

## SCHEDULES

### SCHEDULE 3

#### Amendments relating to policing

##### *Civil Contingencies Act 2004*

**94.** Amend the Civil Contingencies Act 2004(1) as follows.

#### **Commencement Information**

**11** Sch. 3 para. 94 in force at 12.4.2010, see [art. 1\(2\)](#)

**95.**—(1) Amend section 1 (meaning of “emergency”) as follows.

(2) After subsection (4) insert—

“(4A) In relation to Northern Ireland, the power to make orders—

(a) under subsection (4)(a) in relation to subsection (1)(a) or (b), and

(b) under subsection (4)(b),

is exercisable by the Department of Justice in Northern Ireland (and not by a Minister of the Crown).”

#### **Commencement Information**

**12** Sch. 3 para. 95 in force at 12.4.2010, see [art. 1\(2\)](#)

**96.**—(1) Amend section 2 (duty to assess, plan and advise) as follows.

(2) After subsection (6) insert—

“(7) In relation to emergencies that do not fall within section 1(1)(c), the power under subsection (3) to make regulations in relation to the Chief Constable (PSNI) is exercisable by the Department of Justice in Northern Ireland (and not by a Minister of the Crown).

(8) Subsection (5) has effect in relation to the power of the Department of Justice under subsection (3) as if—

(a) paragraphs (e), (h) and (i) were omitted;

(b) in paragraph (p) for the words from “a Minister of the Crown” to “department” there were substituted “a Northern Ireland department”.

(9) In relation to emergencies that do not fall within section 1(1)(c), a Minister of the Crown has no power by virtue of subsection (5)(h) or (i) to make provision permitting or requiring the Chief Constable (PSNI) to co-operate with, or provide information to, a person or body listed in Part 1 of Schedule 1.”

(1) [2004 c. 36](#). Schedule 1 to the Act was amended by [S.I. 2005/2043](#), [S.I. 2005/3050](#), Schedule 1 to the National Health Service (Consequential Provisions) Act [2006 \(c. 43\)](#) and [S.I. 2008/3012](#). There are other amendments to the Act, but none are relevant.

**Changes to legislation:** There are currently no known outstanding effects for the The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010, Cross Heading: Civil Contingencies Act 2004. (See end of Document for details)

**Commencement Information**

**I3** Sch. 3 para. 96 in force at 12.4.2010, see [art. 1\(2\)](#)

**97.**—(1) Amend section 3 (section 2: supplemental) as follows.

(2) After subsection (5) insert—

“(6) In relation to emergencies that do not fall within section 1(1)(c), the power under subsection (1) to issue guidance to the Chief Constable (PSNI) is exercisable by the Department of Justice in Northern Ireland (and not by a Minister of the Crown).”

**Commencement Information**

**I4** Sch. 3 para. 97 in force at 12.4.2010, see [art. 1\(2\)](#)

**98.**—(1) Amend section 5 (general measures) as follows.

(2) After subsection (5) insert—

“(6) In relation to emergencies that do not fall within section 1(1)(c), the power under subsection (1) to require the Chief Constable (PSNI) to perform a function is exercisable by the Department of Justice in Northern Ireland (and not by a Minister of the Crown).

(7) Subsection (4) has effect in relation to the power of the Department of Justice under subsection (1) as if—

(a) paragraphs (d) and (e) were omitted;

(b) in paragraph (f) for the words from “a Minister of the Crown” to “department” there were substituted “a Northern Ireland department”.

(8) In relation to emergencies that do not fall within section 1(1)(c), a Minister of the Crown has no power by virtue of subsection (4)(d) or (e) to make provision permitting or requiring the Chief Constable (PSNI) to co-operate with, or provide information to, a person or body listed in Part 1 of Schedule 1.”

**Commencement Information**

**I5** Sch. 3 para. 98 in force at 12.4.2010, see [art. 1\(2\)](#)

**99.**—(1) Amend section 6 (disclosure of information) as follows.

(2) After subsection (6) insert—

“(7) In relation to emergencies that do not fall within section 1(1)(c), the following powers are exercisable by the Department of Justice in Northern Ireland (and not by a Minister of the Crown)—

(a) the power under subsection (1) to make regulations requiring or permitting the Chief Constable (PSNI) to disclose information to another person or body listed in any Part of Schedule 1;

(b) the power under subsection (4) to issue guidance to the Chief Constable (PSNI).”

**Commencement Information**

**I6** Sch. 3 para. 99 in force at 12.4.2010, see [art. 1\(2\)](#)

**100.**—(1) Amend section 7 (urgency) as follows.

(2) After subsection (4) insert—

“(4A) In relation to provision of a kind that could be made by the Department of Justice in Northern Ireland by an order under section 5(1) or by regulations under section 6(1), in subsection (2) the reference to the Minister is to be read as a reference to the Department of Justice and subsection (4) is to be read accordingly.”

(3) At the end of subsection (5) insert “made by the Minister or the Department of Justice (as the case may be)”.

**Commencement Information**

**I7** Sch. 3 para. 100 in force at 12.4.2010, see [art. 1\(2\)](#)

**101.**—(1) Amend section 9 (monitoring by Government) as follows.

(2) After subsection (4) insert—

“(5) In relation to emergencies that do not fall within section 1(1)(c), the power under subsection (1) to require the Chief Constable (PSNI) to provide information or an explanation is exercisable by the Department of Justice in Northern Ireland (and not by a Minister of the Crown).

(6) If it appears to the Chief Constable (PSNI) that a requirement imposed by virtue of subsection (5) may require the Chief Constable (PSNI) to provide national security information, the Chief Constable (PSNI) may refer the requirement to a Minister of the Crown.

(7) The Minister may set aside or otherwise modify the requirement as the Minister considers appropriate so that the Chief Constable (PSNI) is not required to provide any information which appears to the Minister to be national security information.

(8) “National security information” means information the disclosure of which to the public would, or would be likely to, adversely affect national security.”

**Commencement Information**

**I8** Sch. 3 para. 101 in force at 12.4.2010, see [art. 1\(2\)](#)

**102.**—(1) Amend section 10 (enforcement) as follows.

(2) In subsection (1) for “or 15(7)” substitute “, 15(7) or 15A(8)”.

(3) After subsection (2) insert—

“(3) In relation to emergencies that do not fall within section 1(1)(c), the power under subsection (1)(a) to bring proceedings in respect of a failure by the Chief Constable (PSNI) is exercisable by the Department of Justice in Northern Ireland (and not by a Minister of the Crown).”

**Commencement Information**

**I9** Sch. 3 para. 102 in force at 12.4.2010, see [art. 1\(2\)](#)

**103.** After section 12 insert—

**“12A Northern Ireland: provision or disclosure of national security information**

(1) A Minister of the Crown may, for the purposes mentioned in subsection (2), make regulations addressing the provision or disclosure of national security information.

(2) Regulations under this section are to apply for the purposes of any regulations or order made by the Department of Justice in Northern Ireland under this Part; and any regulations or order made by the Department has effect subject to regulations under this section.

(3) “National security information” means information the disclosure of which to the public would, or would be likely to, adversely affect national security.

(4) Regulations under this section may (in particular)—

- (a) provide that national security information is not to be provided or disclosed, or is to be provided or disclosed only in specified circumstances or in a specified way, despite any provision of regulations or an order made by the Department of Justice;
- (b) provide that a certificate signed by a Minister of the Crown certifying that the disclosure of information to the public would, or would be likely to, adversely affect national security is conclusive evidence of that fact;
- (c) provide that such a certificate may identify the information to which it applies by means of a general description and may be expressed to apply to information within that description that comes into existence after the certificate is made;
- (d) confer other functions on a Minister of the Crown or any other specified person or body (and a function conferred may, in particular, be a power or duty to exercise a discretion).”

**Commencement Information**

**I10** Sch. 3 para. 103 in force at 12.4.2010, see [art. 1\(2\)](#)

**104.**—(1) Amend section 13 (amendment of lists of responders) as follows.

(2) After subsection (3) insert—

“(4) In relation to emergencies that do not fall within section 1(1)(c), the power under subsection (1) to make provision in relation to the Chief Constable (PSNI) is exercisable by the Department of Justice in Northern Ireland (and not by a Minister of the Crown).”

**Commencement Information**

**I11** Sch. 3 para. 104 in force at 12.4.2010, see [art. 1\(2\)](#)

**105.** After section 14 insert—

#### “14A Northern Ireland: consultation

(1) A Minister of the Crown must consult the Department of Justice in Northern Ireland before making regulations or an order under this Part in relation to the Chief Constable (PSNI).

(2) The Department of Justice must consult a Minister of the Crown before making regulations or an order under this Part.”

#### Commencement Information

**I12** Sch. 3 para. 105 in force at 12.4.2010, see [art. 1\(2\)](#)

**106.**—(1) Amend section 15 (cross-border collaboration) as follows.

(2) In subsection (5) for “a Minister of the Crown makes an order” substitute “an order is made”.

#### Commencement Information

**I13** Sch. 3 para. 106 in force at 12.4.2010, see [art. 1\(2\)](#)

**107.** After section 15 insert—

#### “15A Northern Ireland: cross-border collaboration

(1) In relation to emergencies that do not fall within section 1(1)(c)—

- (a) the power under section 15(3) or (6) to make regulations or an order permitting or requiring the Chief Constable (PSNI) to co-operate with, or provide information to, a person or body listed in Part 2 of Schedule 1 is exercisable by the Department of Justice in Northern Ireland (and not by a Minister of the Crown);
- (b) the power under section 15(4) to issue guidance is exercisable by the Department of Justice (and not by a Minister of the Crown) in relation to regulations made by the Department.

(2) Where the Chief Constable (PSNI) has a duty under section 2, a Minister of the Crown may, in relation to emergencies that do not fall within section 1(1)(c), make regulations—

- (a) permitting or requiring another person or body listed in Part 1 or 3 of Schedule 1 to co-operate, to such extent and in such manner as may be specified, with the Chief Constable (PSNI) in connection with the performance of the duty;
- (b) permitting or requiring another person or body listed in Part 1 or 3 of Schedule 1 to provide information, either on request or in other specified circumstances, to the Chief Constable (PSNI) in connection with the performance of the duty.

(3) A Minister of the Crown may issue guidance about a matter addressed in regulations under subsection (2).

(4) If the Department of Justice in Northern Ireland makes an order under section 5(1) imposing a duty on the Chief Constable (PSNI), a Minister of the Crown may make an order—

- (a) permitting or requiring another person or body listed in Part 1 or 3 of Schedule 1 to co-operate, to such extent and in such manner as may be specified, with the Chief Constable (PSNI) in connection with the duty;

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- (b) permitting or requiring another person or body listed in Part 1 or 3 of Schedule 1 to provide information, either on request or in other specified circumstances, to the Chief Constable (PSNI) in connection with the duty.
- (5) Where a person or body listed in Part 1 of Schedule 1 (other than the Chief Constable (PSNI)) has a duty under section 2 or 4, the Department of Justice in Northern Ireland may, in relation to emergencies that do not fall within section 1(1)(c), make regulations—
- (a) permitting or requiring the Chief Constable (PSNI) (if listed in Part 1 or 3 of Schedule 1) to co-operate, to such extent and in such manner as may be specified, with the person or body listed in Part 1 of Schedule 1 in connection with the performance of the duty;
- (b) permitting or requiring the Chief Constable (PSNI) (if listed in Part 1 or 3 of Schedule 1) to provide information, either on request or in other specified circumstances, to the person or body listed in Part 1 of Schedule 1 in connection with the performance of the duty.
- (6) The Department of Justice in Northern Ireland may issue guidance about a matter addressed in regulations under subsection (5).
- (7) If a Minister of the Crown makes an order under section 5(1) imposing a duty on a person or body listed in Part 1 of Schedule 1, the Department of Justice in Northern Ireland may, in relation to emergencies that do not fall within section 1(1)(c), make an order—
- (a) permitting or requiring the Chief Constable (PSNI) (if listed in Part 1 or 3 of Schedule 1) to co-operate, to such extent and in such manner as may be specified, with the person or body listed in Part 1 of Schedule 1 in connection with the duty;
- (b) permitting or requiring the Chief Constable (PSNI) (if listed in Part 1 or 3 of Schedule 1) to provide information, either on request or in other specified circumstances, to the person or body listed in Part 1 of Schedule 1 in connection with the duty.
- (8) A person or body must comply with regulations or an order under this section and must have regard to guidance under this section.
- (9) In this Act, except where the contrary intention appears, a reference to an order under section 5(1) includes a reference to an order under subsection (4) or (7) above.”

#### Commencement Information

**I14** Sch. 3 para. 107 in force at 12.4.2010, see [art. 1\(2\)](#)

- 108.**—(1) Amend section 17 (regulations and orders) as follows.
- (2) In subsection (1) after “made” insert “by a Minister of the Crown or the Scottish Ministers”.
- (3) After subsection (1) insert—
- “(1A) Any power of the Department of Justice in Northern Ireland under this Part to make regulations or an order is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(2).”
- (4) After subsection (3) insert—
- “(3A) An order under section 1(4), 5(1) or 13(1) may not be made by the Department of Justice in Northern Ireland unless a draft has been laid before and approved by resolution of the Northern Ireland Assembly.

(2) [S.I. 1979/1573 \(N.I. 12\)](#).

(3B) Section 41(3) of the Interpretation Act (Northern Ireland) 1954<sup>(3)</sup> applies for the purposes of subsection (3A) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.”

(5) After subsection (5) insert—

“(5A) Regulations made by the Department of Justice in Northern Ireland under this Part are subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).”

#### Commencement Information

**115** Sch. 3 para. 108 in force at 12.4.2010, see [art. 1\(2\)](#)

**109.** In section 18(1) (interpretation), at the appropriate place, insert—

“Chief Constable (PSNI)” means the Chief Constable of the Police Service of Northern Ireland.”

#### Commencement Information

**116** Sch. 3 para. 109 in force at 12.4.2010, see [art. 1\(2\)](#)

**110.—(1)** Subject to what follows, the Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005<sup>(4)</sup> continue in effect ignoring paragraphs 94 to 109 above.

(2) The regulations that may be made by a Minister of the Crown in the exercise of a relevant power after the coming into force of this Order include regulations revoking, modifying or otherwise affecting any provision of the 2005 Regulations (so long as the regulations revoking, modifying or otherwise affecting any such provision are within the scope of the Minister’s power as modified or conferred by virtue of paragraphs 94 to 109 above).

(3) The regulations that may be made by the Department of Justice in the exercise of a relevant power after the coming into force of this Order include—

- (a) regulations revoking, modifying or otherwise affecting any provision of the 2005 Regulations (so long as the regulations revoking, modifying or otherwise affecting any such provision are within the scope of the Department’s power as conferred by virtue of paragraphs 94 to 109 above);
- (b) regulations revoking any provision of the 2005 Regulations so far as the provision cannot be revoked by virtue of sub-paragraph (2) above or paragraph (a) of this sub-paragraph (and so long as the regulations revoking any such provision could have been made by a Minister of the Crown in the exercise of the relevant power immediately before the coming into force of this Order).

(4) In this paragraph “a relevant power” means a power conferred by any of the following provisions of the Civil Contingencies Act 2004<sup>(5)</sup>—

- (a) section 2(3) and (5);
- (b) section 4(2), (4) and (5);
- (c) section 6(1);
- (d) section 12;

<sup>(3)</sup> 1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

<sup>(4)</sup> S.I. 2005/2042

<sup>(5)</sup> 2004 c. 36.

**Changes to legislation:** There are currently no known outstanding effects for the The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010, Cross Heading: Civil Contingencies Act 2004. (See end of Document for details)

- (e) section 12A;
- (f) section 15(3);
- (g) section 15A(2);
- (h) section 15A(5);
- (i) section 17(6).

(5) In section 12A(2) of the 2004 Act (as inserted by paragraph 103 above) references to regulations made by the Department of Justice include regulations made by virtue of subparagraph (3) above.

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**Commencement Information**

**I17** Sch. 3 para. 110 in force at 12.4.2010, see [art. 1\(2\)](#)



**Changes to legislation:**

There are currently no known outstanding effects for the The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010, Cross Heading: Civil Contingencies Act 2004.