



# Fire and Rescue Services Act 2004

## 2004 CHAPTER 21

### PART 1

#### FIRE AND RESCUE AUTHORITIES

*[<sup>F1</sup>Combined fire and rescue authorities]*

#### **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.
- (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.

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(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.

[<sup>F1</sup>(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 <sup>F2</sup>...—

- (a) [<sup>F3</sup>must cause an inquiry to be held] before making a scheme as mentioned in subsection (3)(b), <sup>F4</sup>...

[<sup>F5</sup>(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]

[<sup>F6</sup>(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) [<sup>F7</sup>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 [<sup>F8</sup>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), <sup>F9</sup>[<sup>F10</sup>... Part 1 of the Local Government and Public Involvement in Health Act 2007 [<sup>F11</sup>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
- (d) in [<sup>F12</sup>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), <sup>F13</sup>[<sup>F14</sup>... Part 1 of the Local Government and Public Involvement in Health Act 2007 [<sup>F15</sup>or Part 3 of the Local Government (Democracy) (Wales) Act 2013,

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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

- F1** S. 2(6A) inserted (26.5.2015) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(3)(l), **Sch. 22 para. 16(2)**
- F2** 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)
- F3** 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)
- F4** 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)
- F5** 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)
- F6** 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)
- F7** 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)
- F8** 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)
- F9** 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)
- F10** 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)
- F11** 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)
- F12** 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)
- F13** 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)
- F14** 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)
- F15** 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)

### 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**

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Fire and Rescue Services Act 2004, Section 2.