

CIVIL CONTINGENCIES ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 23: Limitations of emergency regulations

51. *Subsections (1), (3) and (4)* impose limits on the provisions which may be included in emergency regulations. In particular, subsection (1)(b) provides that the maker of the emergency regulations must be satisfied that the effect of each provision of emergency regulations is in due proportion to the aspect or effect of the emergency which the provision is intended to prevent, control or mitigate.
52. *Subsection (2)* provides that emergency regulations must specify the Parts of the United Kingdom or regions in relation to which the regulations have effect. Regulations may have effect only in a limited area. This provision, taken in conjunction with subsection (1)(b) (emergency regulations may make provision only if and in so far as the effect of the provision is in due proportion to an aspect or effect of the emergency) means that the emergency regulations will have effect in a Part of the United Kingdom or a region only if the maker of the emergency regulations is satisfied that it is in due proportion to an aspect or effect of the emergency to do so.
53. *Subsection (5)* provides that emergency regulations may not amend Part 2 of the Act or the Human Rights Act 1998. (Other enactments may only be amended to the extent that the requirements of section 22 and 23 are satisfied. In light of these provisions, and the other provisions of the Act, Parliamentary Counsel have advised that the effect of the normal principles of the construction of delegated powers is that substantive amendments could not be made by emergency regulations to provisions of an enactment which are of constitutional significance.)