

EXPLANATORY MEMORANDUM TO
THE FIRE AND RESCUE SERVICES (ENGLAND) (AMENDMENT) ORDER 2007

2007 No. 2784

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

This instrument amends the Fire and Rescue Services (England) Order (S.I. 2004/2307: “the Order”) which used the power in Section 19(1) of the Fire and Rescue Services Act 2004 to make provision for fire and rescue authorities to charge up to full cost recovery for specified services.

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

None

4. Legislative Background

Section 19 of the Fire and Rescue Services Act 2004 provides that the Secretary of State may, by order, authorise fire and rescue authorities to charge a person of a specified description for any action of a specified description taken by the authority. Article 2 of, and the Schedule to, the Fire and Rescue Services (England) Order 2004 (S.I. 2004/2304) specifies the actions for which a fire and rescue authority may make a charge and specifies the persons who may be subject to the charge. By virtue of section 19(6), charges may only be made on a cost recovery basis.

5. Extent and application

This instrument extends to England and Wales, but applies to fire and rescue authorities in England only.

6. European Convention of Human Rights

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

7. Policy Background

7.1. Fire and Rescue Authorities (FRAs) had a power under section 3(1)(e) of the Fire Services Act 1947 to charge for the provision of services other than fire-fighting services. The 1947 Act was repealed by the Fire and Rescue Services Act 2004 (the 2004 Act).

7.2. Section 19 of the 2004 Act re-enacts the power to charge but prohibits any charge being made for extinguishing fires, protecting life and property in the event of a fire and providing emergency medical assistance.

- 7.3. The Fire and Rescue Services (England) Order 2004 (S.I. 2004/2305) came into effect on 1st October 2004. It provides for actions taken by a FRA which may give rise to a charge, and the person who may be charged for each such action. It does not, however, lay down a scale of charges nor lay down the circumstances in which an authority should charge or not charge for a particular service. These aspects are still for each FRA to decide.
- 7.4. In 2003 the Select Committee on the Office of the Deputy Prime Minister: Housing, Planning, Local Government and the Regions in their Third Report recommended that more research should be conducted on the potential for FRAs to charge for their activities. Ministers made a commitment to consult in relation to charging for any extension including road traffic collisions and repeat false alarms. Subsequent stakeholder correspondence also raised the issue of whether charging for attending dangerous sports incidents could also be included as a category.
- 7.5. A limited consultation on the possible extension to the Order was sent to over 130 stakeholders including all English Fire & Rescue Authorities, other emergency services, certain charities and lobby groups, businesses and suppliers of fire and rescue equipment. The consultation was distributed by e-mail and made available on the Department's web site. This consultation closed on 19 January 2007.
- 7.6. 31 responses were received with 29 answering the questions posed in the consultation. 15 of the respondents believed that the charging order should be extended since it could give greater flexibility for funding new initiatives and reduce the burden on the tax payer. 14 respondents believed that charging should not be extended since it could deter people from using the service, the impact on the cost of insurance was not known and the administration for collecting the costs could be more than the charge.
- 7.7. However the consultation did highlight the urgent need to consider a new category to allow Fire & Rescue Authorities to charge for the provision of back office function to the newly formed local authority controlled companies that are being created to manage the Regional Control Centres
- 7.8. A second consultation was published on 28 February 2007 to ask about adding this specific category. This was sent to the original stakeholders and anyone who had responded to the first consultation. It closed on the 30 May 2007.
- 7.9. 31 responses were received from Fire & Rescue Authorities and Regional Management Boards. The other stakeholders did not respond as this category did not impact on them. 29 were in favour of the proposed action and 30 were in favour of the person being charged. The reasoning for the support was that without an addition to the charging order Fire & Rescue Authorities would be unable to undertake the same service provision to the Regional Control Centres as they did internally for their control rooms.

8. Impact

A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on the costs of business, voluntary bodies or public authorities.

9. Contact

Anna Wadsworth at the Department of Communities and Local Government (Tel: 020 7944 5672 or e-mail: anna.wadsworth@communities.gsi.gov.uk) can answer any queries regarding this Statutory Instrument.