

## **REGULATORY APPRAISAL**

### **FIRE AND RESCUE SERVICES, WALES**

#### **THE FIRE AND RESCUE SERVICES (CHARGING) (WALES) ORDER 2006**

##### **Purpose and intended effect of the measure**

1. This Order specifies the services for which Fire and Rescue Authorities (FRAs) can charge and specifies the persons who may be charged for those services. The Fire and Rescue Services Act 2004 received Royal Assent on 22 July 2004, and most of the provision was commenced in Wales on 10 November 2004. Section 19 of the Fire and Rescue Services Act 2004 enables the National Assembly, by Order, to specify the services for which FRAs can charge and to specify the persons who may be charged for those services. These services include the hiring out or provision of equipment, vehicles, premises or employees of a fire and rescue authority, the inspection, testing, maintenance and repair of equipment and vehicles, including the re-charging of compressed air cylinders and breathing apparatus, the containment and clearance of debris, spillages, discharges or leaks from a vehicle, storage tank or pipe, the provision or removal of water, the effecting of entry to, or egress from, premises, the rescuing of persons from lift cabins (the FRAs may charge the owner or operator of the lift), the provision of training, the giving of advice to persons in relation to premises where a trade, business or other undertaking is carried on (such as the prevention of fires, restricting spread and means of escape from the premises. Under Section 6 of the Fire and Rescue Services Act 2004, however, each FRA must make provision for providing fire safety in their area and must give advice only, following a request) and the extinguishing of fires at sea or under the sea, or protecting life and property in the event of such fires. The people being charged for these services would include the owners of vehicles, buildings, and equipment who may request any of the services listed above. Other organisations (such as fire consultants) exist and can provide training, advice and guidance for a fee. It is the responsibility of the individual or company paying for these services to ensure a proper service. (The full list of the Schedule of Charges are contained at Article 2 of the Statutory Instrument). This Order will be made under those powers and it is intended that the Order will clarify the circumstances in which FRAs can charge for their services.

##### **Risk Assessment**

2. Since the repeal of the Fire Services Act 1947 (the 1947 Act), FRAs have utilised the power to charge provided by section 93 of the Local Government Act 2003. That power is more restrictive than the 1947 Act power that FRAs previously relied upon. This Order effectively replicates the power previously provided by the 1947 Act. If the Order is not made, FRAs will continue to be restricted in their use of the charging power.

## **Options**

### Option 1: Do Nothing

3. To do nothing will mean that FRAs will continue to be restricted in their use of their charging power because of the reliance upon the Local Government Act 2003. The Order opens the way for additional services and persons to be added in the future as needs dictate. If the Order was not made, the current regime could not evolve in this way.

### Option 2: Make the Legislation

4. Legislation in Wales is required under section 19 of the Fire and Rescue Service Act 2004 to clarify and specify the services for which Fire and Rescue Authorities (FRAs) can charge and specify the persons who may be charged for those services. It is intended that the proposed Order will provide FRAs with similar charging powers to those they previously exercised under the 1947 Act.

## **Benefits**

5. This Order benefits the FRAs as it clarifies the services for which FRAs can charge and specify the persons who may be charged for those services. The power provided for in the Order is also less restrictive than the power FRAs currently exercise under the 2003 Act.

## **Costs**

6. There are no financial implications on FRA's, as the Order enables them to recover costs in relation to non-statutory intervention. There are though financial implications to those organisations seeking to avail themselves of a special service provided by an FRA. This would be on a cost recovery basis.
7. There are no financial implications for the Assembly as result of this Order.

## **Consultation**

### With Stakeholders

8. The consultation document was sent to the FRAs, Chief Executives of Local Authorities (LAs), Heads of Community Fire Safety, the Fire Brigades Union (FBU), the Welsh Local Government Association (WLGA), the Retained Firefighters Union (RFU), the Fire Industry Confederation, the Association of Chief Police Officers, the Royal National Lifeboat Institution (RNLI) and a number of relevant organisations. This took place between 31 October 2005 and 31 December 2005. List of consultees are attached at Annex A.
9. Seven responses were received from the three Fire and Rescue Authorities, Rhondda Cynon Taf County Council, Blaenau Gwent County Borough Council, the RNLI and the Fire Industry Confederation. The consultees were generally supportive of the legislation and no changes to the Order were required. The replies to the consultation are attached at Annex B.

### With Subject Committee

10. This Order was first notified as the Fire and Rescue Services (Charging) (Wales) Order 2005 to the Social Justice and Regeneration Committee on 6 July 2005 (SJR 11-05) (p5) (Annex 1) via the list of forthcoming legislation. The title of the Order was subsequently changed to Fire and Rescue Services (Charging and Emergencies) (Wales) Order 2005 to reflect plans, at that time, to combine the charging and emergency elements in the one Order. However, there were problems with the 'emergency' element and it has been decided to separate the two elements into two separate Orders. The consultation raised a number of issues regarding emergencies, which require further consideration, including the issue of new burdens. The Social Justice and Regeneration Committee did not identify this Order for detailed scrutiny. In England, it has been decided not to introduce the Emergencies Order until April 2007, to coincide with the final rollout of New Dimension equipment in part to answer problems over new burdens. It is also proposed to introduce separate Charging and Emergencies Orders in Wales.

### **Review**

11. There is no intention to review the services in the Order in the short term. Any proposals to introduce additional or new chargeable services will be subject to full consultation as and when they arise.

### **Summary**

12. This Order specifies the services for which Fire and Rescue Authorities (FRAs) can charge and specify the persons who may charge for those services. There are no financial implications on the FRA's, the Order enables them to recover costs in relation to non-statutory intervention. There are financial implications to those organisations seeking to avail themselves of a special service provided by an FRA. This would be on a cost recovery basis.

**Charging and Emergencies Distribution List**

Chief Fire Officers  
Fire Service Chairs  
Chief Executives of LAs  
Heads of Community Fire Safety  
Federation of Small Businesses in Wales  
Wales Audit Office  
CBI Cymru Wales, Confederation of British Industry  
Environment Agency Wales  
Welsh Local Government Association  
Association of British Insurers  
FBU  
Retained Firefighters Union  
Rospa Wales  
Fire Industry Confederation  
Institution of Fire Engineers  
Health and Safety Executive  
Fire Service College  
Public Health Protection Division  
Chief Executive of Transport Wales  
Office of the Deputy Prime minister  
Scottish Executive  
The Department of Health, Social Services and Public Safety  
Mountain Rescue Council  
Maritime and Coastguard Agency  
Association of Train Operating Companies  
Ministry of Defence  
Civil Aviation Authority  
Rail Accident Integration Branch  
Royal National Lifeboat Institution  
Association of Chief Police Officers  
Association of Principle Fire Officers