

# **FIRE (SCOTLAND) ACT 2005**

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## **EXPLANATORY NOTES**

### **THE ACT – SECTION BY SECTION**

#### **Part 2 – Fire and Rescue Services**

##### ***Chapter 9 – Employment***

##### ***Section 49 – Statutory negotiation arrangements***

71. This section provides the Scottish Ministers with power to establish negotiating machinery in respect of the conditions of service under which employees of relevant authorities work. The power allows the Scottish Ministers to determine the number, composition and chair of such a negotiating body or bodies.
72. Subsection (2) requires that any such body include representatives of employers and employees (which may include trade unions (as defined in section 1 of the Trade Union and Labour Relations (Consolidation) Act 1992)) and an independent chair.
73. Subsections (5), (6) and (7) would allow the statutory body to make arrangements for some conditions of service to be negotiated locally either in their entirety or within nationally agreed parameters. Subsection (8) makes an agreement between a relevant authority and employees of a particular type a legally enforceable contract; but the agreement is only enforceable where it was made by means of the statutory negotiation body which contained representatives of employees of that type, or if made in accordance with the local negotiation arrangements described in section 49(5) to (7).

##### ***Section 50 – Guidance***

74. Any negotiating body, whether established voluntarily or under section 49, is required by this section to have regard to any guidance given by the Scottish Ministers in connection with the negotiation of conditions of service.

##### ***Section 51 – Prohibition on employment of police***

75. This section re-enacts section 32 of the 1947 Act and provides that a relevant authority may not employ a police constable as a fire-fighter. If an off-duty constable was employed by a relevant authority, for example as a fire-fighter on the retained duty system and available for response by pager call, difficulties may arise at the scene of a fire or other emergency due to confusion over which employer has the primary claim on the constable's services.