, 117(1), (2) and (3), 118 and 119 of the Local Government Act 1972 shall apply to the officers and employees of the Authority as if references in those provisions to a local authority, other than references to a parish council, were references to the Authority.

PART 5

PROPERTY, RIGHTS AND LIABILITIES

Property etc held solely for fire and rescue authority purposes

20.—(1) There shall be transferred from Somerset County Council to the Authority any property which is held by them solely in connection with the discharge of fire and rescue authority functions, and rights and liabilities held or incurred by them in respect of that property.

(2) There shall be transferred from Somerset County Council to the Authority any rights and liabilities held or incurred by them solely in connection with the discharge of fire and rescue authority functions in respect of—

- (a) any contract of employment with a person transferred in accordance with paragraph 16;
- (b) any contract for the provision of services or the delivery of goods;
- (c) the Firefighters' Pension Scheme as set out in Schedule 2 to the Firemen's Pension Scheme Order 1992(a);
- (d) the Local Government Pension Scheme Regulations 1995(b);
- (e) the Local Government (Discretionary Payments) Regulations 1996(c);
- (f) the Local Government Pension Scheme Regulations 1997(d);
- (g) the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000(e);
- (h) the Firefighters Compensation Scheme (England) Order 2006(f).

21. There shall be transferred from the Devon Fire Authority to the Authority all property, rights and liabilities held or incurred by the Devon Fire Authority.

(a) S.I. 1992/129; amended by S.I. 1997/2309 and 2851, 1998/1010, 2001/3649 and 3691, 2004/1912 and 2006/1810.

(b) S.I. 1995/1019; amended by S.I. 1997/1613 and 1998/530.

(c) S.I. 1996/1680.

(d) S.I. 1997/1612; amended by S.I. 1999/3438.

(e) S.I. 2000/1410.

(f) S.I. 2006/1810.

Property held partly for fire and rescue authority purposes and partly for other functions

22. Subject to paragraph 23, Hestercombe House, in the parish of Cheddon Fitzpaine, in the County of Somerset, together with all land, rights and liabilities attached to Hestercombe House shall remain in the ownership of Somerset County Council.

23. The Somerset County Council and the Authority shall use their best endeavours within a period of six months from 1st April 2007 to make arrangements for the continued use of such part of Hestercombe House by the Authority as may be agreed between them whilst it is needed for the discharge of fire and rescue authority functions and for the payment of compensation to the Authority by the Council arising out of the Council's retention of Hestercombe House.

24. The Somerset County Council and the Authority shall within a period of six months from the 1st April 2007 use their best endeavours to—

- (a) identify any other property held by the Council partly for the discharge of fire and rescue functions and partly for other functions; and
- (b) make agreements which provide for the transfer to the Authority, or the retention by the Council, of any property so identified.

25. Where an agreement is made pursuant to paragraph 24 above for the transfer of any property to the Authority, the property shall on such date as shall be specified in the agreement for the purposes of this paragraph vest in that Authority.

Contracts

26. All contracts, deeds, bonds, agreements, licences and other instruments subsisting in favour of, or against, and all notices in force which were given or have effect as if given by or to, the Somerset County Council as fire and rescue authority and the Devon Fire Authority shall be in full force and effect in favour of, or against, the Authority.

27. All rights and liabilities of Somerset County Council arising out of agreements between the Council and VT Fire Training (Avonmouth) Limited dated 29th March 2001 and 4th March 2002 or any ancillary agreements entered into after that last date in respect of the Joint Training Centre in Avonmouth are transferred to the Authority.

Proceedings

28. Any action or proceeding, or any cause of action or proceeding, pending or existing as at 1st April 2007 by or against the Somerset County Council as fire and rescue authority and the Devon Fire Authority may be continued, prosecuted or enforced by or against the Authority.

Arbitration

29. Any question as to the interpretation or application of any provision in the Scheme which relates to the vesting of any property, rights and liabilities may be determined by a person agreed on by the parties concerned, or in default of their agreement, by a person appointed by the Secretary of State for this purpose and any matter which falls to be agreed under the Scheme which is not so agreed, shall be determined by such a person.

30. Any determination under paragraph 29 above may make provision for the transfer of any property, rights or liabilities to an authority specified in the determination.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes a scheme constituting the Devon and Somerset Fire and Rescue Authority for the combined the areas of Devon County Council, Plymouth City Council and Torbay Council (which formerly constituted the combined area of the Devon Fire Authority) and Somerset County Council.

The scheme comes into force on the same day as the Order comes into force for the purpose of doing anything necessary to bring the scheme fully into operation on 1st April 2007.

In relation to the combined authority the scheme makes provision for:

- the composition and proceedings of the combined authority;
- financial matters;
- the discharge of its functions;
- the appointment of officers such as Chief Fire Officer and Treasurer;
- the transfer of staff, property, rights and liabilities in connection with the discharge of fire and rescue authority functions from Devon Fire Authority and Somerset County Council; and
- the payment of compensation for loss suffered by any person in consequence of the constitution of the combined authority.

The Order provides for the revocation of the Devon Fire Services (Combination Scheme) Order 1997 and makes transitional provision.

A full regulatory impact assessment has not been produced for this Order, as it has no impact on the costs of business, charities or voluntary bodies.

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