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STATUTORY INSTRUMENTS

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**2017 No. 1165**

**FIRE AND RESCUE SERVICES, ENGLAND**

**The Fire and Rescue Authority (Membership) Order 2017**

*Made* - - - - *28th November 2017*

*Laid before Parliament* *1st December 2017*

*Coming into force in accordance with article 1*

The Secretary of State makes the following Order in exercise of the powers conferred by section 29(2) of the Local Government Act 1985(1) and sections 2(6) and 4(4) of the Fire and Rescue Services Act 2004(2).

In accordance with section 29(3) of the Local Government Act 1985 the Secretary of State has had regard to the number of local government electors in the areas of the constituent councils appointing members to the West Midlands Fire and Rescue Authority and in accordance with section 29(4) of that Act, the Secretary of State has consulted with those constituent councils.

The variation to the Hampshire Fire Services Combination Scheme has been proposed by the Hampshire Fire and Rescue Authority(3).

The variation to the Dorset and Wiltshire Fire and Rescue Authority Combination Scheme has been proposed by the Dorset and Wiltshire Fire and Rescue Authority(4).

**Citation and commencement**

- 1.—(1) This Order may be cited as the Fire and Rescue Authority (Membership) Order 2017.
- (2) This article and article 3 come into force on 22nd December 2017.
- (3) Article 2 comes into force on 25th June 2018.
- (4) Article 4 comes into force on 6th June 2018.

**Amendment to the Local Government Act 1985**

- 2.—(1) The Local Government Act 1985 is amended as follows.

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- (1) 1985 c. 51; there have been amendments to section 29 but none is relevant.
  - (2) 2004 c. 21.
  - (3) In accordance with section 4(5A) of the Fire and Rescue Services Act 2004 inserted by paragraphs 16(1) and (3) of Schedule 22 to the Deregulation Act 2015 (c. 20), the duty on the Secretary of State in section 4(5) of the 2004 Act in relation to consultation does not apply.
  - (4) In accordance with section 2(6A) of the Fire and Rescue Services Act 2004 inserted by paragraphs 16(1) and (2) of Schedule 22 to the Deregulation Act 2015 (c. 20), the duty on the Secretary of State in section 2(6) of the 2004 Act in relation to consultation does not apply.

(2) In Schedule 10 (number of members of joint authorities), in Part 6 (West Midlands), in the third column of the Table (number of members of metropolitan county fire and rescue authority)(<sup>5</sup>)—

- (a) in the entry for Birmingham for “10” substitute “4”;
- (b) in the entry for Coventry for “3” substitute “2”;
- (c) in the entry for Dudley for “3” substitute “2”;
- (d) in the entry for Sandwell for “3” substitute “2”;
- (e) in the entry for Solihull for “2” substitute “1”;
- (f) in the entry for Walsall for “3” substitute “2”;
- (g) in the entry for Wolverhampton for “3” substitute “2”.

### **Variation of the Hampshire Fire Services Combination Scheme**

3. The Hampshire Fire Services Combination Scheme set out in the Schedule to the Hampshire Fire Services (Combination Scheme) Order 1996(<sup>6</sup>) is varied in accordance with Schedule 1 to this Order.

### **Variation of the Dorset and Wiltshire Fire and Rescue Authority Combination Scheme**

4. The Dorset and Wiltshire Fire and Rescue Authority Combination Scheme set out in the Schedule to the Dorset and Wiltshire Fire and Rescue Authority (Combination Scheme) Order 2015(<sup>7</sup>) is varied in accordance with Schedule 2 to this Order.

28th November 2017

*Nick Hurd*  
Minister of State  
Home Office

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(5) Paragraph 10 of Part 1 of Schedule 2 to the Civil Contingencies Act 2004 (c. 36) provides that a reference to “metropolitan fire and civil defence authority” is treated as a reference to a “metropolitan county fire and rescue authority”.

(6) S.I. 1996/2923; amended by Part 2 of Schedule 8 of the Local Government Act 2003 (c. 26).

(7) S.I. 2015/435.

SCHEDULE 1

Article 3

1. In this Schedule “the Scheme” means the Hampshire Fire Services Combination Scheme set out in the Schedule to the Hampshire Fire Services (Combination Scheme) Order 1996.

**Variation of Part 1 of the Scheme**

2. In paragraph 2 (interpretation)—

(a) after the definition of “constituent authority” omit “and”, and

(b) after the definition of “the fire brigade” insert—

“;and

“relevant police and crime commissioner means” a police and crime commissioner—

(a) whose area is the same as, or contains all of, the area of the Authority, or

(b) all or part of whose area falls within the area of the Authority.” .

**Variation of Part 3 of the Scheme**

3. For paragraph 11 substitute—

“11.—(1) The number of members of the Authority shall be determined by the Authority but shall not exceed 25.

(2) Each member of the Authority shall be appointed in accordance with this Part.”.

4. For paragraph 12 substitute—

“12.—(1) Each constituent authority shall appoint such number of representatives as determined by the Authority to be members of the Authority.

(2) In determining the number of representatives to be appointed by each constituent authority the Authority shall, so far as is practicable, ensure that the number of representatives of each constituent authority is proportionate to the number of local government electors in their area in relation to the number of such electors in the areas of each of the other constituent authorities.”.

5. After paragraph 12 insert—

“12A. Subject to paragraphs 12B and 12C, the Authority may appoint a relevant police and crime commissioner to be a member of the Authority.

12B. A relevant police and crime commissioner may only be appointed as a member of the Authority in response to a request by the commissioner.

12C. If a relevant police and crime commissioner makes such a request the Authority must—

(a) consider the request,

(b) give reasons for its decision to agree to or refuse the request, and

(c) publish those reasons in such a manner as it thinks appropriate.

12D. Paragraph 12E applies where the Authority appoints a relevant police and crime commissioner to be a member of the Authority and the police and crime commissioner

*Status: This is the original version (as it was originally made).*

makes arrangements under section 18 of the Police Reform and Social Responsibility Act 2011<sup>(8)</sup> to delegate their attendance at a meeting of the Authority.

**12E.** A person who attends a meeting of the Authority on behalf of a relevant police and crime commissioner—

- (a) may speak at the meeting but not vote, and
- (b) is not to be treated as a member of the Authority for any purpose.”.

**6.** In paragraph 13 after “the Authority” insert “appointed by a constituent authority”.

**7.** After paragraph 13 insert—

“**13A.** A relevant police and crime commissioner appointed under paragraph 12A shall, subject to paragraphs 14 and 15(2), be a member of the Authority until—

- (a) a vacancy in the office of the police and crime commissioner is regarded as occurring for the purposes of section 59 of the Police Reform and Social Responsibility Act 2011, or
- (b) if there is no vacancy in the office before then, the day on which their term of office as a police and crime commissioner ends in accordance with section 50(7)(b) of that Act.”.

**8.** In paragraph 16—

- (a) after “a member of the Authority”, the first time it appears, insert “appointed by a constituent authority”; and
- (b) for sub-paragraph (2) substitute—

“(2) If a member of the Authority appointed by a constituent authority resigns, becomes disqualified or otherwise ceases to be a member of the Authority within six months before the end of his term of office, the council which appointed him shall not be required to appoint a representative to replace him for the remainder of such term unless—

- (a) 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; or
- (b) without such an appointment no meeting of the Authority would be quorate as a result of the quorum requirements required by paragraph 19.”.

**9.** In paragraph 19—

- (a) for “one third” substitute “one half”; and
- (b) for “each constituent authority” substitute “any two of the constituent authorities.”.

## SCHEDULE 2

Article 4

**1.** In this Schedule “the Scheme” means the Dorset and Wiltshire Fire and Rescue Authority Combination Scheme set out in the Schedule to the Dorset and Wiltshire Fire and Rescue Authority (Combination Scheme) Order 2015.

<sup>(8)</sup> 2011 c. 13; section 18 was amended by paragraphs 52 and 53 of Schedule 7 to the Localism Act 2011 (c. 20) and paragraphs 115 and 116 of Schedule 12 to, the Local Audit and Accountability Act 2014 (c. 2).

### **Variation of Part 3 of the Scheme**

**2.** In paragraph 6(1) for “30 members” substitute—

“18 members save that, where the minimum number of members of the Authority resulting from the operation of paragraph 7 would be greater than 18, the Authority shall consist of that number of members”.

**3.** For paragraph 7 substitute—

“7.—(1) Each constituent authority shall appoint 2 representatives to be members of the Authority.

(2) Each constituent authority shall, so far as is practicable, appoint such additional number of representatives to be members of the Authority as may be required to ensure that the total number of representatives 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.”.

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### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order makes amendments in relation to the membership of the West Midlands Fire and Rescue Authority, the Hampshire Fire and Rescue Authority and the Dorset and Wiltshire Fire and Rescue Authority.

Article 2 amends Schedule 10 to the Local Government Act 1985 to reduce the number of members to be appointed to the West Midlands Fire and Rescue Authority by each of its constituent councils.

Article 3 and Schedule 1 amend the Hampshire Fire Services Combination Scheme set out in the Schedule to the Hampshire Fire Services (Combination Scheme) Order 1996 in particular to make provision enabling the Hampshire Fire and Rescue Authority to appoint a police and crime commissioner whose police area wholly or partly coincides with the area of the Authority, as a member of the Authority. This reflects the provision made in section 7 of the Policing and Crime Act 2017 (c. 3) enabling police and crime commissioners to be represented on all types of fire and rescue authority.

Article 4 and Schedule 2 amend the Dorset and Wiltshire Fire and Rescue Authority (Combination Scheme) Order 2015 to reduce the maximum number of members of that Authority from 30 to 18.

An impact assessment has not been produced for this instrument as no significant impact on the private, voluntary or public sectors is foreseen.