



# Civil Contingencies Act 2004

## 2004 CHAPTER 36

An Act to make provision about civil contingencies.

[18th November 2004]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART 1

#### LOCAL ARRANGEMENTS FOR CIVIL PROTECTION

##### *Introductory*

#### **1 Meaning of “emergency”**

- (1) In this Part “emergency” means—
- (a) an event or situation which threatens serious damage to human welfare in a place in the United Kingdom,
  - (b) an event or situation which threatens serious damage to the environment of a place in the United Kingdom, or
  - (c) war, or terrorism, which threatens serious damage to the security of the United Kingdom.
- (2) For the purposes of subsection (1)(a) an event or situation threatens damage to human welfare only if it involves, causes or may cause—
- (a) loss of human life,
  - (b) human illness or injury,
  - (c) homelessness,
  - (d) damage to property,
  - (e) disruption of a supply of money, food, water, energy or fuel,
  - (f) disruption of a system of communication,

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- (g) disruption of facilities for transport, or
  - (h) disruption of services relating to health.
- (3) For the purposes of subsection (1)(b) an event or situation threatens damage to the environment only if it involves, causes or may cause—
- (a) contamination of land, water or air with biological, chemical or radio-active matter, or
  - (b) disruption or destruction of plant life or animal life.
- (4) A Minister of the Crown, or, in relation to Scotland, the Scottish Ministers, may by order—
- (a) provide that a specified event or situation, or class of event or situation, is to be treated as falling, or as not falling, within any of paragraphs (a) to (c) of subsection (1);
  - (b) amend subsection (2) so as to provide that in so far as an event or situation involves or causes disruption of a specified supply, system, facility or service—
    - (i) it is to be treated as threatening damage to human welfare, or
    - (ii) it is no longer to be treated as threatening damage to human welfare.
- (5) The event or situation mentioned in subsection (1) may occur or be inside or outside the United Kingdom.

### *Contingency planning*

## **2 Duty to assess, plan and advise**

- (1) A person or body listed in Part 1 or 2 of Schedule 1 shall—
- (a) from time to time assess the risk of an emergency occurring,
  - (b) from time to time assess the risk of an emergency making it necessary or expedient for the person or body to perform any of his or its functions,
  - (c) maintain plans for the purpose of ensuring, so far as is reasonably practicable, that if an emergency occurs the person or body is able to continue to perform his or its functions,
  - (d) maintain plans for the purpose of ensuring that if an emergency occurs or is likely to occur the person or body is able to perform his or its functions so far as necessary or desirable for the purpose of—
    - (i) preventing the emergency,
    - (ii) reducing, controlling or mitigating its effects, or
    - (iii) taking other action in connection with it,
  - (e) consider whether an assessment carried out under paragraph (a) or (b) makes it necessary or expedient for the person or body to add to or modify plans maintained under paragraph (c) or (d),
  - (f) arrange for the publication of all or part of assessments made and plans maintained under paragraphs (a) to (d) in so far as publication is necessary or desirable for the purpose of—
    - (i) preventing an emergency,
    - (ii) reducing, controlling or mitigating the effects of an emergency, or
    - (iii) enabling other action to be taken in connection with an emergency, and

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- (g) maintain arrangements to warn the public, and to provide information and advice to the public, if an emergency is likely to occur or has occurred.
- (2) In relation to a person or body listed in Part 1 or 2 of Schedule 1 a duty in subsection (1) applies in relation to an emergency only if—
- (a) the emergency would be likely seriously to obstruct the person or body in the performance of his or its functions, or
  - (b) it is likely that the person or body—
    - (i) would consider it necessary or desirable to take action to prevent the emergency, to reduce, control or mitigate its effects or otherwise in connection with it, and
    - (ii) would be unable to take that action without changing the deployment of resources or acquiring additional resources.
- (3) A Minister of the Crown may, in relation to a person or body listed in Part 1 of Schedule 1, make regulations about—
- (a) the extent of a duty under subsection (1) (subject to subsection (2));
  - (b) the manner in which a duty under subsection (1) is to be performed.
- (4) The Scottish Ministers may, in relation to a person or body listed in Part 2 of Schedule 1, make regulations about—
- (a) the extent of a duty under subsection (1) (subject to subsection (2));
  - (b) the manner in which a duty under subsection (1) is to be performed.
- (5) Regulations under subsection (3) may, in particular—
- (a) make provision about the kind of emergency in relation to which a specified person or body is or is not to perform a duty under subsection (1);
  - (b) permit or require a person or body not to perform a duty under subsection (1) in specified circumstances or in relation to specified matters;
  - (c) make provision as to the timing of performance of a duty under subsection (1);
  - (d) require a person or body to consult a specified person or body or class of person or body before or in the course of performing a duty under subsection (1);
  - (e) permit or require a county council to perform a duty under subsection (1) on behalf of a district council within the area of the county council;
  - (f) permit, require or prohibit collaboration, to such extent and in such manner as may be specified, by persons or bodies in the performance of a duty under subsection (1);
  - (g) permit, require or prohibit delegation, to such extent and in such manner as may be specified, of the performance of a duty under subsection (1);
  - (h) permit or require a 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 a person or body listed in Part 1 of the Schedule in connection with the performance of a duty under subsection (1);
  - (i) permit or require a person or body listed in Part 1 or 3 of Schedule 1 to provide information, either on request or in other specified circumstances, to a person or body listed in Part 1 of the Schedule in connection with the performance of a duty under subsection (1);
  - (j) permit or require a person or body to perform (wholly or partly) a duty under subsection (1)(a) or (b) having regard to, or by adopting or relying on, work undertaken by another specified person or body;

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- (k) permit or require a person or body, in maintaining a plan under subsection (1) (c) or (d), to have regard to the activities of bodies (other than public or local authorities) whose activities are not carried on for profit;
  - (l) make provision about the extent of, and the degree of detail to be contained in, a plan maintained under subsection (1)(c) or (d);
  - (m) require a plan to include provision for the carrying out of exercises;
  - (n) require a plan to include provision for the training of staff or other persons;
  - (o) permit a person or body to make arrangements with another person or body, as part of planning undertaken under subsection (1)(c) or (d), for the performance of a function on behalf of the first person or body;
  - (p) confer a function on a Minister of the Crown, on the Scottish Ministers, on the National Assembly for Wales, on a Northern Ireland department or on any other specified person or body (and a function conferred may, in particular, be a power or duty to exercise a discretion);
  - (q) make provision which has effect despite other provision made by or by virtue of an enactment;
  - (r) make provision which applies generally or only to a specified person or body or only in specified circumstances;
  - (s) make different provision for different persons or bodies or for different circumstances.
- (6) Subsection (5) shall have effect in relation to subsection (4) as it has effect in relation to subsection (3), but as if—
- (a) paragraph (e) were omitted,
  - (b) in paragraphs (h) and (i)—
    - (i) a reference to Part 1 or 3 of Schedule 1 were a reference to Part 2 or 4 of that Schedule, and
    - (ii) a reference to Part 1 of that Schedule were a reference to Part 2 of that Schedule, and
  - (c) in paragraph (p) the references to a Minister of the Crown, to the National Assembly for Wales and to a Northern Ireland department were omitted.

### **3 Section 2: supplemental**

- (1) A Minister of the Crown may issue guidance to a person or body listed in Part 1 or 3 of Schedule 1 about the matters specified in section 2(3) and (5).
- (2) The Scottish Ministers may issue guidance to a person or body listed in Part 2 or 4 of Schedule 1 about the matters specified in section 2(4) and (5) (as applied by section 2(6)).
- (3) A person or body listed in any Part of Schedule 1 shall—
  - (a) comply with regulations under section 2(3) or (4), and
  - (b) have regard to guidance under subsection (1) or (2) above.
- (4) A person or body listed in Part 1 or 2 of Schedule 1 may be referred to as a “Category 1 responder”.
- (5) A person or body listed in Part 3 or 4 of Schedule 1 may be referred to as a “Category 2 responder”.

#### **4 Advice and assistance to the public**

- (1) A body specified in paragraph 1, 2 or 13 of Schedule 1 shall provide advice and assistance to the public in connection with the making of arrangements for the continuance of commercial activities by the public, or the continuance of the activities of bodies other than public or local authorities whose activities are not carried on for profit, in the event of an emergency.
- (2) A Minister of the Crown may, in relation to a body specified in paragraph 1 or 2 of that Schedule, make regulations about—
  - (a) the extent of the duty under subsection (1);
  - (b) the manner in which the duty under subsection (1) is to be performed.
- (3) The Scottish Ministers may, in relation to a body specified in paragraph 13 of that Schedule, make regulations about—
  - (a) the extent of the duty under subsection (1);
  - (b) the manner in which the duty under subsection (1) is to be performed.
- (4) Regulations under subsection (2) or (3) may, in particular—
  - (a) permit a body to make a charge for advice or assistance provided on request under subsection (1);
  - (b) make provision of a kind permitted to be made by regulations under section 2(5)(a) to (i) and (o) to (s).
- (5) Regulations by virtue of subsection (4)(a) must provide that a charge for advice or assistance may not exceed the aggregate of—
  - (a) the direct costs of providing the advice or assistance, and
  - (b) a reasonable share of any costs indirectly related to the provision of the advice or assistance.
- (6) A Minister of the Crown may issue guidance to a body specified in paragraph 1 or 2 of that Schedule about the matters specified in subsections (2) and (4).
- (7) The Scottish Ministers may issue guidance to a body specified in paragraph 13 of that Schedule about the matters specified in subsections (3) and (4).
- (8) A body shall—
  - (a) comply with regulations under subsection (2) or (3), and
  - (b) have regard to guidance under subsection (6) or (7).

#### *Civil protection*

#### **5 General measures**

- (1) A Minister of the Crown may by order require a person or body listed in Part 1 of Schedule 1 to perform a function of that person or body for the purpose of—
  - (a) preventing the occurrence of an emergency,
  - (b) reducing, controlling or mitigating the effects of an emergency, or
  - (c) taking other action in connection with an emergency.
- (2) The Scottish Ministers may by order require a person or body listed in Part 2 of Schedule 1 to perform a function of that person or body for the purpose of—
  - (a) preventing the occurrence of an emergency,

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- (b) reducing, controlling or mitigating the effects of an emergency, or
  - (c) taking other action in connection with an emergency.
- (3) A person or body shall comply with an order under this section.
- (4) An order under subsection (1) may—
- (a) require a person or body to consult a specified person or body or class of person or body;
  - (b) permit, require or prohibit collaboration, to such extent and in such manner as may be specified;
  - (c) permit, require or prohibit delegation, to such extent and in such manner as may be specified;
  - (d) permit or require a 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 a person or body listed in Part 1 of the Schedule in connection with a duty under the order;
  - (e) permit or require a person or body listed in Part 1 or 3 of Schedule 1 to provide information in connection with a duty under the order, whether on request or in other specific circumstances to a person or body listed in Part 1 of the Schedule;
  - (f) confer a function on a Minister of the Crown, on the Scottish Ministers, on the National Assembly for Wales, on a Northern Ireland department or on any other specified person or body (and a function conferred may, in particular, be a power or duty to exercise a discretion);
  - (g) make provision which applies generally or only to a specified person or body or only in specified circumstances;
  - (h) make different provision for different persons or bodies or for different circumstances.
- (5) Subsection (4) shall have effect in relation to subsection (2) as it has effect in relation to subsection (1), but as if—
- (a) in paragraphs (d) and (e)—
    - (i) a reference to Part 1 or 3 of Schedule 1 were a reference to Part 2 or 4 of that Schedule, and
    - (ii) a reference to Part 1 of that Schedule were a reference to Part 2 of that Schedule, and
  - (b) in paragraph (f) the references to a Minister of the Crown, to the National Assembly for Wales and to a Northern Ireland department were omitted.

## 6 Disclosure of information

- (1) A Minister of the Crown may make regulations requiring or permitting one person or body listed in Part 1 or 3 of Schedule 1 (“the provider”) to disclose information on request to another person or body listed in any Part of that Schedule (“the recipient”).
- (2) The Scottish Ministers may make regulations requiring or permitting one person or body listed in Part 2 or 4 of Schedule 1 (“the provider”) to disclose information on request to another person or body listed in any Part of that Schedule (“the recipient”).
- (3) Regulations under subsection (1) or (2) may be made only in connection with a function of the provider or of the recipient which relates to emergencies.

- (4) A Minister of the Crown may issue guidance to a person or body about the performance of functions under regulations made under subsection (1).
- (5) The Scottish Ministers may issue guidance to a person or body about the performance of functions under regulations made under subsection (2).
- (6) A person or body shall—
  - (a) comply with regulations under subsection (1) or (2), and
  - (b) have regard to guidance under subsection (4) or (5).

### *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,

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- (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,
  - (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).

## **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;

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- (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;
  - (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.
- (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.

## PART 2

### EMERGENCY POWERS

## 19 Meaning of “emergency”

(1) In this Part “emergency” means—

- (a) an event or situation which threatens serious damage to human welfare in the United Kingdom or in a Part or region,
- (b) an event or situation which threatens serious damage to the environment of the United Kingdom or of a Part or region, or
- (c) war, or terrorism, which threatens serious damage to the security of the United Kingdom.

(2) For the purposes of subsection (1)(a) an event or situation threatens damage to human welfare only if it involves, causes or may cause—

- (a) loss of human life,
- (b) human illness or injury,
- (c) homelessness,
- (d) damage to property,
- (e) disruption of a supply of money, food, water, energy or fuel,
- (f) disruption of a system of communication,
- (g) disruption of facilities for transport, or

- (h) disruption of services relating to health.
- (3) For the purposes of subsection (1)(b) an event or situation threatens damage to the environment only if it involves, causes or may cause—
  - (a) contamination of land, water or air with biological, chemical or radio-active matter, or
  - (b) disruption or destruction of plant life or animal life.
- (4) The Secretary of State may by order amend subsection (2) so as to provide that in so far as an event or situation involves or causes disruption of a specified supply, system, facility or service—
  - (a) it is to be treated as threatening damage to human welfare, or
  - (b) it is no longer to be treated as threatening damage to human welfare.
- (5) An order under subsection (4)—
  - (a) may make consequential amendment of this Part, and
  - (b) may not be made unless a draft has been laid before, and approved by resolution of, each House of Parliament.
- (6) The event or situation mentioned in subsection (1) may occur or be inside or outside the United Kingdom.

## **20 Power to make emergency regulations**

- (1) Her Majesty may by Order in Council make emergency regulations if satisfied that the conditions in section 21 are satisfied.
- (2) A senior Minister of the Crown may make emergency regulations if satisfied—
  - (a) that the conditions in section 21 are satisfied, and
  - (b) that it would not be possible, without serious delay, to arrange for an Order in Council under subsection (1).
- (3) In this Part “senior Minister of the Crown” means—
  - (a) the First Lord of the Treasury (the Prime Minister),
  - (b) any of Her Majesty’s Principal Secretaries of State, and
  - (c) the Commissioners of Her Majesty’s Treasury.
- (4) In this Part “serious delay” means a delay that might—
  - (a) cause serious damage, or
  - (b) seriously obstruct the prevention, control or mitigation of serious damage.
- (5) Regulations under this section must be prefaced by a statement by the person making the regulations—
  - (a) specifying the nature of the emergency in respect of which the regulations are made, and
  - (b) declaring that the person making the regulations—
    - (i) is satisfied that the conditions in section 21 are met,
    - (ii) is satisfied that the regulations contain only provision which is appropriate for the purpose of preventing, controlling or mitigating an aspect or effect of the emergency in respect of which the regulations are made,

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- (iii) is satisfied that the effect of the regulations is in due proportion to that aspect or effect of the emergency,
- (iv) is satisfied that the regulations are compatible with the Convention rights (within the meaning of section 1 of the Human Rights Act 1998 (c. 42)), and
- (v) in the case of regulations made under subsection (2), is satisfied as to the matter specified in subsection (2)(b).

## **21 Conditions for making emergency regulations**

- (1) This section specifies the conditions mentioned in section 20.
- (2) The first condition is that an emergency has occurred, is occurring or is about to occur.
- (3) The second condition is that it is necessary to make provision for the purpose of preventing, controlling or mitigating an aspect or effect of the emergency.
- (4) The third condition is that the need for provision referred to in subsection (3) is urgent.
- (5) For the purpose of subsection (3) provision which is the same as an enactment (“the existing legislation”) is necessary if, in particular—
  - (a) the existing legislation cannot be relied upon without the risk of serious delay,
  - (b) it is not possible without the risk of serious delay to ascertain whether the existing legislation can be relied upon, or
  - (c) the existing legislation might be insufficiently effective.
- (6) For the purpose of subsection (3) provision which could be made under an enactment other than section 20 (“the existing legislation”) is necessary if, in particular—
  - (a) the provision cannot be made under the existing legislation without the risk of serious delay,
  - (b) it is not possible without the risk of serious delay to ascertain whether the provision can be made under the existing legislation, or
  - (c) the provision might be insufficiently effective if made under the existing legislation.

## **22 Scope of emergency regulations**

- (1) Emergency regulations may make any provision which the person making the regulations is satisfied is appropriate for the purpose of preventing, controlling or mitigating an aspect or effect of the emergency in respect of which the regulations are made.
- (2) In particular, emergency regulations may make any provision which the person making the regulations is satisfied is appropriate for the purpose of—
  - (a) protecting human life, health or safety,
  - (b) treating human illness or injury,
  - (c) protecting or restoring property,
  - (d) protecting or restoring a supply of money, food, water, energy or fuel,
  - (e) protecting or restoring a system of communication,
  - (f) protecting or restoring facilities for transport,
  - (g) protecting or restoring the provision of services relating to health,
  - (h) protecting or restoring the activities of banks or other financial institutions,

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- (i) preventing, containing or reducing the contamination of land, water or air,
  - (j) preventing, reducing or mitigating the effects of disruption or destruction of plant life or animal life,
  - (k) protecting or restoring activities of Parliament, of the Scottish Parliament, of the Northern Ireland Assembly or of the National Assembly for Wales, or
  - (l) protecting or restoring the performance of public functions.
- (3) Emergency regulations may make provision of any kind that could be made by Act of Parliament or by the exercise of the Royal Prerogative; in particular, regulations may—
- (a) confer a function on a Minister of the Crown, on the Scottish Ministers, on the National Assembly for Wales, on a Northern Ireland department, on a coordinator appointed under section 24 or on any other specified person (and a function conferred may, in particular, be—
    - (i) a power, or duty, to exercise a discretion;
    - (ii) a power to give directions or orders, whether written or oral);
  - (b) provide for or enable the requisition or confiscation of property (with or without compensation);
  - (c) provide for or enable the destruction of property, animal life or plant life (with or without compensation);
  - (d) prohibit, or enable the prohibition of, movement to or from a specified place;
  - (e) require, or enable the requirement of, movement to or from a specified place;
  - (f) prohibit, or enable the prohibition of, assemblies of specified kinds, at specified places or at specified times;
  - (g) prohibit, or enable the prohibition of, travel at specified times;
  - (h) prohibit, or enable the prohibition of, other specified activities;
  - (i) create an offence of—
    - (i) failing to comply with a provision of the regulations;
    - (ii) failing to comply with a direction or order given or made under the regulations;
    - (iii) obstructing a person in the performance of a function under or by virtue of the regulations;
  - (j) disapply or modify an enactment or a provision made under or by virtue of an enactment;
  - (k) require a person or body to act in performance of a function (whether the function is conferred by the regulations or otherwise and whether or not the regulations also make provision for remuneration or compensation);
  - (l) enable the Defence Council to authorise the deployment of Her Majesty's armed forces;
  - (m) make provision (which may include conferring powers in relation to property) for facilitating any deployment of Her Majesty's armed forces;
  - (n) confer jurisdiction on a court or tribunal (which may include a tribunal established by the regulations);
  - (o) make provision which has effect in relation to, or to anything done in—
    - (i) an area of the territorial sea,
    - (ii) an area within British fishery limits, or
    - (iii) an area of the continental shelf;

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- (p) make provision which applies generally or only in specified circumstances or for a specified purpose;
  - (q) make different provision for different circumstances or purposes.
- (4) In subsection (3) “specified” means specified by, or to be specified in accordance with, the regulations.
- (5) A person making emergency regulations must have regard to the importance of ensuring that Parliament, the High Court and the Court of Session are able to conduct proceedings in connection with—
- (a) the regulations, or
  - (b) action taken under the regulations.

### **23 Limitations of emergency regulations**

- (1) Emergency regulations may make provision only if and in so far as the person making the regulations is satisfied—
- (a) that the provision is appropriate for the purpose of preventing, controlling or mitigating an aspect or effect of the emergency in respect of which the regulations are made, and
  - (b) that the effect of the provision is in due proportion to that aspect or effect of the emergency.
- (2) Emergency regulations must specify the Parts of the United Kingdom or regions in relation to which the regulations have effect.
- (3) Emergency regulations may not—
- (a) require a person, or enable a person to be required, to provide military service, or
  - (b) prohibit or enable the prohibition of participation in, or any activity in connection with, a strike or other industrial action.
- (4) Emergency regulations may not—
- (a) create an offence other than one of the kind described in section 22(3)(i),
  - (b) create an offence other than one which is triable only before a magistrates' court or, in Scotland, before a sheriff under summary procedure,
  - (c) create an offence which is punishable—
    - (i) with imprisonment for a period exceeding three months, or
    - (ii) with a fine exceeding level 5 on the standard scale, or
  - (d) alter procedure in relation to criminal proceedings.
- (5) Emergency regulations may not amend—
- (a) this Part of this Act, or
  - (b) the Human Rights Act 1998 (c. 42).

### **24 Regional and Emergency Coordinators**

- (1) Emergency regulations must require a senior Minister of the Crown to appoint—
- (a) for each Part of the United Kingdom, other than England, in relation to which the regulations have effect, a person to be known as the Emergency Coordinator for that Part, and



- (b) for each region in relation to which the regulations have effect, a person to be known as the Regional Nominated Coordinator for that region.
- (2) Provision made in accordance with subsection (1) may, in particular, include provision about the coordinator's—
  - (a) terms of appointment,
  - (b) conditions of service (including remuneration), and
  - (c) functions.
- (3) The principal purpose of the appointment shall be to facilitate coordination of activities under the emergency regulations (whether only in the Part or region for which the appointment is made or partly there and partly elsewhere).
- (4) In exercising his functions a coordinator shall—
  - (a) comply with a direction of a senior Minister of the Crown, and
  - (b) have regard to guidance issued by a senior Minister of the Crown.
- (5) A coordinator shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.

## **25 Establishment of tribunal**

- (1) Emergency regulations which establish a tribunal may not be made unless a senior Minister of the Crown has consulted the Council on Tribunals.
- (2) But—
  - (a) a senior Minister of the Crown may disapply subsection (1) if necessary by reason of urgency,
  - (b) subsection (1) shall not apply where the Council on Tribunals have consented to the establishment of the Tribunal, and
  - (c) a failure to satisfy subsection (1) shall not affect the validity of regulations.
- (3) Where the Council on Tribunals are consulted by a senior Minister of the Crown under subsection (1)—
  - (a) the Council shall make a report to the Minister, and
  - (b) the Minister shall not make the emergency regulations to which the consultation relates before receiving the Council's report.
- (4) But—
  - (a) a senior Minister of the Crown may disapply subsection (3)(b) if necessary by reason of urgency, and
  - (b) a failure to comply with subsection (3)(b) shall not affect the validity of regulations.
- (5) Where a senior Minister of the Crown receives a report under subsection (3)(a) he shall lay before Parliament as soon as is reasonably practicable after the making of the regulations to which the report relates—
  - (a) a copy of the report,
  - (b) a statement of the extent to which the regulations give effect to any recommendations in the report, and
  - (c) an explanation for any departure from recommendations in the report.

- (6) Where a senior Minister of the Crown makes emergency regulations without consulting the Council on Tribunals (in reliance on subsection (2)(a))—
- (a) he shall consult the Council about the regulations as soon as reasonably practicable after they are made,
  - (b) the Council shall make a report to the Minister, and
  - (c) subsection (5) shall apply (with any necessary modifications).

## **26 Duration**

- (1) Emergency regulations shall lapse—
- (a) at the end of the period of 30 days beginning with the date on which they are made, or
  - (b) at such earlier time as may be specified in the regulations.
- (2) Subsection (1)—
- (a) shall not prevent the making of new regulations, and
  - (b) shall not affect anything done by virtue of the regulations before they lapse.

## **27 Parliamentary scrutiny**

- (1) Where emergency regulations are made—
- (a) a senior Minister of the Crown shall as soon as is reasonably practicable lay the regulations before Parliament, and
  - (b) the regulations shall lapse at the end of the period of seven days beginning with the date of laying unless during that period each House of Parliament passes a resolution approving them.
- (2) If each House of Parliament passes a resolution that emergency regulations shall cease to have effect, the regulations shall cease to have effect—
- (a) at such time, after the passing of the resolutions, as may be specified in them, or
  - (b) if no time is specified in the resolutions, at the beginning of the day after that on which the resolutions are passed (or, if they are passed on different days, at the beginning of the day after that on which the second resolution is passed).
- (3) If each House of Parliament passes a resolution that emergency regulations shall have effect with a specified amendment, the regulations shall have effect as amended, with effect from—
- (a) such time, after the passing of the resolutions, as may be specified in them, or
  - (b) if no time is specified in the resolutions, the beginning of the day after that on which the resolutions are passed (or, if they are passed on different days, the beginning of the day after that on which the second resolution is passed).
- (4) Nothing in this section—
- (a) shall prevent the making of new regulations, or
  - (b) shall affect anything done by virtue of regulations before they lapse, cease to have effect or are amended under this section.

## **28 Parliamentary scrutiny: prorogation and adjournment**

- (1) If when emergency regulations are made under section 20 Parliament stands prorogued to a day after the end of the period of five days beginning with the date on which the regulations are made, Her Majesty shall by proclamation under the Meeting of Parliament Act 1797 (c. 127) require Parliament to meet on a specified day within that period.
- (2) If when emergency regulations are made under section 20 the House of Commons stands adjourned to a day after the end of the period of five days beginning with the date on which the regulations are made, the Speaker shall arrange for the House to meet on a day during that period.
- (3) If when emergency regulations are made under section 20 the House of Lords stands adjourned to a day after the end of the period of five days beginning with the date on which the regulations are made, the Lord Chancellor shall arrange for the House to meet on a day during that period.
- (4) In subsections (2) and (3) a reference to the Lord Chancellor or the Speaker includes a reference to a person authorised by Standing Orders of the House of Lords or of the House of Commons to act in place of the Lord Chancellor or the Speaker in respect of the recall of the House during adjournment.

## **29 Consultation with devolved administrations**

- (1) Emergency regulations which relate wholly or partly to Scotland may not be made unless a senior Minister of the Crown has consulted the Scottish Ministers.
- (2) Emergency regulations which relate wholly or partly to Northern Ireland may not be made unless a senior Minister of the Crown has consulted the First Minister and deputy First Minister.
- (3) Emergency regulations which relate wholly or partly to Wales may not be made unless a senior Minister of the Crown has consulted the National Assembly for Wales.
- (4) But—
  - (a) a senior Minister of the Crown may disapply a requirement to consult if he thinks it necessary by reason of urgency, and
  - (b) a failure to satisfy a requirement to consult shall not affect the validity of regulations.

## **30 Procedure**

- (1) Emergency regulations shall be made by statutory instrument (whether or not made by Order in Council).
- (2) Emergency regulations shall be treated for the purposes of the Human Rights Act 1998 (c. 42) as subordinate legislation and not primary legislation (whether or not they amend primary legislation).

## **31 Interpretation**

- (1) In this Part—

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“British fishery limits” has the meaning given by the Fishery Limits Act 1976 (c. 86),

“the continental shelf” means any area designated by Order in Council under section 1(7) of the Continental Shelf Act 1964 (c. 29),

“emergency” has the meaning given by section 19,

“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,

“Part” in relation to the United Kingdom has the meaning given by subsection (2),

“public functions” means—

- (a) functions conferred or imposed by or by virtue of an enactment,
- (b) functions of Ministers of the Crown (or their departments),
- (c) functions of persons holding office under the Crown,
- (d) functions of the Scottish Ministers,
- (e) functions of the Northern Ireland Ministers or of the Northern Ireland departments, and
- (f) functions of the National Assembly for Wales,

“region” has the meaning given by subsection (2),

“senior Minister of the Crown” has the meaning given by section 20(3),

“serious delay” has the meaning given by section 20(4),

“territorial sea” means the territorial sea adjacent to, or to any Part of, the United Kingdom, construed in accordance with section 1 of the Territorial Sea Act 1987 (c. 49),

“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) “Part” in relation to the United Kingdom means—
  - (i) England,
  - (ii) Northern Ireland,
  - (iii) Scotland, and
  - (iv) Wales,
- (b) “region” means a region for the purposes of the Regional Development Agencies Act 1998 (c. 45), and
- (c) a reference to a Part or region of the United Kingdom includes a reference to—
  - (i) any part of the territorial sea that is adjacent to that Part or region,
  - (ii) any part of the area within British fishery limits that is adjacent to the Part or region, and
  - (iii) any part of the continental shelf that is adjacent to the Part or region.

(3) The following shall have effect for the purpose of subsection (2)—

- (a) an Order in Council under section 126(2) of the Scotland Act 1998 (c. 46) (apportionment of sea areas),
- (b) an Order in Council under section 98(8) of the Northern Ireland Act 1998 (c. 47) (apportionment of sea areas), and
- (c) an order under section 155(2) of the Government of Wales Act 1998 (c. 38) (apportionment of sea areas);

but only if or in so far as it is expressed to apply for general or residual purposes of any of those Acts or for the purposes of this section.

### PART 3

#### GENERAL

### 32 Minor and consequential amendments and repeals

- (1) Schedule 2 (minor and consequential amendments and repeals) shall have effect.
- (2) The enactments listed in Schedule 3 are hereby repealed or revoked to the extent specified.

### 33 Money

There shall be paid out of money provided by Parliament—

- (a) any expenditure incurred by a Minister of the Crown in connection with this Act, and
- (b) any increase attributable to this Act in the sums payable under any other enactment out of money provided by Parliament.

### 34 Commencement

- (1) The preceding provisions of this Act shall come into force in accordance with provision made by a Minister of the Crown by order.
- (2) But the following provisions of this Act shall come into force in accordance with provision made by the Scottish Ministers by order—
  - (a) section 1(4) in so far as it relates to the Scottish Ministers,
  - (b) sections 2(4) and (6), 3(2), 4(3) and (7), 5(2) and (5), 6(2) and (5), 8, 9(2), 11, 13(2), 14(2), 17(3) and (5), and
  - (c) a provision of section 2, 3, 4, 5, 6, 9, 13 or 17 in so far as it relates to a provision specified in paragraph (b) above.
- (3) An order under subsection (1) or (2)—
  - (a) may make provision generally or for specific purposes only,
  - (b) may make different provision for different purposes,
  - (c) may make incidental, consequential or transitional provision, and
  - (d) shall be made by statutory instrument.

### 35 Extent

- (1) This Act extends to—

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- (a) England and Wales,
  - (b) Scotland, and
  - (c) Northern Ireland.
- (2) But where this Act amends or repeals an enactment or a provision of an enactment, the amendment or repeal has the same extent as the enactment or provision.

**36 Short title**

This Act may be cited as the Civil Contingencies Act 2004.

## SCHEDULES

### SCHEDULE 1

Part 1

#### CATEGORY 1 AND 2 RESPONDERS

#### PART 1

#### CATEGORY 1 RESPONDERS: GENERAL

##### *Local authorities*

- 1 In relation to England—
  - (a) a county council,
  - (b) a district council,
  - (c) a London borough council,
  - (d) the Common Council of the City of London, and
  - (e) the Council of the Isles of Scilly.
- 2 In relation to Wales—
  - (a) a county council, and
  - (b) a county borough council.

##### *Emergency services*

- 3 (1) A chief officer of police within the meaning of section 101(1) of the Police Act 1996 (c. 16).
  - (2) The Chief Constable of the Police Service of Northern Ireland.
  - (3) The Chief Constable of the British Transport Police Force.
- 4 A fire and rescue authority within the meaning of section 1 of the Fire and Rescue Services Act 2004 (c. 21).

##### *Health*

- 5 A National Health Service trust established under section 5 of the National Health Service and Community Care Act 1990 (c. 19) if, and in so far as, it has the function of providing—
  - (a) ambulance services,
  - (b) hospital accommodation and services in relation to accidents and emergencies, or
  - (c) services in relation to public health in Wales.
- 6 An NHS foundation trust (within the meaning of section 1 of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43)) if, and in so far as, it

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has the function of providing hospital accommodation and services in relation to accidents and emergencies.

- 7 A Primary Care Trust established under section 16A of the National Health Service Act 1977 (c. 49).
- 8 A Local Health Board established under section 16BA of the National Health Service Act 1977.
- 9 (1) The Health Protection Agency established by section 1 of the Health Protection Agency Act 2004 (c. 17).
- (2) Until its dissolution consequent upon the coming into force of section 1 of that Act, the Special Health Authority established under section 11 of the National Health Service Act 1977 and known as the Health Protection Agency.
- 10 A port health authority constituted under section 2(4) of the Public Health (Control of Disease) Act 1984 (c. 22).

#### *Miscellaneous*

- 11 The Environment Agency.
- 12 The Secretary of State, in so far as his functions include responding to maritime and coastal emergencies (excluding the investigation of accidents).

## **PART 2**

### CATEGORY 1 RESPONDERS: SCOTLAND

#### *Local authorities*

- 13 A council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39).

#### *Emergency services*

- 14 A chief constable of a police force maintained under the Police (Scotland) Act 1967 (c. 77).
- 15 (1) A fire authority.
- (2) In sub-paragraph (1) “fire authority” means—
- (a) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994, or
- (b) a joint board constituted under an administration scheme made by virtue of the Local Government (Scotland) Act 1973 (c. 65) or section 36 of the Fire Services Act 1947 (c. 41).
- 16 The Scottish Ambulance Service Board.

#### *Health*

- 17 A Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978 (c. 29).



*Miscellaneous*

- 18 The Scottish Environment Protection Agency.

**PART 3**

CATEGORY 2 RESPONDERS: GENERAL

*Utilities*

- 19 (1) A person holding a licence of a kind specified in sub-paragraph (2) and granted under section 6 of the Electricity Act 1989 (c. 29).
- (2) Those licences are—
- (a) a transmission licence,
  - (b) a distribution licence, and
  - (c) an interconnector licence.
- (3) Expressions used in this paragraph and in the Electricity Act 1989 shall have the same meaning in this paragraph as in that Act.
- 20 (1) A person holding a licence of a kind specified in sub-paragraph (2).
- (2) Those licences are—
- (a) a licence under section 7 of the Gas Act 1986 (c. 44), and
  - (b) a licence under section 7ZA of that Act.
- 21 A water undertaker or sewerage undertaker appointed under section 6 of the Water Industry Act 1991 (c. 56).
- 22 (1) A person who provides a public electronic communications network which makes telephone services available (whether for spoken communication or for the transmission of data).
- (2) In sub-paragraph (1)—
- (a) the reference to provision of a network shall be construed in accordance with section 32(4)(a) and (b) of the Communications Act 2003 (c. 21), and
  - (b) “public electronic communications network” shall have the meaning given by sections 32(1) and 151(1) of that Act.

*Transport*

- 23 A person who holds a licence under section 8 of the Railways Act 1993 (c. 43) (operation of railway assets) in so far as the licence relates to activity in Great Britain.
- 24 A person who provides services in connection with railways in Great Britain—
- (a) without holding a licence under section 8 of that Act, but
  - (b) in reliance on Council Directive 95/18/EC on the licensing of railway undertakings.
- 25 (1) Transport for London.
- (2) London Underground Limited (being a subsidiary of Transport for London).

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- 26 An airport operator, within the meaning of section 82(1) of the Airports Act 1986 (c. 31), in Great Britain.
- 27 A harbour authority, within the meaning of section 46(1) of the Aviation and Maritime Security Act 1990 (c. 31), in Great Britain.
- 28 The Secretary of State, in so far as his functions relate to matters for which he is responsible by virtue of section 1 of the Highways Act 1980 (c. 66) (highway authorities).

#### *Health and safety*

- 29 The Health and Safety Executive.

### **PART 4**

#### CATEGORY 2 RESPONDERS: SCOTLAND

#### *Utilities*

- 30 (1) A person holding a licence of a kind specified in sub-paragraph (2) and granted under the Electricity Act 1989 (c. 29), in so far as the activity under the licence is undertaken in Scotland.
- (2) Those licences are—
- (a) a transmission licence,
  - (b) a distribution licence, and
  - (c) an interconnector licence.
- (3) Expressions used in this paragraph and in the Electricity Act 1989 shall have the same meaning in this paragraph as in that Act.
- 31 (1) A person holding a licence of a kind specified in sub-paragraph (2), in so far as the activity under the licence is undertaken in Scotland.
- (2) Those licences are—
- (a) a licence under section 7 of the Gas Act 1986 (c. 44), and
  - (b) a licence under section 7ZA of that Act.
- 32 Scottish Water, established by section 20 of, and Schedule 3 to, the Water Industry (Scotland) Act 2002 (asp 3).
- 33 (1) A person who provides a public electronic communications network which makes telephone services available (whether for spoken communication or for the transmission of data) in so far as the services are made available in Scotland.
- (2) In sub-paragraph (1)—
- (a) the reference to provision of a network shall be construed in accordance with section 32(4)(a) and (b) of the Communications Act 2003 (c. 21), and
  - (b) “public electronic communications network” shall have the meaning given by sections 32(1) and 151(1) of that Act.

### *Transport*

- 34 A person who holds a licence to operate railway assets under section 8 of the Railways Act 1993 (c. 43) in so far as such operation takes place in Scotland.
- 35 A person who provides services in connection with railways—  
(a) without holding a licence under section 8 of that Act, but  
(b) in reliance on Council Directive 95/18/EC on the licensing of railway undertakings,  
in so far as such services are provided in Scotland.
- 36 An airport operator within the meaning of section 82(1) of the Airports Act 1986 (c. 31) in so far as it has responsibility for the management of an airport in Scotland.
- 37 A harbour authority, within the meaning of section 46(1) of the Aviation and Maritime Security Act 1990 (c. 31) in so far as it has functions in relation to improving, maintaining and managing a harbour in Scotland.

### *Health*

- 38 The Common Services Agency established by section 10 of the National Health Service (Scotland) Act 1978 (c. 29).

## SCHEDULE 2

Section 32

### MINOR AND CONSEQUENTIAL AMENDMENTS AND REPEALS

#### PART 1

#### AMENDMENTS AND REPEALS CONSEQUENTIAL ON PART 1

#### *Civil Defence Act 1939 (c. 31)*

- 1 The Civil Defence Act 1939 shall cease to have effect.

#### *Civil Defence Act (Northern Ireland) 1939 (c. 15 (N.I.))*

- 2 The Civil Defence Act (Northern Ireland) 1939 shall cease to have effect.

#### *Civil Defence Act 1948 (c. 5)*

- 3 The Civil Defence Act 1948 shall cease to have effect.

#### *Civil Defence Act (Northern Ireland) 1950 (c. 11 (N.I.))*

- 4 The Civil Defence Act (Northern Ireland) 1950 shall cease to have effect.

#### *Defence Contracts Act 1958 (c. 38)*

- 5 In section 6(1) of the Defence Contracts Act 1958 (interpretation, &c.), in the definition of “defence materials” omit paragraph (b).

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*Public Expenditure and Receipts Act 1968 (c. 14)*

- 6 Section 4 of the Public Expenditure and Receipts Act 1968 (compensation to civil defence employees for loss of employment, &c.) shall cease to have effect.

*Local Government Act 1972 (c. 70)*

- 7 In section 138 of the Local Government Act 1972 (emergency powers)—
- (a) subsection (1A) shall cease to have effect, and
  - (b) in subsection (3) for “subsections (1) and (1A) above” substitute “subsection (1) above”.

*Civil Protection in Peacetime Act 1986 (c. 22)*

- 8 The Civil Protection in Peacetime Act 1986 shall cease to have effect.

*Road Traffic Act 1988 (c. 52)*

- 9 In section 65A(5) of the Road Traffic Act 1988 (light passenger vehicles and motor cycles not to be sold without EC certificate of conformity) omit paragraph (c).

*Metropolitan County Fire and Rescue Authorities*

- 10 (1) The bodies established by section 26 of the Local Government Act 1985 (c. 51) and known as metropolitan county fire and civil defence authorities shall be known instead as metropolitan county fire and rescue authorities.
- (2) So far as necessary or appropriate in consequence of sub-paragraph (1), a reference in an enactment, instrument, agreement or other document to a metropolitan county fire and civil defence authority shall be treated as a reference to a metropolitan county fire and rescue authority.
- (3) In the following provisions for “(fire services, civil defence and transport)” substitute “(fire and rescue services and transport)”—
- (a) paragraph 29 of Schedule 1A to the Race Relations Act 1976 (c. 74),
  - (b) sections 21(1)(i), 39(1)(g), 67(3)(k) and 152(2)(i) of the Local Government and Housing Act 1989 (c. 42),
  - (c) section 1(10)(d) of the Local Government (Overseas Assistance) Act 1993 (c. 25),
  - (d) paragraph 19 of Schedule 1 to the Freedom of Information Act 2000 (c. 36), and
  - (e) sections 23(1)(k) and 33(1)(j) of the Local Government Act 2003 (c. 26).

**PART 2**

AMENDMENTS AND REPEALS CONSEQUENTIAL ON PART 2

*Emergency Powers Act 1920 (c. 55)*

- 11 The Emergency Powers Act 1920 shall cease to have effect.

*Emergency Powers Act (Northern Ireland) 1926 (c. 8)*

- 12 The Emergency Powers Act (Northern Ireland) 1926 shall cease to have effect.

*Northern Ireland Act 1998 (c. 47)*

- 13 In paragraph 14 of Schedule 3 to the Northern Ireland Act 1998 (reserved matters) for “the Emergency Powers Act (Northern Ireland) 1926” substitute “Part 2 of the Civil Contingencies Act 2004”.

**PART 3**

MINOR AMENDMENTS

*Energy Act 1976 (c. 76)*

- 14 After sections 1 to 4 of the Energy Act 1976 (powers to control production and supply of fuel, &c.) insert—

**“Sections 1 to 4: territorial application**

- (1) A power under sections 1 to 4 may be exercised in relation to anything which is wholly or partly situated in, or to activity wholly or partly in—
- (a) the United Kingdom,
  - (b) the territorial sea of the United Kingdom, or
  - (c) an area designated under the Continental Shelf Act 1964 (c. 29).
- (2) Subsection (1) is without prejudice to section 2(2)(b).”

*Highways Act 1980 (c. 66)*

- 15 (1) At the end of section 90H(2) of the Highways Act 1980 (traffic calming works regulations) add—
- “(d) provide that, in such cases or circumstances as the regulations may specify, works may be constructed or removed only with the consent of a police officer of such class as the regulations may specify.”
- (2) In section 329(1) of that Act (interpretation) for the definition of “traffic calming works” substitute—
- ““traffic calming works”, in relation to a highway, means works affecting the movement of vehicular or other traffic for the purpose of—
- (a) promoting safety (including avoiding or reducing, or reducing the likelihood of, danger connected with terrorism within the meaning of section 1 of the Terrorism Act 2000 (c. 11)), or
  - (b) preserving or improving the environment through which the highway runs;”.

*Road Traffic Regulation Act 1984 (c. 27)*

- 16 (1) The Road Traffic Regulation Act 1984 shall be amended as follows.
- (2) In Part 2 (traffic regulation: special cases) after section 22B insert—

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### “Terrorism

- (1) An order may be made under section 1(1)(a) for the purpose of avoiding or reducing, or reducing the likelihood of, danger connected with terrorism (for which purpose the reference to persons or other traffic using the road shall be treated as including a reference to persons or property on or near the road).
- (2) An order may be made under section 1(1)(b) for the purpose of preventing or reducing damage connected with terrorism.
- (3) An order under section 6 made for a purpose mentioned in section 1(1)(a) or (b) may be made for that purpose as qualified by subsection (1) or (2) above.
- (4) An order may be made under section 14(1)(b) for a purpose relating to danger or damage connected with terrorism.
- (5) A notice may be issued under section 14(2)(b) for a purpose relating to danger or damage connected with terrorism.
- (6) In this section “terrorism” has the meaning given by section 1 of the Terrorism Act 2000 (c. 11).
- (7) In Scotland an order made, or notice issued, by virtue of this section is to be made or issued not by the traffic authority, if the traffic authority is the Scottish Ministers, but by the Secretary of State.
- (8) In Wales an order made, or notice issued, by virtue of this section may be made or issued only with the consent of the Secretary of State if the traffic authority is the National Assembly for Wales.

### Section 22C: supplemental

- (1) An order may be made by virtue of section 22C only on the recommendation of the chief officer of police for the area to which the order relates.
- (2) The following shall not apply in relation to an order made by virtue of section 22C—
  - (a) section 3,
  - (b) section 6(5),
  - (c) the words in section 14(4) from “but” to the end,
  - (d) section 121B, and
  - (e) paragraph 13(1)(a) of Schedule 9.
- (3) Sections 92 and 94 shall apply in relation to an order under section 14 made by virtue of section 22C as they apply in relation to an order under section 1 or 6.
- (4) An order made by virtue of section 22C, or an authorisation or requirement by virtue of subsection (3) above, may authorise the undertaking of works for the purpose of, or for a purpose ancillary to, another provision of the order, authorisation or requirement.
- (5) An order made by virtue of section 22C may—

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- (a) enable a constable to direct that a provision of the order shall (to such extent as the constable may specify) be commenced, suspended or revived;
  - (b) confer a discretion on a constable;
  - (c) make provision conferring a power on a constable in relation to the placing of structures or signs (which may, in particular, apply a provision of this Act with or without modifications).”
- (3) In section 67 (traffic signs: emergencies &c.) after subsection (1) insert—
- “(1A) In subsection (1)—
- (a) “extraordinary circumstances” includes terrorism or the prospect of terrorism within the meaning of section 1 of the Terrorism Act 2000 (c. 11), and
  - (b) the reference to 7 days shall, in the application of the subsection in connection with terrorism or the prospect of terrorism, be taken as a reference to 28 days;
- but this subsection does not apply to a power under subsection (1) in so far as exercisable by a traffic officer by virtue of section 7 of the Traffic Management Act 2004 (c. 18).”
- (4) In Schedule 9 (reserve powers of Secretary of State, Scottish Ministers and National Assembly for Wales)—
- (a) in paragraph 1, after “sections 1, 6, 9,” insert “14 (in so far as the power under that section is exercisable by virtue of section 22C),”, and—
  - (b) after paragraph 12 insert—
- “12A Article 2 of the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 (SI 1999/1750) shall not apply to a provision of this Schedule in so far as it relates to the exercise of a power under this Act by virtue of section 22C.
- 12B A power conferred upon the Secretary of State by this Schedule shall, in so far as it relates to the exercise of a power under this Act by virtue of section 22C, be exercisable in relation to Wales by the National Assembly for Wales with the consent of the Secretary of State.”.

*Roads (Scotland) Act 1984 (c. 54)*

- 17 (1) After section 39B of the Roads (Scotland) Act 1984 (traffic calming works regulations) insert—

**“Prescribing of works for anti-terrorism purposes**

- (1) Where—
- (a) the construction of any traffic calming works is for the purpose of avoiding or reducing, or reducing the likelihood of, danger connected with terrorism within the meaning of section 1 of the Terrorism Act 2000, and
  - (b) the function of constructing those works would, but for this section, be exercisable by the Scottish Ministers,
- that function shall instead be exercisable by the Secretary of State.

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- (2) The power to make regulations under section 39B of this Act—
- (a) for the purpose of, or in connection with, avoiding or reducing, or reducing the likelihood of, danger connected with terrorism within the meaning of section 1 of the Terrorism Act 2000, and
  - (b) which would, but for this section, be exercisable by the Scottish Ministers,
- shall instead be exercisable by the Secretary of State.
- (3) Regulations under section 39B of this Act may, if they are made by virtue of subsection (2) above, provide that, in such circumstances as the regulations may specify, works may be constructed or removed only with the consent of a police officer of such class as the regulations may specify.”
- (2) In section 40 of that Act (interpretation of sections 36 to 39C) for the definition of “traffic calming works” substitute—
- ““traffic calming works”, in relation to a road, means works affecting the movement of vehicular or other traffic for the purpose of—
- (a) promoting safety (including avoiding or reducing, or reducing the likelihood of, danger connected with terrorism within the meaning of section 1 of the Terrorism Act 2000 (c. 11)), or
  - (b) preserving or improving the environment through which the road runs.”

## SCHEDULE 3

Section 32

## REPEALS AND REVOCATIONS

<i>Short title and chapter</i>	<i>Repeal or revocation</i>
The Emergency Powers Act 1920 (c. 55).	The whole Act.
The Emergency Powers Act (Northern Ireland) 1926 (c. 8).	The whole Act.
The Air-Raid Precautions Act (Northern Ireland) 1938 (c. 26 (N.I.)).	The whole Act.
The Civil Defence Act 1939 (c. 31).	The whole Act.
The Civil Defence Act (Northern Ireland) 1939 (c. 15 (N.I.)).	The whole Act.
The Civil Defence Act 1948 (c. 5).	The whole Act.
The Civil Defence Act (Northern Ireland) 1950 (c. 11 (N.I.)).	The whole Act.
The Criminal Justice Act (Northern Ireland) 1953 (c. 14 (N.I.)).	In Schedule 2, the entry relating to the Civil Defence Act (Northern Ireland) 1950.
The Civil Defence (Armed Forces) Act 1954 (c. 66).	The whole Act.



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<i>Short title and chapter</i>	<i>Repeal or revocation</i>
The Defence Contracts Act 1958 (c. 38).	In section 6(1), in the definition of “defence materials”, paragraph (b).
The Town and Country Planning (Scotland) Act 1959 (c. 70).	In paragraph 2 of Schedule 4, the entry relating to the Civil Defence Act 1948.
The Emergency Powers Act 1964 (c. 38).	Section 1.
The Lands Tribunal and Compensation Act (Northern Ireland) 1964 (c. 29 (N.I.)).	In Schedule 1, the entry relating to the Civil Defence Act (Northern Ireland) 1939.
The Emergency Powers (Amendment) Act (Northern Ireland) 1964 (c. 34 (N.I.)).	The whole Act.
The Police (Scotland) Act 1967 (c. 77).	In Schedule 4, the entry relating to the Civil Defence Act 1948.
The Public Expenditure and Receipts Act 1968 (c. 14).	Section 4.
The Land Charges Act 1972 (c. 61).	In Schedule 2, paragraph 1(f).
The Local Government Act 1972 (c. 70).	Section 138(1A).
The Drainage (Northern Ireland) Order 1973 (S.I. 1973/69 (N.I. 1)).	In Schedule 8, paragraphs 3 and 4.
The Statute Law (Repeals) Act 1976 (c. 16).	In Schedule 2, in Part II, the entry relating to the Civil Defence Act 1939.
The Road Traffic (Northern Ireland) Order 1981 (S.I. 1981/154 (N.I. 1)).	Article 31G(5)(c).
The Civil Aviation Act 1982 (c. 16).	In Schedule 2, paragraph 2.
The Criminal Justice Act 1982 (c. 48).	Section 41.
The Police and Criminal Evidence Act 1984 (c. 60).	In Schedule 2, the entry relating to section 2 of the Emergency Powers Act 1920.
The Fines and Penalties (Northern Ireland) Order 1984 (S.I. 1984/703 (N.I. 3)).	Article 12.
The Civil Protection in Peacetime Act 1986 (c. 22).	The whole Act.
The Road Traffic Act 1988 (c. 52).	Section 65A(5)(c).
The Water Act 1989 (c. 15).	In Schedule 25, paragraph 1(4).
The Electricity Act 1989 (c. 29).	In Schedule 16, paragraph 1(3) and paragraph 4.
The Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)).	In Schedule 2, the entry relating to the Emergency Powers Act (Northern Ireland) 1926.
The Local Government Finance Act 1992 (c. 14).	In Schedule 13, paragraph 6.
The Local Government etc. (Scotland) Act 1994 (c. 39).	In Schedule 13, paragraph 24.

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<i>Short title and chapter</i>	<i>Repeal or revocation</i>
The Gas Act 1995 (c. 45).	In Schedule 4, paragraph 2(5).
The Police Act 1997 (c. 50).	In Schedule 9, paragraphs 2 and 17.
The Greater London Authority Act 1999 (c. 29).	Section 330.
The Transport Act 2000 (c. 38).	In Schedule 5, paragraph 3.
The Civil Defence (Grant) Act 2002 (c. 5).	The whole Act.

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