

CIVIL CONTINGENCIES ACT 2004

EXPLANATORY NOTES

SUMMARY AND BACKGROUND

Part 1: local arrangements for civil protection

3. Previous legislation relating to civil protection at the local level (the Civil Defence Act 1948 and its Northern Ireland counterpart, the Civil Defence Act (Northern Ireland) 1950) related solely to “civil defence”. “Civil defence” was defined as measures, other than actual combat, for affording defence against a hostile attack by a foreign power. The focus on civil defence reflected the concerns which were current when the legislation was enacted.
4. The previous legislation also relates to local authorities, police authorities and certain fire authorities only.
5. The Act repeals in their entirety the Civil Defence Act 1948 and the Civil Defence Act (Northern Ireland) 1950. Part 1 of the Act creates a new concept of an “emergency”. This term is broadly defined. It includes events which would have engaged the existing civil defence legislation (war or attack by a foreign power). It also includes terrorism which poses a threat of serious damage to the security of the United Kingdom and events which threaten serious damage to human welfare in a place in the United Kingdom or to the environment of a place in the United Kingdom.
6. The Act imposes a series of duties on local bodies in England and Wales, Scotland and Northern Ireland (to be known as “Category 1 responders”). These duties include the duty to assess the risk of an emergency occurring and to maintain plans for the purposes of responding to an emergency. The range of Category 1 responders is broader than the range of local bodies which were subject to the previous legislation. It includes certain bodies with functions which relate to health, the Environment Agency and the Secretary of State, in so far as his functions relate to responding to maritime and coastal emergencies.
7. The Act also provides the mechanism to impose duties on other local bodies (to be known as “Category 2 responders”) to co-operate with, and to provide information to, Category 1 responders in connection with their civil protection duties.
8. **Part 1** of the Act also enables a Minister of the Crown (or, for certain purposes in Scotland, the Scottish Ministers) to require a Category 1 responder to perform a function for the purposes of preventing an emergency, reducing, controlling or mitigating the effects of an emergency or taking other action in connection with an emergency.

Part 2: emergency powers

9. The Emergency Powers Act 1920 (and, in Northern Ireland, the Emergency Powers Act (Northern Ireland) 1926) enabled Her Majesty to proclaim that a state of emergency existed and to make regulations to deal with the emergency. Before these emergency powers could be exercised, there had to be (or be about to be) an interference with the supply or distribution of food, water, fuel, light or the means of locomotion which

*These notes refer to the Civil Contingencies Act 2004
(c.36) which received Royal Assent on 18 November 2004*

deprives the community or part of it of the “essentials of life”. The powers had not been amended to reflect the enactment of the devolution settlements or the Human Rights Act 1998.

10. The Act repeals the Emergency Powers Act 1920 and the Emergency Powers Act (Northern Ireland) 1926. It confers a power on Her Majesty (or in certain very limited circumstances, a senior Minister of the Crown) to make regulations if an “emergency” has occurred or is about to occur. “Emergency” is defined broadly to include events and situations which threaten serious damage to human welfare in the United Kingdom, a Part or a region, the environment of the United Kingdom, a Part or a region or war or terrorism which threaten serious damage to the security of the United Kingdom. The Act gives further detail as to what provision may (and may not) be included in emergency regulations, including specific safeguards designed to prevent misuse. The Act expressly allows for emergency powers to have effect in a Part or region of the United Kingdom only. The Act also makes provision for consultation with, and the conferral of functions on, the devolved administrations.