

EXPLANATORY MEMORANDUM TO
THE DEVON AND SOMERSET FIRE AND RESCUE AUTHORITY
(COMBINATION SCHEME) ORDER 2006

2006 No. 2790

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This Order combines the area of Somerset Fire and Rescue Authority with that of Devon Fire and Rescue Authority to create the Devon and Somerset Fire and Rescue Authority. It also revokes the Devon Fire Services (Combination Scheme) Order 1997 (the 1997 Order).

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 Section 2 of the Fire and Rescue Services Act 2004 (the 2004 Act) enables the Secretary of State, by order, to make a scheme combining two or more fire and rescue authorities. Devon and Somerset fire and rescue authorities submitted a draft scheme to the Secretary of State and she has determined that it is in the interests of economy, efficiency and effectiveness (in accordance with section 2(2) of the 2004 Act) to make the scheme. Supplementary scheme-making powers are contained in section 3 of the 2004 Act.

4.2 Section 4 of the 2004 Act provides a saving for combination schemes made under section 5 of the Fire Services Act 1947 (the 1947 Act) (repealed by the 2004 Act) and enables the Secretary of State to revoke a scheme, but before doing so she must consult any fire and rescue authority likely to be affected and any local authorities in the combined area or any other person she considers appropriate (details of the consultation are provided under the policy background heading). She may also cause an inquiry to be held. Devon Fire Authority was constituted as a combined authority by a scheme made under section 5 of the 1947 Act. That scheme is repealed by this Order. Transitional provision is made so that any residual functions which might have been exercised by Devon Fire Authority after repeal of the 1997 Order comes into effect (such as signing off the final accounts of the authority) can be exercised by Devon and Somerset Fire and Rescue Authority.

4.3 This is the first time that the powers under sections 2 to 4 of the 2004 Act have been used. Section 2 re-enacts with modifications section 5 of the 1947 Act. A number of combination schemes were made under section 5 of the 1947 Act.

5. Extent

5.1 This instrument applies to England.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 In June 2006 Devon and Somerset fire and rescue authorities (FRAs) submitted a business case to the Department of Communities and Local Government (DCLG) which contained a proposal for a voluntary combination of the two Authorities.

7.2 The FRAs had completed an options appraisal. The three options for the future which were considered were to:

- Maintain the status quo;
- Increase collaboration; and
- Full Combination.

7.3 Each option was assessed on the following three factors:

- Strategic impact;
- Operational impact; and
- Financial impact.

7.4 This business case concluded that the best option for both FRAs was to pursue full combination. The reasons given for this were that:

- the combination would deliver greater economy and efficiency for council tax payers; and
- It would facilitate enhanced operational effectiveness.

7.5 The business case also concluded that the combination would have no significant impact on grant funding for other FRAs or on next years council tax bills - and will provide efficiency savings thereafter; and that there is clear political will to take this merger forward in both Devon and Somerset FRAs.

7.6 As part of its consideration of this business case, DCLG consulted all relevant parties in accordance with section 4(5) the 2004 Act on the revocation of the 1997 Order.

7.7 The consultation clearly set out the implications of the revocation of the 1997 Order throughout the consultation document and the implications of the consequent combination. There is no statutory requirement to consult on the creation of a new combined authority where a scheme is submitted to the Secretary of State by the authorities in question on a voluntary basis.

7.8 The consultation did however, ask for any views on the possible implications of the combination. In particular:

- Any operational/ public safety implications;
- The financial implications;
- The strategic implications; and
- The governance arrangements proposed.

7.9 In total 15 organisations and individuals responded to the consultation. These included other FRAs, local Members of Parliament, unions and representative Organisations and local district, county and borough councils.

7.10 The representations received during the consultation were overwhelmingly supportive of the case for the combination and did not offer any evidence which would challenge the conclusion that combination would provide a more economic, efficient and effective fire and rescue service for the communities concerned.

7.11 The key points made in response to the consultation were that the combination:

- Would increase the resources available for the FRA to carry out prevention and protection work;
- That the expected efficiency savings would benefit council tax payers and enable the delivery of a best value service;
- That the governance arrangements follow the model for stand alone FRAs; and the constitutional arrangements appear appropriate;
- The support by elected members for the combination is beneficial; and
- Support for the positive for the positive assurances that have been made on the impact of combination on frontline jobs and fire stations.

7.12 As a result of considering the business case and the responses received to the consultation the Secretary of State approved the proposals for the creation of a new combined Devon and Somerset Fire and Rescue Authority on the basis that it will improve the economy, efficiency and effectiveness of the public services for the communities of Devon and Somerset.

7.13 Further to subsections (6) and (7) of section 4 of the 2004 Act the Secretary of State decided not to hold an inquiry because Devon Fire Authority and its constituent authorities agreed to the revocation of the 1997 Order.

7.14 Paragraph 1(a) of the Scheme (as it appears in the Schedule to the Order) provides that the scheme is to come into force on the same day as the Order comes into force to enable anything to be done which is necessary to bring the scheme fully into operation on 1st April 2007. In effect, this constitutes the Authority to prepare the groundwork for when it fully comes into operation. Some of this groundwork will be necessary in order to set the precept for the Authority (and comply with other local government finance requirements) for the 2007/8 financial year and to ensure that requirements set down in the Fire and Rescue National Framework can be met from 1st April 2007. In particular, for example, this will enable it to:

- undertake a public consultation on the likely level of precept to be issued;
- undertake a public consultation on the Integrated Risk Management Action Plan; and

- make senior appointments within the Authority to lead on the preparation work.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The combination of Devon and Somerset FRAs will establish a single combined FRA for the area covering the councils of Torbay, the City of Plymouth, Devon County Council and Somerset County Council with appropriate political representation. This authority will have 25 members and will include representation from Devon and Somerset's county councils and Torbay and Plymouth unitary authorities. The combined FRA will have budget responsibility and be funded through precept and government grant in accordance with the Local Government Finance Act 1992. Council tax will be levied in both Devon and Somerset for the purpose of funding the combined FRA. The combined authority will discharge in the combined area the statutory functions set out in the 2004 Act.

9. Contact

9.1 Paul Quinn at the Department for Communities and Local Government Tel: 0207 944 5658 or e-mail: paul.quinn@communities.gsi.gov.uk can answer any queries regarding the instrument.