

Criminal Justice Committee

16th Meeting, 2022 (Session 6), Wednesday, 18 May 2022

Subordinate legislation

Note by the clerk

Purpose of the paper

1. This paper invites the Committee to consider the following negative instrument:
 - [The Scottish Fire and Rescue Service \(Framework\) Order 2022](#) (SSI 2022/119) [see page 3];
2. If the Committee agrees to report to the Parliament on the instrument, it is required to do so by **23 May 2022**.

Delegated Powers and Law Reform Committee Consideration

3. The Delegated Powers and Law Reform Committee considered the instrument at its meeting on 19 April 2022.
4. **The DPLR Committee agreed that it did not need to draw the instrument to the attention of the Parliament on any grounds within its remit.**

Procedure for negative instruments

5. Negative instruments are instruments that are “subject to annulment” by resolution of the Parliament for a period of 40 days after they are laid. This means they become law unless they are annulled by the Parliament. The annulment process would require a motion to be agreed in the Chamber.
6. All negative instruments are considered by the Delegated Powers and Law Reform Committee (on various technical grounds) and by the relevant lead committee (on policy grounds).

7. Under Rule 10.4, any member (whether or not a member of the lead committee) may, within the 40-day period, lodge a motion for consideration by the lead committee recommending annulment of the instrument.
8. If the motion is agreed to by the lead committee, the Parliamentary Bureau must then lodge a motion to annul the instrument to be considered by the Parliament as a whole. If that motion is also agreed to, the Scottish Ministers must revoke the instrument.
9. If the Parliament resolves to annul an SSI then what has been done under authority of the instrument remains valid but it can have no further legal effect. Following a resolution to annul an SSI the Scottish Ministers (or other responsible authority) must revoke the SSI (make another SSI which removes the original SSI from the statute book.) Ministers are not prevented from making another instrument in the same terms and seeking to persuade the Parliament that the second instrument should not be annulled.
10. Each negative instrument appears on the Criminal Justice Committee's agenda at the first opportunity after the Delegated Powers and Law Reform Committee has reported on it. This means that, if questions are asked or concerns raised, consideration of the instrument can usually be continued to a later meeting to allow the Committee to gather more information or to invite a Minister to give evidence on the instrument. Members should however note that, for scheduling reasons, it is not *always* possible to continue an instrument to the following week. For this reason, if any Member has significant concerns about a negative instrument, they are encouraged to make this known to the clerks in advance of the meeting.
11. In many cases, the Committee may be content simply to note the instrument and agree to make no recommendations on it.

Guidance on subordinate legislation

12. Further guidance on subordinate legislation is available on the Delegated Powers and Law Reform Committee's web page at:

<https://www.parliament.scot/chamber-and-committees/committees/current-and-previous-committees/session-6-delegated-powers-and-law-reform-committee>

13. **The Committee is invited to consider the instrument.**

**Clerks to the Criminal Justice Committee
May 2022**

Policy Note

The Scottish Fire And Rescue Service (Framework) Order 2022

SSI 2022/119

1. The above instrument was made in exercise of the powers contained in section 40(4) of the Fire (Scotland) Act 2005 (“the 2005 Act”). The instrument is subject to negative resolution procedure. The instrument extends only to Scotland.

Purpose of the Instrument

2. The 2005 Act was amended by the Police and Fire Reform (Scotland) Act 2012 (“the 2012 Act”), which established a single Scottish Fire and Rescue Service (“the SFRS”) to replace the existing fire and rescue authorities and joint fire and rescue boards. The 2012 Act further amended the 2005 Act to require that a framework document be prepared in relation to the new Service. The purpose of this Order is to bring into effect the Fire and Rescue Framework for Scotland 2022 (“the framework document”) on 26 May 2022. The Scottish Ministers have prepared the framework document under section 40(1) of the 2005 Act.

Policy Objectives

3. The framework document sets out priorities and objectives for SFRS in connection with the carrying out of its statutory functions. It also contains such guidance, and other matters relating to SFRS and its functions, as the Scottish Ministers consider appropriate. It replaces the Fire and Rescue Framework for Scotland 2016.

4. Section 41(1) of the 2005 Act requires SFRS to have regard to the framework document in carrying out its functions. Section 41A(4) requires SFRS to have regard to the framework document when preparing its strategic plan.

5. The framework document was published in March 2022 and is available on the Scottish Government’s website: <https://www.gov.scot/ISBN/9781804351024>

6. Article 3 of the Order revokes the Scottish Fire and Rescue Service (Framework) Order 2016 (S.S.I. 2016/249), which brought the Fire and Rescue Framework for Scotland 2016 into effect.

Consultation

7. The framework document was subject to full public consultation from 29 September 2021 to 22 December 2021. This involved all statutory consultees listed

in section 40 of the 2005 Act. The Scottish Government received 48 responses to the consultation which were broadly supportive and constructive. A full list of those consulted and who agreed to the release of this information is attached to the consultation analysis report published on the Scottish Government website at <https://www.gov.scot/publications/fire-rescue-framework-scotland-2022-consultation-analysis-report/>. It includes:

- Fire Brigades Union
- Audit Scotland
- Fire and Rescue Services Association
- Scottish Fire and Rescue Service

8. The framework document sets out Scottish Ministers' expectations of SFRS and asks the Service to explore new ways of working to allow it to contribute an even greater role in the protection of Scotland's communities.

Impact Assessments

9. A [partial Business and Regulatory Impact Assessment](#), an [Equality Impact Assessment](#), a [Child Rights and Wellbeing Assessment](#) and a [Fairer Scotland Duty Assessment](#) have been prepared in support of the framework document. Copies may be obtained online at www.gov.scot.

10. SFRS will be responsible for assessing the impact of its Strategic Plan which will provide the detail of how it intends to deliver on the priorities and objectives set out in the framework document.

Financial Effects

11. A partial Business and Regulatory Impact Assessment ("BRIA") has been completed and accompanied the framework document during the consultation. The impact of the policy on business is negligible.

Scottish Government
Safer Communities Directorate
March 2022