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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations relate to the extent of the duties imposed on certain bodies (referred to as “Scottish Category 1 responders”) listed in Part 2 of Schedule 1 to the Civil Contingencies Act 2004 (“the Act”) under sections 2 and 4 of that Act (duties to assess, and plan for emergencies and duties to provide advice and assistance to business) and the manner in which those duties are to be performed.

Part 2 of these Regulations makes general provisions about the extent and performance of those duties. Regulation 3 requires Scottish Category 1 responders which have functions which are exercisable in a particular area to co-operate with each other. This form of co operation is referred to as the Strategic Co ordinating Group. In addition, bodies listed in Part 4 of Schedule 1 to the Act (referred to as “Scottish Category 2 responders”) may ask to be, or be asked, to participate in the Strategic Co ordinating Group. Regulation 4 enables Scottish Category 1 and Scottish Category 2 responders to co operate with general Category 1 responders (those bodies listed in Part 1 of Schedule 1 to the Act). Regulation 5 enables responders to make arrangements with each other for the discharge of the duties of Scottish Category 1 responders under section 2 of the Act jointly or for one responder to perform those duties on behalf of another. Regulations 6 to 8 enable Category 1 responders to identify one Category 1 responder as having the lead responsibility for performing certain functions under section 2 of the Act in a particular police area. Regulation 9 provides that the duties under section 2 of the Act do not apply to certain emergencies. These are emergencies in relation to which existing legislation already makes provision which is analogous to the Act.

Part 3 of these Regulations relates to the duty of Scottish Category 1 responders under section 2(1)(a) and (b) of the Act to assess the risk of an emergency occurring. Regulation 10 specifies that the duty only applies in relation to an emergency which affects or may affect the geographical area in which the functions of the Scottish Category 1 responder are exercisable. Regulation 11 enables Scottish Ministers to issue guidance as to the risk of a particular emergency occurring or impact that it would have or an assessment of a particular emergency occurring or the impact of such an emergency. Regulation 12 requires Scottish Category 1 responders, as part of the Strategic Co ordinating Group to collaborate with each other in maintaining a register (referred to as the “community risk register”) of the assessment carried out by each of them under section 2.

Part 4 of these Regulations relates to the duty of Scottish Category 1 responders under section 2(1)(c) and (d) of the Act to maintain plans. Regulation 13 requires Scottish Category 1 responders to have regard to any assessment of risk carried out by it by virtue of section 2(1)(a) or (b) of the Act. Regulation 14 requires a Scottish Category 1 responder to have regard to arrangements to warn the public and provide advice and information to the public when performing its duty under section 2(1)(d). Regulation 15 provides that, in performing that duty, Scottish Category 1 responders must maintain plans which relate to any emergency to which those duties apply and may maintain specific plans to deal with particular emergencies. Regulation 16 requires responders to consider whether it would be appropriate to perform its functions under section 2(1)(d) by way of a plan maintained by more than one Scottish Category 1 responder (a “multi agency plan”). Regulation 17 requires Scottish Category 1 responders to have regard to the activities carried out by certain voluntary organisations. Regulation 18 requires Scottish Category 1 responders to include in the plans maintained by virtue of section 2(1)(c) and (d) of the Act a procedure for determining whether an emergency has occurred. Regulation 19 requires those plans to include arrangements for exercises and training. Regulation 20 requires Scottish Category 1 responders to consider whether such plans must be revised when Scottish Ministers issue guidance or an assessment under regulation 11.

Part 5 of these Regulations relates to the duty of Scottish Category 1 responders under section 2(1)(f) of the Act to publish in part the assessments made and plans maintained under section 2(1)(a) to (d) of the Act. Regulation 21 requires Scottish Category 1 responders to have regard to the importance of not alarming the public unnecessarily.

Part 6 of these Regulations relates to the duty of Scottish Category 1 responders under section 2(1)(g) of the Act to maintain arrangements to warn and provide advice to the public in the event of an emergency. Regulation 22 provides that Scottish Category 1 responders must have regard to the plans it maintains by virtue of section 2(1)(c) and (d). Regulation 23 provides that Scottish Category 1 responders may maintain general arrangements to warn and provide advice to the public or specific arrangements. Regulation 24 requires Scottish Category 1 responders to have regard to the importance of not alarming the public unnecessarily. Regulation 25 requires Scottish Category 1 responders to exercise their arrangements and to train their staff in operating those arrangements. Regulation 26 to 28 require Scottish Category 1 responders to identify or have arrangements to identify the Category 1 responder with lead responsibility for warning, informing and advising the public. Regulation 29 requires responders to have regard to the warnings, information and advice provided to the public and by other Scottish responders and other bodies and provides that Category 1 responders need not duplicate that effort.

Part 7 of these Regulations relates to the duty of responders who are local authorities (referred to as “relevant responders”) under section 4(1) of the Act to give advice and assistance to the public in connection with the making of arrangements for the continuance of commercial activities by the public or the carrying on by voluntary organisations of their activities in the event of an emergency. Regulation 30 defines “relevant responder”. Regulation 31 is a transitional provision which has the effect that a relevant responder will have a power rather than a duty to provide advice to businesses under regulation 33(3)(a) until 15th May 2006. Regulation 32 requires relevant responders to take into account any relevant community risk register maintained under regulation 12. Regulation 33 specifies the scope of the duty in relation to business. It provides that the duty only applies to businesses which carry on commercial activity in the area in which the functions of the responder are exercisable. It also provides that relevant responders must provide advice and assistance to business at large, and may in addition provide advice and assistance to individual business or refer them to a business continuity consultant or obtain advice and assistance for them from a business continuity consultant. Regulation 34 specifies the scope of the duty in relation to voluntary organisations. It provides that relevant responders must determine which voluntary organisations should receive advice and assistance, having had regard to the factors listed in this regulation. Regulation 35 requires relevant responders which have functions which are exercisable in a police area to co operate with each other. Relevant responders may make arrangements with each other for the discharge of their duties under section 4 of the Act jointly or for one relevant responder to perform those duties on behalf of another. Regulation 36 relates to cross border co operation between local authorities in England and Wales and Scottish Category 1 and 2 responders. Regulation 37 requires relevant responders to have regard to the advice and assistance provided of this kind by other responders and provides that relevant responders need not unnecessarily duplicate that advice or assistance. Regulation 38 enables relevant responders to charge for any advice or assistance provided on request. Such charge may not exceed the costs of the provision of that advice or assistance (taking into account the indirect costs).

Part 8 relates to information. Regulation 39 defines “sensitive information”. Regulation 40 makes provision for circumstances where a certificate in relation to national security has been issued by a member of the Scottish Executive. Regulation 41 enables Category 1 or 2 responders to require any other responder to provide information which it reasonably requires in connection with the performance of its functions under section 2(1)(a) to (d) of the Act. Regulation 42 defines a procedure by which information can be requested. Regulation 43 places an obligation on the receiving responder to reply with a request for information if conditions are met. A responder must refuse to comply with such a requirement in certain circumstances. Regulation 44 provides when and where such information is to be provided. Regulation 45 provides that Category 1 responders

must not publish or disclose to the public sensitive information obtained or created by virtue of the Act or these Regulations unless certain conditions are satisfied. Regulation 46 limits the use that can be made of sensitive information which has been obtained under these Regulations. Regulation 47 imposes requirements on responders as to storage and handling of sensitive information obtained under these Regulations.