

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

CIVIL CONTINGENCIES ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 21: conditions for making emergency regulations

45. *Section 21* sets out the conditions which Her Majesty (or a senior Minister of the Crown) must be satisfied have been met before making emergency regulations.
46. The three conditions are that an emergency has occurred, is occurring or is about to occur (*subsection (2)*); it is necessary to make provision for the purpose of dealing with the emergency (*subsection (3)*); and the need for the provision is urgent (*subsection (4)*). *Subsections (5) and (6)* specify that it is necessary to make provision which is the same as an enactment, or provision which could be made under an enactment, in particular if the existing legislation cannot be relied upon without the risk of serious delay, it is not possible without the risk of serious delay to ascertain whether the existing legislation can be relied upon or the existing legislation might be insufficiently effective. This reflects the presumption that emergency regulations will not be made where existing legislation is (or provision can be made under existing legislation which is) adequate to deal with the emergency.