



# Civil Contingencies Act 2004

## 2004 CHAPTER 36

### PART 1

#### LOCAL ARRANGEMENTS FOR CIVIL PROTECTION

##### *General*

#### **7 Urgency**

- (1) This section applies where—
  - (a) there is an urgent need to make provision of a kind that could be made by an order under section 5(1) or by regulations under section 6(1), but
  - (b) there is insufficient time for the order or regulations to be made.
- (2) The Minister may by direction make provision of a kind that could be made by an order under section 5(1) or by regulations under section 6(1).
- (3) A direction under subsection (2) shall be in writing.
- (4) Where a Minister gives a direction under subsection (2)—
  - (a) he may revoke or vary the direction by further direction,
  - (b) he shall revoke the direction as soon as is reasonably practicable (and he may, if or in so far as he thinks it desirable, re-enact the substance of the direction by way of an order under section 5(1) or by way of regulations under section 6(1)), and
  - (c) the direction shall cease to have effect at the end of the period of 21 days beginning with the day on which it is given (but without prejudice to the power to give a new direction).
- (5) A provision of a direction under subsection (2) shall be treated for all purposes as if it were a provision of an order under section 5(1) or of regulations under section 6(1).

## **8 Urgency: Scotland**

- (1) This section applies where—
  - (a) there is an urgent need to make provision of a kind that could be made by an order under section 5(2) or by regulations under section 6(2), but
  - (b) there is insufficient time for the order or regulations to be made.
- (2) The Scottish Ministers may by direction make provision of a kind that could be made by an order under section 5(2) or by regulations under section 6(2).
- (3) A direction under subsection (2) shall be in writing.
- (4) Where the Scottish Ministers give a direction under subsection (2)—
  - (a) they may revoke or vary the direction by further direction,
  - (b) they shall revoke the direction as soon as is reasonably practicable (and they may, if or in so far as they think it desirable, re-enact the substance of the direction by way of an order under section 5(2) or by way of regulations under section 6(2)), and
  - (c) the direction shall cease to have effect at the end of the period of 21 days beginning with the day on which it is given (but without prejudice to the power to give a new direction).
- (5) A provision of a direction under subsection (2) shall be treated for all purposes as if it were a provision of an order under section 5(2) or of regulations under section 6(2).

## **9 Monitoring by Government**

- (1) A Minister of the Crown may require a person or body listed in Part 1 or 3 of Schedule 1—
  - (a) to provide information about action taken by the person or body for the purpose of complying with a duty under this Part, or
  - (b) to explain why the person or body has not taken action for the purpose of complying with a duty under this Part.
- (2) The Scottish Ministers may require a person or body listed in Part 2 or 4 of Schedule 1—
  - (a) to provide information about action taken by the person or body for the purpose of complying with a duty under this Part, or
  - (b) to explain why the person or body has not taken action for the purpose of complying with a duty under this Part.
- (3) A requirement under subsection (1) or (2) may specify—
  - (a) a period within which the information or explanation is to be provided;
  - (b) the form in which the information or explanation is to be provided.
- (4) A person or body shall comply with a requirement under subsection (1) or (2).

## **10 Enforcement**

- (1) Any of the following may bring proceedings in the High Court or the Court of Session in respect of a failure by a person or body listed in Part 1 or 3 of Schedule 1 to comply with section 2(1), 3(3), 4(1) or (8), 5(3), 6(6), 9(4) or 15(7)—
  - (a) a Minister of the Crown,

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- (b) a person or body listed in Part 1 of Schedule 1, and
- (c) a person or body listed in Part 3 of Schedule 1.

(2) In proceedings under subsection (1) the High Court or the Court of Session may grant any relief, or make any order, that it thinks appropriate.

## **11 Enforcement: Scotland**

(1) Any of the following may bring proceedings in the Court of Session in respect of a failure by a person or body listed in Part 2 or 4 of Schedule 1 to comply with section 2(1), 3(3), 4(1) or (8), 5(3), 6(6), 9(4) or 15(7)—

- (a) the Scottish Ministers,
- (b) a person or body listed in Part 2 of Schedule 1, and
- (c) a person or body listed in Part 4 of Schedule 1.

(2) In proceedings under subsection (1) the Court of Session may grant any remedy, or make any order, that it thinks appropriate.

## **12 Provision of information**

Regulations or an order under this Part may, if addressing the provision or disclosure of information, make provision about—

- (a) timing;
- (b) the form in which information is provided;
- (c) the use to which information may be put;
- (d) storage of information;
- (e) disposal of information.

## **13 Amendment of lists of responders**

(1) A Minister of the Crown may by order amend Schedule 1 so as to—

- (a) add an entry to Part 1 or 3;
- (b) remove an entry from Part 1 or 3;
- (c) move an entry from Part 1 to Part 3 or vice versa.

(2) The Scottish Ministers may by order amend Schedule 1 so as to—

- (a) add an entry to Part 2 or 4;
- (b) remove an entry from Part 2 or 4;
- (c) move an entry from Part 2 to Part 4 or vice versa.

(3) An order under subsection (1) or (2)—

- (a) may add, remove or move an entry either generally or only in relation to specified functions of a person or body, and
- (b) may make incidental, transitional or consequential provision (which may include provision amending this Act or another enactment).

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#### **14 Scotland: consultation**

- (1) A Minister of the Crown shall consult the Scottish Ministers before making regulations or an order under this Part in relation to a person or body if or in so far as the person or body exercises functions in relation to Scotland.
- (2) The Scottish Ministers shall consult a Minister of the Crown before making regulations or an order under this Part.

#### **15 Scotland: cross-border collaboration**

- (1) Where a person or body listed in Part 1 of Schedule 1 has a duty under section 2 or 4, the Scottish Ministers may make regulations—
  - (a) permitting or requiring a person or body listed in Part 2 or 4 of that Schedule to co-operate, to such extent and in such manner as may be specified, with the person or body listed in Part 1 of that Schedule in connection with the performance of the duty;
  - (b) permitting or requiring a person or body listed in Part 2 or 4 of that Schedule to provide information, either on request or in other specified circumstances, to the person or body listed in Part 1 of that Schedule in connection with the performance of the duty.
- (2) The Scottish Ministers may issue guidance about a matter addressed in regulations under subsection (1).
- (3) Where a person or body listed in Part 2 of Schedule 1 has a duty under section 2 or 4, a Minister of the Crown may make regulations—
  - (a) permitting or requiring a person or body listed in Part 1 or 3 of that Schedule to co-operate, to such extent and in such manner as may be specified, with the person or body listed in Part 2 of that Schedule in connection with the performance of the duty;
  - (b) permitting or requiring a person or body listed in Part 1 or 3 of that Schedule to provide information, either on request or in other specified circumstances, to the person or body listed in Part 2 of that Schedule in connection with the performance of the duty.
- (4) A Minister of the Crown may issue guidance about a matter addressed in regulations under subsection (3).
- (5) 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 Scottish Ministers may make an order—
  - (a) permitting or requiring a person or body listed in Part 2 or 4 of that Schedule to co-operate, to such extent and in such manner as may be specified, with the person or body listed in Part 1 of that Schedule in connection with the duty;
  - (b) permitting or requiring a person or body listed in Part 2 or 4 of that Schedule to provide information, either on request or in other specified circumstances, to the person or body listed in Part 1 of that Schedule in connection with the duty.
- (6) If the Scottish Ministers make an order under section 5(2) imposing a duty on a person or body listed in Part 2 of Schedule 1, a Minister of the Crown may make an order—
  - (a) permitting or requiring a person or body listed in Part 1 or 3 of that Schedule to co-operate, to such extent and in such manner as may be specified, with the person or body listed in Part 2 of that Schedule in connection with the duty;

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- (b) permitting or requiring a person or body listed in Part 1 or 3 of that Schedule to provide information, either on request or in other specified circumstances, to the person or body listed in Part 2 of that Schedule in connection with the duty.
- (7) A person or body shall—
- (a) comply with regulations or an order under this section, and
  - (b) have regard to guidance under this section.
- (8) In this Act, except where the contrary intention appears—
- (a) a reference to an order under section 5(1) includes a reference to an order under subsection (6) above, and
  - (b) a reference to an order under section 5(2) includes a reference to an order under subsection (5) above.

## **16 National Assembly for Wales**

- (1) A Minister of the Crown shall consult the National Assembly for Wales before—
- (a) making regulations under section 2(3), 4(2) or 6(1) which relate wholly or partly to Wales,
  - (b) issuing guidance under section 3(1), 4(6) or 6(4) which relates wholly or partly to Wales,
  - (c) giving an order under section 5(1) which relates wholly or partly to Wales,
  - (d) giving a direction under section 7(2) which makes provision relating wholly or partly to Wales of a kind that could be made by regulations under section 6(1),
  - (e) giving a direction under section 7(2) which makes provision relating wholly or partly to Wales of a kind that could be made by an order under section 5(1),
  - (f) bringing proceedings under section 10 in respect of a failure by a person or body where the failure relates wholly or partly to Wales, or
  - (g) making an order under section 13(1) in respect of a person or body with, or in so far as the person or body has, functions in relation to Wales.
- (2) A Minister of the Crown may not without the consent of the National Assembly for Wales take action of a kind specified in subsection (3) that relates wholly or partly to a person or body specified in subsection (4).
- (3) The actions referred to in subsection (2) are—
- (a) making regulations under section 2(3), 4(2) or 6(1),
  - (b) making an order under section 5(1),
  - (c) issuing guidance under section 3(1), 4(6) or 6(4),
  - (d) giving a direction under section 7,
  - (e) bringing proceedings under section 10, and
  - (f) making an order under section 13.
- (4) The persons and bodies referred to in subsection (2) are—
- (a) a council specified in paragraph 2 of Schedule 1, and
  - (b) a person or body specified in paragraph 4, 5, 8, 9, 10, 11 or 21 of that Schedule, if and in so far as the person or body has functions in relation to Wales.

## **17 Regulations and orders**

- (1) Regulations and orders under this Part shall be made by statutory instrument.

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- (2) An order under section 1(4), 5(1) or 13(1) may not be made by a Minister of the Crown unless a draft has been laid before and approved by resolution of each House of Parliament.
- (3) An order under section 1(4), 5(2) or 13(2) may not be made by the Scottish Ministers unless a draft has been laid before and approved by resolution of the Scottish Parliament.
- (4) Regulations made by a Minister of the Crown under this Part shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Regulations made by the Scottish Ministers under this Part shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (6) Regulations or an order under this Part—
  - (a) may make provision which applies generally or only in specified circumstances or for a specified purpose,
  - (b) may make different provision for different circumstances or purposes, and
  - (c) may make incidental, consequential or transitional provision.

## **18 Interpretation, &c.**

- (1) In this Part—
  - “enactment” includes—
    - (a) an Act of the Scottish Parliament,
    - (b) Northern Ireland legislation, and
    - (c) an instrument made under an Act of the Scottish Parliament or under Northern Ireland legislation (as well as an instrument made under an Act),
  - “function” means any power or duty whether conferred by virtue of an enactment or otherwise,
  - “terrorism” has the meaning given by section 1 of the Terrorism Act 2000 (c. 11), and
  - “war” includes armed conflict.
- (2) In this Part a reference to the United Kingdom includes a reference to the territorial sea of the United Kingdom.
- (3) Except in a case of contradiction, nothing in or done under this Part shall impliedly repeal or revoke a provision of or made under another enactment.