

**EXPLANATORY MEMORANDUM TO THE
CIVIL CONTINGENCIES ACT 2004 (CONTINGENCY PLANNING)
REGULATIONS**

2005 No. 2042

1. This explanatory memorandum has been prepared by the Cabinet Office and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

- 2.1. Part 1 of the Civil Contingencies Act 2004 (“the Act”) establishes the statutory framework for local civil protection arrangements in the United Kingdom. The Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005 (“the Regulations”) set out the detail of the new regime by cutting back the scope of the duties on the face of the Act and specifying in greater detail how they are to be performed.

3. Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1. None.

4. Legislative Background

- 4.1. As enabling legislation, implementation of Part 1 of the Act is heavily dependent on the supporting Regulations and guidance. These Regulations – which are the first use of the powers in sections 2, 4, 6, 12, 15 and 17 of the Act – are crucial to the establishment of the new legislative regime for civil protection at the local level.
- 4.2. Section 16 of the Act requires the Government to gain the consent of the National Assembly for Wales before making Regulations applying to Wales. The First Minister of the National Assembly for Wales wrote to the Cabinet Office on 19 July to notify it that the Assembly gave its consent to the draft Regulations on 28 June following a debate in Plenary.
- 4.3. Section 14 of the Act requires the Government to consult the Scottish Executive before making Regulations applying to Scotland. The Scottish Executive has been consulted and is content.

5. Extent

5.1. This Order applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1. Mr Jim Murphy has made the following statement regarding Human Rights: In my view the provisions of the Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005 are compatible with the Convention rights.

7. Policy background

The Act and supporting Regulations

7.1. The Act received Royal Assent on 18 November 2004. The aim of Part 1 of the Act is to establish a new statutory framework for local civil protection activity in the United Kingdom which is capable of meeting the challenges of the 21st century. The Act will put local civil protection on a sounder long term footing by:

- Establishing a clear set of roles and responsibilities for organisations with a front line emergency response role, ensuring that they are prepared to deal effectively with the full range of emergencies;
- Delivering greater structure and consistency of civil protection activity at the local level;
- Facilitating more systematic co-operation between local responders; and
- Establishing a sound basis for robust performance management of local responders.

7.2. The Act divides local responders into two categories, imposing a different set of duties on each. Category 1 responders are those organisations at the core of emergency response (e.g. emergency services, local authorities, NHS bodies). Category 1 responders are subject to the full set of civil protection duties. They will be required to:

- Assess the risk of emergencies occurring and use this to inform emergency planning and business continuity planning;
- Put in place emergency plans;
- Put in place business continuity plans;
- Put in place arrangements to make information available to the public about civil protection matters and maintain arrangements to warn, inform and advise the public in the event of an emergency;
- Share information with other local responders to enhance co-ordination;
- Co-operate with other local responders to enhance co-ordination and efficiency; and
- Provide advice and assistance to businesses and voluntary organisations about business continuity management (local authorities only).

7.3. Category 2 organisations (e.g. utility companies, transport companies, Health and Safety Executive) are "co-operating bodies" which are less likely to be involved in the heart of planning work but will be heavily involved in incidents that affect their sector. Category 2 responders have a less demanding set of duties – co-operating and sharing relevant information with other Category 1 and 2 responders.

- 7.4. The Regulations establish the scope of the duties and the manner in which they are to be performed. In particular, the Regulations require Category 1 and 2 responders to come together to form Local Resilience Forums (LRFs), which are based on police force areas outside London. LRFs are the principal mechanism for multi-agency co-operation between local responders and will help facilitate better co-ordination, communication and foster a sense of partnership.
- 7.5. A short guide to the Act has been produced by the Cabinet Office and copies have been placed in the libraries of the House. Copies of the draft statutory guidance *Emergency Preparedness* – which explains what the legislation requires and offers good practice advice on how the duties may be performed – have also been placed in the libraries of the House.

Policy development

- 7.6. The Cabinet Office published an indicative draft set of draft Regulations alongside the Civil Contingencies Bill upon introduction to Parliament in January 2004. During the passage of the Bill a series of stakeholder working groups were established to advise the Cabinet Office on the development of the draft Regulations and accompanying statutory guidance.
- 7.7. The Cabinet Office consulted publicly on the supporting draft Regulations and statutory guidance under Part 1 of the Act between December 2004 and March 2005 – 167 consultation responses were received in total. There was also a series of eleven consultation road show events in England and Wales to facilitate a genuine dialogue between the Cabinet Office and its stakeholders – these brought together the full range of Category 1 and 2 responders.
- 7.8. Consultation responses on the draft regulations and the guidance document *Emergency Preparedness* were broadly very positive, which is due in large part to the close engagement of emergency planning practitioners in the policy development process.
- 7.9. Consultees were generally very supportive of the new framework for civil protection at the local level, and for that reason focused on matters of technical detail rather than points of principle.
- 7.10. The revised draft Regulations and statutory guidance, amended in the light of the public consultation, were published by the Government on 23 May 2005. These documents did not change fundamentally from previous versions, but it is worth outlining some of the areas where substantive changes were made:
- Information sharing – The Cabinet Office worked closely with the Department for Constitutional Affairs to ensure that the information sharing provisions in the Regulations were more closely aligned with the Freedom of Information Act regime and simpler to understand.
 - Risk assessment – Stakeholders requested clarification on several aspects of the risk assessment framework recommended in the guidance, including how the process will work in the Devolved Administrations and the nature of the support that would be provided by central government. The Cabinet Office also made a

number of detailed technical changes to the risk assessment framework in the guidance, without changing the fundamental principles of the approach.

- London – Most of the Act applies to London in the same way as the rest of England and Wales. One area where it is different is in relation to Local Resilience Forum areas. In other regions, multi-agency working will be based on police force area groupings. In London, the police force is regional rather than local, and it is therefore not appropriate to base Local Resilience Forum areas on police force boundaries. In the consultation, London stakeholders accepted the need to establish groupings of boroughs to facilitate the right level of local engagement, but the case was made for adjustments to the precise configuration of the groupings. Following the addition of a central grouping (which pulls together City of London, Kensington and Chelsea, Lambeth, Southwark, Tower Hamlets and Westminster), there will now be six Local Resilience Areas in London.
- Wales – The Welsh Assembly Government plays an important role in civil protection – a number of areas crucial to civil protection (e.g. transport and Health) are transferred and it plays an important co-ordinating role. The Cabinet Office worked closely with the Welsh Assembly Government to ensure that it has a level of engagement in local civil protection arrangements which reflects the devolution settlement.

7.11. The bulk of the duties under Part 1 of the Act will be commenced in November 2005. The duty in section 4 of the Act to provide advice and assistance to businesses and voluntary organisations in relation to business continuity will be commenced in May 2006.

7.12. The final version of the statutory guidance will be published shortly. Hard copies will be placed in the libraries of the House as soon as they are available.

Public, media and Parliamentary interest

7.13. Public, media and Parliamentary interest has focused on Part 2 of the Act, which establishes a modernised framework for emergency powers. Part 2 of the Act was brought into force in December 2004.

7.14. The content of the Regulations and statutory guidance under Part 1 of the Act is detailed, technical and has not elicited a great deal of interest beyond civil protection professionals (e.g. local authority emergency planners).

8. Impact

8.1. A Regulatory Impact Assessment (RIA) has not been prepared for this instrument. An RIA was published alongside the draft Bill – and accompanying indicative draft set of Regulations – and the conclusion was that the costs to business were small and were by far outweighed by the benefits. The Cabinet Office has since worked closely with the full range of private sector Category 2 organisations to reduce the regulatory burden still further.

9. Contact

Queries about this instrument should be directed to Daniel Greaves or Kerry Williams at the Civil Contingencies Act Implementation Team at the Cabinet Office. They can be contacted on 020 7276 5053 or ccact@cabinet-office.x.gsi.gov.uk.