
STATUTORY INSTRUMENTS

1997 No. 2698

FIRE SERVICES

The Devon Fire Services (Combination Scheme) Order 1997

Made - - - - *8th November 1997*

Coming into force - - *9th November 1997*

Whereas 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 the fire authorities referred to in paragraph 3 of the scheme set out in the Schedule hereto (“the scheme”), and a scheme has not been submitted to him by those authorities;

And whereas notice of the general nature of the scheme has been given in accordance with section 6(2) of the Fire Services Act 1947(1) (“the 1947 Act”);

And whereas the Secretary of State has been notified by the fire authorities concerned of their assent to the scheme;

And whereas a draft of the Order containing the draft scheme has been laid before Parliament for a period of forty days pursuant to section 6 of the Statutory Instruments Act 1946(2), and that period has expired without either House resolving that the Order be not made;

Now, therefore, in exercise of the powers conferred upon him by sections 6, 8 and 10 of the 1947 Act, and section 7(2) of the Fire Services Act 1959(3), the Secretary of State hereby makes the following Order:

Citation

1. This Order may be cited as the Devon Fire Services (Combination Scheme) Order 1997 and shall come into force on the day after the day on which it is made.

Combination Scheme

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

(1) 1947 c. 41. Sections 6 and 10 of the 1947 Act were amended respectively by paragraphs 1 and 2 of Schedule 3 to the Local Government Act 1992 (c. 19). For the purposes of making the scheme set out in the Schedule to this Order, sections 5(2) and 10 of the 1947 Act have effect as indicated in article 4 of the Devon (City of Plymouth and Borough of Torbay) (Structural Change) Order 1996 (S.I. 1996/1865).

(2) 1946 c. 36.

(3) 1959 c. 44.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

8th November 1997

George Howarth
Parliamentary Under-Secretary of State, Home
Office

SCHEDULE

THE DEVON FIRE SERVICES COMBINATION SCHEME

PART I

CITATION, COMMENCEMENT AND INTERPRETATION

Citation and commencement

1. This scheme may be cited as the Devon Fire Services Combination Scheme and shall come into force—

- (a) for the purposes of constituting an authority as the fire 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 1998, on the day on which the Devon Fire Services (Combination Scheme) Order 1997⁽⁴⁾ comes into force, and
- (b) for all other purposes, on 1st April 1998.

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 authority constituted for the combined area by virtue of paragraph 4;
- “the combined area” means the fire authority area comprising the areas referred to in paragraph 3;
- “the combined fire service fund” means the combined fire service fund established by virtue of paragraph 6;
- “constituent authority” means a council referred to in paragraph 3; and
- “the fire brigade” means, unless otherwise indicated, the fire brigade established for the combined area by virtue of paragraph 5.

PART II

GENERAL

The combined area

3. The areas of the following councils, namely the councils of the city of Plymouth and borough of Torbay and Devon County Council shall be combined and shall become the combined area.

Combined Fire Authority

4.—(1) There shall be constituted as the fire authority for the combined area an authority to be known as the Devon Fire Authority.

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

(4) [S.I. 1997/2698](#).

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Fire brigade for combined area

5.—(1) There shall be established a fire brigade for the combined area which shall be known as the Devon Fire and Rescue Service, or by such other name as the Authority may determine.

(2) The first chief officer of the fire brigade shall be A. R. Currie Esq.

(3) The Authority shall submit an establishment scheme for their area to the Secretary of State in accordance with section 7 of the Fire Services Act 1959⁽⁵⁾.

Financial provisions etc.

6.—(1) The expenses of the Authority shall be paid out of a combined fire service fund constituted and administered in accordance with the provisions of Part IV.

(2) Contributions shall be paid into the combined fire service fund by constituent authorities in accordance with the said provisions.

7. The Authority shall appoint a treasurer of the combined fire service fund.

Officers and employees

8. The provisions of Part V shall have effect with respect to officers and employees of the Authority.

9. The Authority may appoint such other officers and employees as they think necessary for the efficient discharge of their functions.

10. 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.

PART III

CONSTITUTION OF COMBINED FIRE AUTHORITY

11.—(1) The Authority shall consist of not more than 25 members save that, where the minimum number of members of the Authority resulting from the operation of paragraph 12 would be greater than 25, the Authority shall consist of that number of members.

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

12. Each constituent authority shall, so far as is practicable, appoint such number of representatives 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.

13. A member of the Authority shall come into office on the date of his appointment and shall, subject to paragraphs 14 to 16, hold office for such period or periods as shall be determined by the constituent authority which appoints him.

14. 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.

(5) 1959 c. 44.

15.—(1) A member of the Authority who ceases to be a member of the council which appointed him shall cease to be a member of the 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 chairman or vice-chairman), 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.

16.—(1) Subject to sub-paragraph (2), 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 council which appointed him shall appoint a representative to replace him, who shall come into office on the date of his appointment and, unless he resigns, becomes disqualified or otherwise ceases to be a member of the Authority, shall 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.

(2) 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 council which appointed him shall not be required to appoint a representative to replace him for the remainder of such period unless, 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 11.

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

(2) The chairman and the vice-chairman, if elected, shall, subject to paragraphs 13 to 16, hold office for such period not exceeding one year as the Authority shall determine.

(3) Sub-paragraph (2) shall not prevent a person who holds or has held office as chairman or vice-chairman, 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 chairman or vice-chairman, the Authority shall elect from its members a person to replace the chairman, and may so elect a person to replace the vice-chairman, as the case may be.

(5) The election to replace the chairman under sub-paragraph (4) shall take place not later than the next following ordinary meeting of the Authority.

18. The first meeting of the Authority shall be held as soon as it is practicable to do so and shall be convened by the chief fire officer, and subsequent meetings shall be convened in such a manner as the Authority shall determine.

19. 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, including at least one representative from each constituent authority.

20.—(1) The following provisions of the Local Government Act 1972⁽⁶⁾, namely sections 82(1), 94 to 98, 101 to 106, 99 and Part VI of Schedule 12 shall, subject to sub-paragraph (2), apply to the Authority and its members as if references in those provisions to a principal council or to a local authority, other than references to a parish council, were references to the Authority.

(2) Section 101(6) of the Local Government Act 1972 shall have effect, by virtue of sub-paragraph (1), as if for the words “levying, or issuing a precept for, a rate” there were substituted the words “assessing or varying the contributions to be paid into the combined fire service fund by the constituent authorities”.

(6) 1972 c. 70.

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PART IV

COMBINED FIRE SERVICE FUND

21.—(1) Each constituent authority shall, in respect of each financial year, pay into the combined fire service fund, in accordance with the provisions of this paragraph, a contribution equal to its appropriate proportion of the net expenses of the Authority in respect of that year.

(2) The Authority shall, before 31st December in any year, submit to each constituent authority an estimate of its net expenses for the next financial year, and shall subsequently, before 15th February, give notice to each constituent authority of the amount of the contribution to be paid by that authority under this paragraph in the next financial year.

(3) Subject to sub-paragraphs (4) and (5), each constituent authority shall, at such intervals as are agreed between it and the Authority, make an interim payment into the combined fire service fund of such an amount as is so agreed on account of the said contribution.

(4) Subject to sub-paragraph (5), if a constituent authority and the Authority fail to agree, or subsequently disagree, as to the intervals at which payments should be made under sub-paragraph (3) or as to the amounts of such payments, each payment shall, until the end of the financial year or subsequent agreement between the two authorities, whichever is sooner—

(a) be made on the first working day of each month, and

(b) be of such an amount as would, if added to payments of an equal amount made on the first working day of each remaining month of the financial year, equal the outstanding balance of the contribution to be paid by the constituent authority under this paragraph.

(5) Notwithstanding the provisions of sub-paragraphs (3) and (4) any payments made under those sub-paragraphs shall be made at such times, and shall be of such amounts, as are at all times sufficient to enable the financial obligations of the Authority to be met.

(6) The Authority may, after consultation with each constituent authority, revise the estimate referred to in sub-paragraph (2) at any time before the end of the financial year to which that estimate relates and shall, as soon as is practicable, give notice in writing to each constituent authority of the revised amount of the contribution to be paid by that authority under this paragraph.

(7) Where a constituent authority receives notice under sub-paragraph (6) the interim payments payable thereafter under sub-paragraph (3) or (4) shall, subject to sub-paragraph (5), be so increased or reduced as to adjust to the difference.

(8) If the Authority makes arrangements with any constituent authority under paragraph 10 for the making of payments on behalf of the Authority by that constituent authority, the interim payments to be made by that constituent authority under this paragraph shall, subject to sub-paragraph (5), take into account payments made by that constituent authority on behalf of the Authority.

(9) For the purposes of this paragraph the net expenses of the Authority, in respect of any financial year, shall be the amount of its expenditure in respect of that year less all income which is credited to the combined fire service fund in respect of that year, other than contributions paid or payable under sub-paragraph (1), but may, for the purposes of preparing the estimate referred to in sub-paragraph (2) and if the Authority so resolve, include such amount or amounts as the Authority consider appropriate with a view to minimising any upward revision of an estimate under sub-paragraph (6).

(10) In this paragraph—

“appropriate proportion” means the proportion of the total amount of the constituent authorities' council tax base which is represented by the council tax base of the constituent authority in question;

“council tax base” means the council tax base for the year calculated by the Secretary of State for the Environment for Revenue Support Grant purposes in accordance with the local government finance report for that year made under section 78A of the Local Government Finance Act 1988(7);

“financial year” means the period of twelve months beginning on 1st April; and

“working day” means a day other than a Saturday or a Sunday, Good Friday, Christmas Day or a day which is, or is to be observed as, a bank holiday, or a holiday under the Banking and Financial Dealings Act 1971(8) in England and Wales.

22. The Authority shall have the power to pay out of the combined fire service fund compensation to persons employed by Devon County Council who in consequence of this scheme, or anything done thereunder, suffer direct pecuniary loss by reason of the determination of their appointments or the diminution of their emoluments.

PART V

OFFICERS AND EMPLOYEES OF THE AUTHORITY

23. There shall be transferred—

- (a) to the fire brigade members of the fire brigade maintained by Devon County Council, and
- (b) to employment by the Authority persons employed by that council wholly or mainly for the purposes of the fire brigade maintained by that council.

24. The following provisions of the Local Government Act 1972, namely sections 114, 115, 116, 117(1), (2) and (3), 118 and 119, 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 VI

PROPERTY, RIGHTS AND LIABILITIES

25. There shall be transferred from Devon County Council to the Authority any property which is held by that council solely in connection with the provision of fire services, and rights and liabilities held or incurred by that council in respect of—

- (a) any contract of employment with a person transferred in accordance with paragraph 23;
- (b) the Firemen’s Pension Scheme as set out in Schedule 2 to the Firemen’s Pension Scheme Order 1992(9); and
- (c) any contract for the provision of services or the delivery of goods solely in connection with the provision of fire services.

(7) 1988 c. 41. Section 78A was inserted by the Local Government Finance Act 1992 (c. 14), section 104 and Schedule 10, paragraph 10.

(8) 1971 c. 80.

(9) S.I. 1992/129.

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EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes a scheme which combines the areas of the councils of the city of Plymouth and borough of Torbay (which would otherwise become individual fire authorities on 1st April 1998 by virtue of the Local Government Act 1992) and the Devon County Council into a combined fire area. The scheme comes into force on the same day as the Order comes into force for the purpose of doing anything which is necessary to bring the scheme fully into operation on 1st April 1998. The scheme establishes a fire authority for the combined area, to be known as the Devon Fire Authority, and provides for the appointment and terms of office of its members, and for meetings of the Authority. The scheme establishes a fire brigade for the combined area, to be known as the Devon Fire and Rescue Service or by such other name as the Authority determines, appoints its first chief officer, and provides for the submission of an establishment scheme to the Secretary of State. The scheme establishes a combined fire service fund and provides for the administration of the Authority's finances. The scheme also provides for the transfer of staff, and certain property, rights and liabilities, directly from the Devon County Council (the fire authority for the same area as the combined area prior to 1st April 1998) to the new combined authority.