



# Fire Services Act 1947

## 1947 CHAPTER 41

### *Fire Authorities.*

#### **4 County and county borough councils to be fire authorities.**

As from the appointed day the Fire Brigades Act, 1938, and any other enactment passed before the passing of this Act in so far as it confers on the council of a county district functions for fire-fighting purposes, shall cease to have effect, and the council of every county and county borough shall, subject to the provisions of this Act, be the fire authority for the area of the council:

Provided that nothing in this section shall affect any functions relating to fire prevention, restricting the spread of fires, or means of escape in case of fire, being functions conferred on a council otherwise than as an authority maintaining a fire brigade.

#### **5 Voluntary schemes for combination of fire authorities.**

- (1) If it appears to any two or more fire authorities that it is expedient that their areas should be combined for fire-fighting purposes, they may submit to the Secretary of State a scheme in that behalf (hereafter in this Act referred to as a " combination scheme ") and the Secretary of State may by order approve any combination scheme submitted to him.
- (2) Subject to the provisions of this Act, a combination scheme shall make provision with respect to the following matters, that is to say—
  - (a) the constitution of an authority as the fire authority for the combined area and the establishment of a fire brigade therefor, the transfer to that brigade of members of fire brigades maintained by the constituent authorities and the appointment as first chief officer of the brigade established by the scheme of such person as may be specified therein ;
  - (b) the payment of the expenses of the fire authority constituted by the scheme out of a combined fire service fund constituted in accordance with the provisions of the scheme;

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- (c) the payment into the combined fire service fund, out of the local funds of the constituent areas, of contributions assessed in accordance with the provisions of the scheme for meeting liabilities imposed on that fund by or under the scheme;
- (d) the transfer to the fire authority constituted by the scheme of such property, rights and liabilities of the constituent authorities (being property, rights and liabilities held or incurred in connection with the provision of fire services, as may be determined by or under the scheme, or the use by the fire authority constituted by the scheme of any such property) the appointment of officers of that fire authority (including a clerk to that authority and a treasurer of the combined fire service fund) and the transfer to that authority of such officers of the constituent authorities as may be determined by or under the scheme;
- (e) the payment, by such authority and subject to such provisions as may be provided by the scheme, of compensation to persons employed by any of the constituent authorities who in consequence of the scheme or anything done thereunder suffer direct pecuniary loss by reason of the determination of their appointments or the diminution of their emoluments ;
- (f) in the case of persons who, having immediately before the coming into operation of the scheme been chief officers of fire brigades maintained by any of the constituent authorities, do not on the coming into operation thereof become chief officer of the fire brigade established by the scheme, for the payment in lieu of compensation under the last foregoing paragraph of emoluments, and of pensions, gratuities or allowances, of such amounts, subject to such conditions, and by such authority as may be provided by the scheme,

and may provide for any other matters incidental to or consequential on the provisions of the scheme.

## **6 Power of Secretary of State to make combination schemes.**

- (1) Subject to the provisions of this section, if it appears to the Secretary of State that it is expedient in the interests of efficiency that a combination scheme should be made for the areas of any two or more fire authorities, and no scheme satisfactory to him has been submitted to him by the fire authorities for those areas under the last foregoing section, the Secretary of State may for that purpose by order make such, scheme as he considers expedient, and the provisions of subsection (2) of the last foregoing section shall apply in relation to any such scheme as they apply in relation to a scheme made under that section :

Provided that where the population of a county or county borough, as estimated by the Registrar General, is one hundred thousand or upwards, then except with the consent of the council of the county or borough no scheme shall be made by the Secretary of State under this section for the combination of the county or borough with any area or areas of a fire authority or authorities of which the population or aggregate population, as so estimated, exceeds that of the county or borough.

- (2) Where the Secretary of State proposes to make a scheme under this section, he shall give to the fire authorities concerned notice of the general nature of the proposed scheme; and unless those authorities give him notice that they assent thereto, he shall cause a public local inquiry to be held by a person appointed by him, not being an officer of a fire authority or of any Government department.

- (3) The Secretary of State shall lay before each House of Parliament a draft of any scheme proposed to be made by him under this section, and, where a local inquiry has been held under this section with respect thereto, shall lay together with the draft a copy of the report of the person by whom the inquiry was held; and if either House within the period of forty days beginning with the day on which the draft scheme is laid before it resolves that the scheme be not made, no further proceedings shall be taken thereon, but without prejudice to the laying before Parliament of a new draft scheme.

In reckoning any such period of forty days as aforesaid, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

## **7 Appointment of joint committees by fire authorities.**

- (1) A joint committee under section ninety-one of the Local Government Act, 1933, shall not be appointed for the purposes of this Act without the prior approval of the Secretary of State.
- (2) For the avoidance of doubt it is hereby declared that a combination scheme may be submitted and approved under section five of this Act or may be made under section six thereof notwithstanding that a joint committee under the said section ninety-one has been appointed for fire service purposes for all or some of the areas in respect of which the combination scheme is submitted or made.

## **8 Constitution and powers of fire authorities constituted by combination schemes.**

- (1) A fire authority constituted by a combination scheme shall consist of such representatives of each of the constituent areas as may be prescribed by the scheme, and every such authority shall be a body corporate by such name as may be prescribed by the scheme with a common seal and with power to hold land without licence in mortmain.
- (2) Provision may be made by a combination scheme for applying in relation to the constitution and proceedings of the fire authority thereby constituted, and in relation to the officers of that authority, any of the provisions of Parts II to IV of the Local Government Act, 1933 (which contain general provisions as to members, committees and officers of local authorities), subject to such modifications as may be prescribed by the scheme.
- (3) The Acquisition of Land (Authorisation Procedure) Act, 1946, and the provisions of the Local Government Act, 1933, with respect to the acquisition of land by agreement and the appropriation and disposal of land shall apply to fire authorities constituted by combination schemes as they apply to fire authorities being councils of counties or county boroughs, and accordingly references in the said Act of 1946 and the said provisions of the said Act of 1933 to local authorities shall include references to fire authorities constituted by combination schemes.
- (4) For the purposes of the discharge of their functions under a combination scheme, the fire authority constituted by the scheme shall have the powers of the council of a county or county borough in relation to the borrowing of money for fire service purposes, and the provisions of Part IX of the Local Government Act, 1933, and of any other enactment relating to the borrowing of money by local authorities shall apply

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accordingly, subject to such adaptations and modifications as may be prescribed by the scheme.

- (5) The accounts of every fire authority constituted by a combination scheme shall be subject to audit by a district auditor under Part X of the Local Government Act, 1933.
- (6) A fire authority constituted by a combination scheme may, if so authorised by the scheme, make arrangements with any constituent authority for the use by the fire authority of the services of officers and servants of the constituent authority and for the making of contracts and payments on behalf of the fire authority by the constituent authority.
- (7) The Local Government Superannuation Act, 1937, shall have effect as if a fire authority constituted by a combination scheme were included among the local authorities specified in Part I of the First Schedule to that Act, and in relation to contributory employees of such a fire authority the appropriate superannuation fund for the purposes of that Act shall be such fund as may be determined by or under the scheme.
- (8) For the purposes of section five of the Superannuation Act, 1935 (which makes provision for civil servants entering the service of a local authority and officers of a local authority becoming civil servants) a fire authority constituted by a combination scheme shall be deemed to be a local authority.

## **9 Amendment and revocation of combination schemes.**

- (1) A combination scheme approved or made under section five or section six of this Act may be amended or revoked by a subsequent scheme approved or made under those sections, and the foregoing provisions of this Act shall, so far as applicable, have effect in relation to any such amending or revoking scheme subject to any necessary modifications and to the following provisions of this section.
- (2) Without prejudice to the generality of the provisions of subsection (1) of this section, provision may be made by any such subsequent scheme—
  - (a) for the division of the combined area into any two or more areas for the purposes of this Act, being either counties or county boroughs or combined areas constituted by the subsequent scheme, or for the inclusion in the combined area of the area of any other fire authority;
  - (b) for the dissolution of any fire authority constituted by the original scheme, and the winding-up of any combined fire service fund established thereunder, or for the reconstitution of any such authority or fund;
  - (c) for the transfer or re-transfer to such fire brigades as may be determined by the subsequent scheme of members of the fire brigade established by the original scheme;
  - (d) for the transfer or re-transfer to such authorities as may be determined by the subsequent scheme of any officers, property, rights or liabilities of the fire authority constituted by the original scheme;
  - (e) for any other matters incidental to or consequential on the provisions of the subsequent scheme.
- (3) The authority or authorities by whom a scheme for the amendment or the revocation of a combination scheme or schemes may be submitted to the Secretary of State under subsection (1) of section five of this Act shall be the fire authority or authorities constituted by the scheme or schemes to be amended or revoked, together, in the case

of an amending scheme which provides for the inclusion in a combined area of the area of a fire authority other than one constituted by a combination scheme, with that fire authority; and references to fire authorities in subsection (1) of section five of this Act shall be construed accordingly.

- (4) The authorities to whom, under subsection (2) of section six of this Act, notice must be given by the Secretary of State of a scheme proposed to be made by him for the amendment or revocation of a combination scheme or schemes shall be the authority or authorities by whom a scheme for that purpose might have been submitted by virtue of the last foregoing subsection, and the council of any county and the council of any county borough comprised in the combined area constituted by the original scheme or schemes.

## **10 Power to make schemes in advance of alterations of local government areas.**

If an order is made under the Local Government (Boundary Commission) Act, 1945, constituting any area as a new county or county borough as from a date specified in the order, a combination scheme may be made under this Act with respect to that area before that date but so as to come into operation on or after that date; and in relation to such a scheme the provisions of this Act shall apply subject to any necessary modifications and as if for references to the fire authority there were substituted references to the fire authority for any county, county borough or combined area of which the whole or any part is to be comprised in the new county or county borough.

## **11 Adaptation of local Acts relating to fire services.**

- (1) Where, by any local Act in force with respect to an area of any local authority which ceases to be a separate authority for fire-fighting purposes by virtue of this Act or of a scheme thereunder, provision is made for conferring or imposing special powers or duties on persons employed for such purposes by that authority, the Secretary of State may by order adapt the local Act so far as appears to him to be necessary or expedient for the purpose of the exercise or performance of those powers or duties by persons so employed by the fire authority for the county comprising that area, or for the combined area, as the case may be:

Provided that nothing in this subsection or in any order made in accordance therewith shall be construed as extending the area within which or the matters in relation to which any such powers or duties as aforesaid are authorised or required by the local Act to be exercised or performed.

- (2) As from the appointed day any reference in any enactment passed before the passing of this Act and for the time being in force to a fire brigade (by whatever name described) maintained by an authority which is an authority for fire-fighting purposes by virtue of this Act shall be construed as a reference to the brigade maintained by the authority in pursuance of this Act.
- (3) Any order under subsection (1) of this section may be varied or revoked by a subsequent order thereunder made in the like manner and subject to the like provisions.

## **12 Discharge of functions of fire authorities through other fire authorities or persons.**

- (1) A fire authority may make arrangements with any other fire authority or other persons who maintain a fire brigade so as to secure, by the provision of services by the other fire

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authority or persons, the discharge of all or any of the first-mentioned fire authority's functions under, this Act in respect of all or any part of its area, and arrangements under this subsection may make provision with respect to the terms as to payments or otherwise on which the services in question are to be provided:

Provided that no arrangements shall take effect under this subsection unless submitted to and approved by the Secretary of State.

- (2) Where any fire authority have requested another fire authority to enter into arrangements under the last foregoing subsection, and the other fire authority are unwilling to do so, or the authorities cannot agree as to the extent of the services to be provided under such arrangements or the terms on which they are to be provided, the first-mentioned authority may request the Secretary of State to determine what arrangements, if any, should be made for the provision of services by the other fire authority.
- (3) Where in the case of any fire authority no arrangements approved by the Secretary of State under subsection (1) of this section are in force and it appears to the Secretary of State expedient with a view to securing greater efficiency or economy that it is for consideration whether such arrangements should be entered into with any other authority, he may give notice to the authorities accordingly.
- (4) Where a request is made to the Secretary of State under subsection (2) of this section, or notice is given by the Secretary of State under the last foregoing subsection, he shall afford an opportunity to the fire authorities concerned to make representations and, if he thinks fit or if any of those authorities request him so to do, shall cause a public local inquiry to be held.
- (5) If the Secretary of State is satisfied, after considering any representations made under the last foregoing subsection and, if an inquiry is held, the report of the person by whom the inquiry was held, that it is expedient with a view to securing greater efficiency or economy that arrangements should be made for the provision of services as mentioned in subsection (1) of this section, he may direct that the fire authorities shall enter into such arrangements as may be specified in the direction.