POLICE AND FIRE SERVICES (FINANCE) (SCOTLAND) BILL

EXPLANATORY NOTES

(AND OTHER ACCOMPANYING DOCUMENTS)

CONTENTS

1. As required under Rule 9.3 of the Parliament’s Standing Orders, the following documents are published to accompany the Police and Fire Services (Finance) (Scotland) Bill introduced in the Scottish Parliament on 31 May 2001:

   • Explanatory Notes;
   
   • a Financial Memorandum;
   
   • an Executive Statement on Legislative Competence; and
   
   • the Presiding Officer’s Statement on Legislative Competence.

A Policy Memorandum, also prepared by the Scottish Executive, is published separately as SP Bill 29–PM.
EXPLANATORY NOTES

INTRODUCTION

2. These Explanatory Notes have been prepared by the Scottish Executive in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.

3. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section or schedule, or a part of a section or schedule, does not seem to require any explanation or comment, none is given.

THE BILL

Section 1

4. Section 1 of the Bill deals with the carry-forward of unspent police funds by joint police boards. There are currently six joint police boards in Scotland: Central Scotland Joint Police Board, Grampian Joint Police Board, Lothian and Borders Police Board, Northern Joint Police Board, Strathclyde Joint Police Board and Tayside Joint Police Board, the boards being established for each of the six combined police areas. The combined police areas were amalgamated in 1996 by order made under section 21B of the Police (Scotland) Act 1967 (“the 1967 Act”) (as inserted by section 34 of the Local Government etc. (Scotland) Act 1994). Each joint police board is made up of a number of police authorities, known as constituent authorities.

5. Each year a joint police board estimates how much money it will need to provide a police service for the combined police area and requisitions funds from each constituent authority based on estimated police expenditure within that authority. At the end of the financial year, joint police boards must return to their constituent authorities any money which they have requisitioned but either not spent or not earmarked for a specific and known liability.

6. Presently, section 19(2)(d) of the 1967 Act enables the amalgamation orders to make provision with regard to the payment by constituent authorities of expenditure incurred by the joint police board. The effect of this is that amalgamation orders could not make provision with regard to the carry-forward of unspent requisitions, since in terms of the 1967 Act, the amalgamation orders can only make provision with regard to expenditure incurred and not that which it is estimated will be incurred. Therefore, section 1(1)(a)(i) of the Bill amends the 1967 Act to require the amalgamation orders to make provision with regard to the payment by the constituent authorities, in such proportions as may be specified, of the amounts which the joint police board estimates will be incurred.
7. Section 1(1)(a)(ii) amends the 1967 Act to require amalgamation orders to make provision for arrangements for the carry-forward of balances of unspent local authority requisitions from one year to the next. Such balances represent the difference between the board’s estimated expenditure and its actual expenditure (after taking into account receipts and police grant – see paragraph 8 for an explanation of police grant), where the actual expenditure is less than the estimate.

8. As well as money requisitioned from constituent authorities, joint police boards receive, under section 32 of the 1967 Act, police grant direct from the Scottish Ministers, normally covering 51 per cent of net eligible police expenditure up to a cash limit set for each joint police board. Section 19(3) of the 1967 Act as it presently stands makes it clear that the expenditure referred to in subsection (2)(d) of that section is a reference to the expenditure which is not provided for by grant made to the joint police board under section 32 of the 1967 Act – i.e. it is local authority requisitions and not police grant. Section 1(1)(b) of the Bill contains an amendment consequential upon the amendment made to section 19(2)(d) of the 1967 Act by section 1(a)(i) of the Bill.

9. Section 1(1)(c) deals with the limitations on the carry-forward of balances by joint police boards and inserts new subsections (3A) and (3B) into section 19 of the 1967 Act. Balances can only be carried forward with the consent of the constituent authority whose contribution to the joint police board constitutes, or is part of, the money which it is intended be carried forward. This allows constituent authorities to require the return of any of their own unspent requisitions if they wish. It does not, however, stop other constituent authorities within the same board consenting to the carry-forward of moneys that they have supplied. Section 1(1)(c) also requires any proposal to carry forward requisitioned funds to have the consent of the Scottish Ministers before it can proceed and limits any carry-forward to 3 per cent of the total of the money paid to the joint police board by all of the constituent authorities. The carry-forward limit of 3 per cent can be varied by means of a statutory instrument subject to negative resolution.

10. Section 1(1)(c) inserts a new subsection (3C) into section 19 of the 1967 Act. This provision makes it clear that once consent has been given to carry forward a working balance from one year to the next, that balance can be carried forward indefinitely without reference to the constituent authorities or to the Scottish Ministers. In subsequent years additional monies can be added to the amount being carried forward, thus allowing the accumulation of working balances over time. Ministers’ consent will only be required when there is a proposal to create a working balance or to add to that balance in subsequent years. Consent will not be required to carry forward existing balances.

11. As mentioned above, joint police boards receive police grant direct from the Scottish Executive, normally amounting to 51 per cent of net eligible police expenditure. Section 1(2)(b) of the Bill inserts new subsections (10A) to (10C) into section 32 of the 1967 Act which set out the conditions under which police grant can be carried forward by unitary police authorities and joint police boards. These conditions are broadly the same as those that apply to the carry-forward of requisitions by joint police boards. Those conditions are that the
unitary police authority or the joint police board, as the case may be, must apply to the
Scottish Ministers for authority to carry forward any unspent police grant. In addition, the
carry-forward of police grant is limited to 3 per cent of the total of the grant paid to the
unitary police authority or joint police board, as the case may be, by the Scottish Ministers.
The carry-forward limit of 3 per cent can be varied by means of a statutory instrument subject
to negative resolution.

12. Section 1(2)(b) of the Bill also inserts a new subsection (10D) into section 32 of the
1967 Act which makes equivalent provision in relation to police grant as is made in relation to
local authority requisitions at section 1(1)(c) of the Bill (see paragraph 10 above).

13. In addition, section 1(2)(b) of the Bill inserts a new subsection (10E) into section 32 of
the 1967 Act. This provision sets out the relationship between the payment of police grant
and the carry-forward of police grant. Under section 32(10) of the 1967 Act an order can be
made which re-determines the amount of police grant paid to a joint police board or unitary
police authority so that it conforms to the actual expenditure. This usually happens after the
end of the year in which the grant is paid because the Board’s final outturn is then known.
The difference between police grant paid to the board or authority and the re-determined
amount of grant is returned to the Scottish Executive. The new subsection (10E) makes it
clear that the amount of unspent police grant that is to be returned to the Scottish Executive is
the balance of the unspent police grant less any amount of police grant that is being carried
forward.

Section 2

14. Section 2 of the Bill deals with the carry-forward of working balances by joint fire
boards. The 6 existing joint fire boards – Central Scotland Fire Board, Grampian Fire Board,
Highland and Islands Fire Board, Lothian and Borders Fire Board, Strathclyde Fire Board and
Tayside Fire Board – were constituted by Administration Scheme Orders made under
section 147 of the Local Government (Scotland) Act 1973 (as substituted by section 36 of the
Local Government etc. (Scotland) Act 1994). Further provision in respect of administration
schemes is made in subsections (3A) to (9) of section 36 of the Fire Services Act 1947 (“the
1947 Act”). The fire authorities which are the constituent authorities of each joint fire board
are specified in the administration scheme under which that board is constituted.

15. Like the joint police boards, the joint fire boards requisition funds from their
constituent authorities on the basis of estimated revenue expenditure requirements in the year
ahead. That is, however, their principal source of revenue funding: unlike police boards, fire
boards do not receive grant direct from the Scottish Executive.

16. At present, paragraphs (d) and (e) of section 36(4) of the 1947 Act require an
administration scheme to make provision with regard to the payment out of a fund constituted
in accordance with the scheme of the expenses incurred by the joint board, and the payment
into that fund of contributions by the constituent fire authorities. Unlike the case of joint
police boards where the effect of section 19(2)(d) is to preclude the carry-forward of unspent
requisitions because constituent authorities can only make payments to joint police boards in respect of expenses which have been incurred, paragraphs (d) and (e) of section 36(4) of the 1947 Act are drafted in slightly different terms. It is considered that the terms of paragraph (e) of that section would not restrict payment by constituent authorities to joint fire boards to cover only expenses which have been incurred. However, the amendment made to the 1947 Act by section 2(a) of the Bill is designed to ensure that amalgamation orders must make provision so that constituent authorities can make contributions to the joint fire board’s fund in respect of estimated expenditure in the administration of the fire brigade. To this end, section 2(a) of the Bill substitutes amended provisions in paragraph (e) of section 36(4) of the 1947 Act, referring to the new subsection (4A) which is inserted by section 2(b) of the Bill.

17. Section 2 of the Bill further amends section 36 of the 1947 Act so as to require administration schemes to make provision with regard to arrangements for the carry-forward of balances of unspent local authority requisitions from one year to the next. Again, such balances would represent the difference between a board’s estimated expenditure and its actual expenditure, where the latter is less than the former. Section 2(a) inserts a new paragraph (f) in section 36(4) of the 1947 Act to achieve this.

18. Section 2(b) inserts new subsections (4B) and (4C) into section 36 of the 1947 Act, dealing with the limitations on the carry-forward of balances. The limitations are similar to those described in paragraph 9 above in relation to joint police boards.

19. Section 2(b) also inserts a new subsection (4D) into section 36 of the 1947 Act. This is equivalent to the provision inserted by section 1(1)(c) of the Bill which relates to police (see paragraph 10 above).

20. In section 36 of the 1947 Act, subsection (7) enables fire authorities to amend or revoke an administration scheme submitted by them and approved by the Scottish Ministers, subject to the like approval. Subsection (8) enables the Scottish Ministers to vary or revoke an administration scheme or to make a new administration scheme. Section 2(c) and (d) of the Bill amends subsections (7) and (8) of section 36 to provide that, in both cases, the powers to amend, revoke and replace schemes should apply to the existing schemes made under section 147 of the Local Government (Scotland) Act 1973 as well as to any schemes made under section 36.

EFFECT OF THE BILL ON THE POLICE (SCOTLAND) ACT 1967 AND FIRE SERVICES ACT 1947

21. The relevant sections of the Police (Scotland) Act 1967 (c.77) and Fire Services Act 1947 (c.41) as amended by this Bill, are set out below. The amendments proposed by the Bill are shown underlined and deletions scored through.

22. In these extracts, references to the Secretary of State and to either House of Parliament are shown in square brackets. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46) and these references
should therefore be read as if they were references to the Scottish Ministers. Similarly, references to either House of Parliament have effect, so far as they relate to the exercise of a function by a member of the Scottish Executive within devolved competence, as if the references were references to the Scottish Parliament by virtue of section 118(2) of the Scotland Act.

Sections 19 and 32 of Police (Scotland) Act 1967

19 Schemes for amalgamation of police forces

(1) If it appears to the police authorities for any two or more police areas that it is expedient that those areas should be combined for police purposes, they may for that purpose submit to the [Secretary of State] a scheme (in this Act referred to as an “amalgamation scheme”) and the [Secretary of State] may by order approve any scheme so submitted to him.

(2) Subject to the provisions of this Act, an amalgamation scheme shall make provision with regard to the following matters—

(a) the dis-establishment of the police forces maintained for the several police areas, the establishment and maintenance of a police force for the combined area, the appointment of the first chief constable of that force, and the transfer to that force of constables of the forces previously maintained for the several police areas comprised in the combined area;

(b) the constitution for the purposes of paragraph (c) of this subsection in relation to that force of a [joint police board]\(^1\) consisting of such number of persons, being members of the constituent authorities, as may be specified in the scheme;

(c) the delegation to the [joint police board]\(^2\) of the whole functions relating to police of the constituent authorities (except their power to levy a rate, their functions under this section, and such other functions as may be specified in the scheme);

(d) the payment by the constituent authorities in such proportions as may be specified in the scheme of the expenditure incurred by the joint police board which the joint police board estimates will be incurred in the performance of the functions delegated to them;

(e) arrangements for the carry-forward from one financial year (the “carry-forward year”) to the next by the joint police board of any money received by the board in respect of the carry-forward year from the constituent authorities under provision made under paragraph (d) above and remaining unspent at the end of the carry-forward year;

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\(^1\) Words substituted by the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13, paragraph 71(5)(a).

\(^2\) Ditto.
(3) The reference in subsection (2)(d) of this section to the expenditure incurred by the joint police board which the joint police board estimates will be incurred is a reference to so much of the net estimated expenditure of the [board]\(^3\) as is not [provided for by a grant made to the board under section 32 of this Act]\(^4\).

(3A) Provision made under subsection (2)(e) above shall secure—

(a) that money shall be carried forward by the joint police board only—

(i) with the consent of the constituent authority whose payment, or a part of it, constitutes, or is part of, the money; and

(ii) with the consent of the Scottish Ministers; and

(b) that the money carried forward shall not exceed three per cent of the total of the money paid to the board by the constituent authorities in respect of the carry-forward year or such other proportion as the Scottish Ministers may, by order, fix in substitution.

(3B) An order under subsection (3A)(b) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.

(3C) Paragraphs (d) and (e) of subsection (2) above are not to be taken as preventing the carrying forward of any money, being money already carried forward to a financial year under arrangements made under subsection (2)(e) above and remaining unspent at the end of that year, from that year to the next year and, if it remains unspent at the end of that next year, to the following year, and so on.

(4) Subject to the provisions of this Act, an amalgamation scheme may make provision with regard to all or any of the following matters—

(a) the transfer of property, rights and liabilities;

(b) the adjustment of liabilities between the constituent authorities;

(c) the settlement of differences between the constituent authorities;

(d) the transfer to the [joint police board]\(^5\) of officers of any of the constituent authorities;

(e) the furnishing, on such terms and conditions as may be specified in the scheme, by one of the constituent authorities of any service connected with the administration of the police force maintained for the combined area;

(f) any other matters incidental to or consequential on the provisions contained in the scheme.

(5) …[\(^6\)]

\(^3\) Ditto.

\(^4\) Words substituted by the Crime and Punishment (Scotland) Act 1997 (c.48), Schedule 1, paragraph 2(4).

\(^5\) Words substituted by the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13, paragraph 71.
(6) The expenses incurred by a constituent authority for the purpose of the payment to the [joint police board]\(^7\) of the expenditure referred to in subsection (2)(d) of this section shall be defrayed in like manner as expenses of that authority for the purposes of their functions relating to police would have required to be defrayed if the amalgamation scheme had not been made.

(7) [For the purposes of the Local Government (Scotland) Regulations 1974]\(^8\) the appropriate superannuation fund in relation to the [pensionable employees]\(^9\) of a [joint police board]\(^10\) shall be the superannuation fund of such one of the constituent authorities as may be determined by or under the amalgamation scheme.

(8) Where an amalgamation scheme is to come into operation on a date subsequent to that on which it is approved, any appointment to be made, direction to be given or other thing to be done for the purposes of the scheme may be made, given or done at any time after the approval of the scheme so far as may be necessary for the purpose of bringing the scheme into operation on the first-mentioned date.

(9) In this Act, unless the context otherwise requires—

(a) any reference to a police area shall be construed as including a reference to a combined area; and

(b) in relation to a police force maintained for a combined area, any reference to the police authority shall be construed as a reference to the police authorities for the several police areas comprised in the combined area, without prejudice however to any delegation of functions to the [joint police board]\(^11\) by or under the amalgamation scheme.

(10) An order under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of [either House of Parliament].\(^12\)

32 Police grant\(^13\)

(1) Subject to the following provisions of this section, the [Secretary of State] shall for the financial year 1997-98 and for each subsequent financial year

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\(^6\) Words repealed by the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13, paragraph 71(5)(c).

\(^7\) Words substituted by the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13, paragraph 71.

\(^8\) Words substituted by SI 1974/812.

\(^9\) Words substituted by SI 1974/812.

\(^10\) Words substituted by the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13, paragraph 71(5)(a).

\(^11\) Ditto.

\(^12\) Subsection (10) was inserted by the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13, paragraph 71(5)(d).

\(^13\) Section as substituted by section 45 of the Crime and Punishment (Scotland) Act 1997 (c.48) and subsequently amended.
make grants out of money [provided by Parliament]¹⁴ for police purposes to police authorities and joint police boards.

(2) Where a grant is made under subsection (1) above to a joint police board, no grant under that subsection shall be payable to a constituent authority.

(3) For each financial year the [Scottish Ministers shall]¹⁵ by order determine—
   (a) the aggregate amount of grants to be made under subsection (1) above; and
   (b) the amount of the grant to be made to each police authority or joint police board,
and any determination under this subsection for any financial year may be varied or revoked by a subsequent such determination for that year.

(4) In making a determination under subsection (3)(b) above, the [Secretary of State] may exclude certain categories of expenditure for police purposes from a grant made under subsection (1) above.

(5) A grant made to a police authority or to a joint police board by virtue of an order made under subsection (3) above may be subject to such conditions and shall be paid at such times and in such manner as the [Scottish Ministers]¹⁶ may by order determine; and any such time may fall within or after the financial year concerned.

(6) The [Secretary of State] shall prepare a report stating the considerations which he took into account in making the determinations mentioned in subsection (3) above.

(7) The considerations which the [Secretary of State] takes into account in making a determination under subsection (3)(b) above may be different for different authorities or different joint police boards.

(8) A statutory instrument containing an order made under subsection (3) above shall be subject to annulment in pursuance of a resolution of [either House of Parliament].

(9) A copy of a report prepared under subsection (6) above shall be laid before [each House of Parliament] at the time at which the statutory instrument containing the order made under subsection (3) above to which it relates is so laid.

¹⁴ Subject to section 119(5) of the Scotland Act 1998 (c.48), the reference to money provided by Parliament has ceased to have effect, in relation to functions of the Scottish Ministers which are exercisable within devolved competence, by virtue of section 119(2) of the Scotland Act 1998 (c.46). Section 119(5) makes the reference to money provided by Parliament have effect, in relation to functions of the Scottish Ministers which are exercisable within devolved competence, as if it authorised those sums to be applied as if they had been paid out of the Scottish Consolidated Fund in accordance with rules under section 65(1)(c).

¹⁵ Words substituted by the Scotland Act 1998 (Consequential Modifications) (No.2) Order 1999 (SI 1999/1820), Schedule 2, paragraph 41(2)(a).

¹⁶ Ditto.
(10) Where in consequence of the variation or revocation of an order made under subsection (3) above the amount of a police authority’s or a joint police board’s grant is less than the amount already paid to it for the year concerned, a sum equal to the difference shall, subject to subsection (10E) below, be paid by the authority or, as the case may be, board to the [Secretary of State] on such day as he may specify.

(10A) Where, at the end of the financial year, any part of police grant made to the police authority or joint police board under this section for that financial year has not been spent, the Scottish Ministers may, on the application of the authority or board, authorise the carry-forward to the next financial year by the authority or board of the sum unspent up to the limit specified in or under subsection (10B) below.

(10B) In respect of any financial year, the police authority or joint police board shall carry forward no more than three per cent of the police grant made to that authority or board in respect of that financial year or such other percentage of that grant as the Scottish Ministers may, by order, fix in substitution.

(10C) An order under subsection (10B) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.

(10D) Subsection (10A) above is not to be taken as preventing the carrying forward of any sum, being a sum already carried forward to a financial year under that subsection and remaining unspent at the end of that year, from that year to the next year and, if it remains unspent at the end of that next year, to the following year, and so on.

(10E) In a financial year in respect of which subsection (10) above applies and in respect of which the Scottish Ministers have authorised the carry-forward of unspent sums under subsection (10A) above, the sum to be paid to Ministers by the police authority or joint police board under subsection (10) above shall be the balance, if any, of the sum payable under subsection (10) less the sum carried forward in respect of that financial year under subsection (10A).

(11) In this section “financial year” has the meaning assigned to it by section 116 of the Local Government Finance Act 1992.

Section 36 of Fire Services Act 1947

23. The relevant subsections of section 36 of the Fire Services Act 1947 (c.41), as amended by this Bill, are set out below. The amendments proposed by the Bill are shown underlined and deletions scored through.
(3A) If it appears to any two or more fire authorities that it is expedient that their areas should be combined for fire-fighting purposes, they may submit to the [Secretary of State] a scheme in that behalf (in this section referred to as an “administration scheme”) and the [Secretary of State] may by order approve any such scheme submitted to him.

(3B) A scheme under subsection (3A) above shall make provision with respect to the matters mentioned in paragraphs (c) and (d) of subsection (8A) below.

(3C) The power to make an order under subsection (3A) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of [either House of Parliament].

(4) An administration scheme shall make provision with regard to the following matters—

(a) [the dis-establishment of the fire brigades maintained by the several fire authorities, the establishment and maintenance of a combined fire brigade for the combined area, and the appointment, subject to any regulations made under this Act, of a firemaster of that combined brigade]; and

(b) the constitution for the administration of the combined fire brigade of a [joint board] consisting of such number of members, being members of the fire authorities in the area, as may be specified in the scheme;

(c) the transfer to the [joint board] of the functions of the fire authorities (except the power to levy a rate and such other functions as may be specified in the administration scheme);

(d) the payment out of a fund constituted in accordance with the scheme of the expenses incurred by the [joint board] in the administration of the combined fire brigade;

(e) the payment into the aforesaid fund of contributions by the fire authorities in such proportions as may be determined by or under the scheme, the payment by the fire authorities into the aforesaid fund, for

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17 Subsection (3) was repealed by the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13, paragraph 27(3)(b).
18 Subsections (3A) to (3C) were inserted by the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13, paragraph 27(2)(c).
19 Paragraph (a) was substituted by the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13, paragraph 27(2)(d)(i).
20 Words substituted by the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13, paragraph 27(2)(d)(ii).
21 Ditto
22 Ditto.
the purpose set out in subsection (4A) below, of contributions in such proportions as may be determined by or under the scheme;

(f) arrangements for the carry-forward from one financial year (the “carry-forward year”) to the next by the joint board of any money paid by way of contributions by the fire authorities in respect of the carry-forward year under provision made under paragraph (e) above and remaining unspent at the end of the carry-forward year.

(4A) The purpose referred to in subsection 4(e) above is that of meeting the expenses which the joint board estimates will be incurred by it in the administration of the combined fire brigade.

(4B) Provision made under subsection (4)(f) above shall secure—

(a) that money shall be carried forward by the joint board only—

(i) with the consent of the fire authority whose contribution, or a part of it, constitutes, or is part of, the money;

(ii) with the consent of the Scottish Ministers; and

(b) that the money carried forward shall not exceed three per cent of the total of the contributions paid into the fund by the fire authorities in respect of the carry-forward year or such other proportion as the Scottish Ministers may, by order, fix in substitution.

(4C) An order under subsection (4B)(b) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.

(4D) Paragraphs (e) and (f) of subsection (4) above are not to be taken as preventing the carrying forward of any money, being money already carried forward to a financial year under arrangements made under subsection (4)(f) above and remaining unspent at the end of that year, from that year to the next year and, if it remains unspent at the end of that next year, to the following year, and so on.

(5) An administration scheme may contain provision regarding—

(a) the furnishing, on such terms and conditions as may be specified in the scheme, by one of the fire authorities of any service connected with the administration of the combined fire brigade;

(b) the transfer to the [joint board]²³ of property, rights or liabilities;

(c) the appointment of officers by the [joint board]²⁴ and the transfer to the [joint board]²⁵ of officers of any of the fire authorities;

(d) the settlement of differences between the fire authorities; and

²³ Words substituted by the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13, paragraph 27.
²⁴ Ditto.
²⁵ Ditto.
This document relates to the Police and Fire Services (Finance) (Scotland) Bill (SP Bill 29) as introduced in the Scottish Parliament on 31 May 2001

(e) any other matters incidental to or consequential on any provision contained in the scheme.

(5A) Not later than 3 months before the date on which a scheme approved under subsection (3A) above or, as the case may be, made under subsection (8B) below is intended to come into effect, every fire authority in respect of whose area or combined area such a scheme has been approved or made shall prepare and submit to the [Secretary of State] for his approval an establishment scheme for their area or combined area under section 19 of this Act, and the [Secretary of State] may approve the scheme as submitted to him or subject to such modifications as he may direct.26

(6) … 27

(7) Where an administration scheme has been approved under subsection (3A) above or an administration scheme made under section 147(4) of the Local Government (Scotland) Act 1973 (c.65), the fire authorities affected by it may amend or revoke that scheme by a subsequent scheme submitted to the [Secretary of State] by them jointly and the [Secretary of State] may by order approve any such subsequent scheme submitted to him.

(7A) A subsequent scheme under subsection (7) above may make provision with respect to any of the matters for which provision is required to be made, or may be made, by virtue of subsections (4), (5), (8)(b) and (8A) of this section.

(7B) The power to make an order under subsection (7) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of [either House of Parliament].28

(8) The [Secretary of State] may by order—

(a) vary or revoke an administration scheme made under this section or an administration scheme made under section 147(4) of the Local Government (Scotland) Act 1973 (c.65);

(b) make a new administration scheme which includes provision—

(i) for the division of the original combined area into any two or more areas, being either areas of fire authorities comprised in such combined area or new combined areas constituted by such scheme;

(ii) for the inclusion in the combined area of any additional areas,

26 Subsection (5A) was inserted by the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13, paragraph 27(2)(f).
27 Subsection (6) was repealed by the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13, paragraph 27(2)(g).
28 Subsections (7), (7A) and (7B) were substituted by the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13, paragraph 27(2)(h).
and such an order may make provision with respect to any of the matters for which provision is required to be made, or may be made, by virtue of subsections (4), (5) and (8A) of this section.

(8A) An order under subsection (8) above may make provision with respect to any of the following matters—

(a) the transfer or retransfer to such fire brigade as may be determined by the order of the members of any fire brigade affected by the order;

(b) the transfer or retransfer to such fire authorities as may be determined by the order of any officers, property, rights or liabilities of any fire authority affected by the order;

(c) the payment, by such fire authority and subject to such provisions as may be determined by the order, of compensation to officers employed by any fire authority affected by the order who in consequence of it or of anything done under it suffer direct pecuniary loss by reason of the determination of their appointments or the diminution of their emoluments;

(d) in the case of any person who have immediately before the coming into operation of the order been the firemaster of any fire brigade affected by the order does not on the coming into operation of the order become the firemaster of any fire brigade established in consequence of the order, for the payment, in lieu of compensation under paragraph (c) above, of a pension, gratuity or allowance of such amount, subject to such conditions and by such fire authority as may be specified in the order; and

(e) any other matters incidental to or consequential on any provision contained in the order.

(8B) Before making an order under subsection (8) above which contains provision that two or more local government areas should form a combined area for the provision in the combined area of the services mentioned in section 1 of this Act, the [Secretary of State] shall—

(a) consult such fire authorities as appear to them to be affected by the order; and

(b) where any such authority submit objections to the order, inform that authority in writing whether he accepts the objections and, if he does not, why he does not.

(8C) The power to make an order under subsection (8) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of [either House of Parliament].

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29 Subsections (8) and (8A) to (8C) were substituted by the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13, paragraph 27(2)(i).
(9) An order made by the Scottish Ministers under this section shall provide for
the incorporation of a joint board with a common sale and shall confer on
such a board power to hold land and to borrow money.  

FINANCIAL MEMORANDUM

24. Giving police and fire joint boards the ability to carry forward limited working
balances will allow them a degree of flexibility in the interests of effective budgeting and
planning for periods of longer than one year. It is not expected to give rise to substantial
additional costs for the Scottish Executive or local authorities, or additional costs for other
bodies, individuals or businesses. Significant costs could arise only if large balances were to
be built up and carried from year to year, and the limitations on carry-forward coupled with
the requirement for Ministers’ consent to any proposals are designed to avoid that.

EXECUTIVE STATEMENT ON LEGISLATIVE COMPETENCE

25. On 30 May 2001, the Minister for Justice (Mr Jim Wallace) made the following
statement:

“In my view, the provisions of the Police and Fire Services (Finance) (Scotland) Bill
would be within the legislative competence of the Scottish Parliament.”

PRESIDING OFFICER’S STATEMENT ON LEGISLATIVE COMPETENCE

26. On 29 May 2001, the Presiding Officer (Sir David Steel) made the following
statement:

“In my view, the provisions of the Police and Fire Services (Finance) (Scotland) Bill
would be within the legislative competence of the Scottish Parliament.”

Subsection (9) was substituted by the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13,
paragraph 27(2)(j).
POLICE AND FIRE SERVICES (FINANCE) (SCOTLAND) BILL

EXPLANATORY NOTES

AND OTHER ACCOMPANYING DOCUMENTS

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