

EXPLANATORY MEMORANDUM

CIVIL CONTINGENCIES

THE CIVIL CONTINGENCIES ACT 2004 (CONTINGENCY PLANNING) REGULATIONS 2005

SUMMARY

The Civil Contingencies Act 2004 is designed to deliver a single framework for civil protection in the United Kingdom. The Act is divided into two main parts, which deal separately with local arrangements for civil protection (Part 1) and emergency powers (Part 2). Under Part 1, the Act enhances the local response capability by giving organisations that form the core of the local response, such as the emergency services and local authorities, a clear and consistent set of expectations and responsibilities in relation to civil protection. Part 2 of the Act on Emergency Powers seeks to modernise the outdated legislation which is considered inadequate for the current world in which we live. It replaces the Emergency Powers Act 1920 with a new power for the UK Government to make Emergency Regulations throughout the UK.

These Regulations impose a series of duties under Part 1 of the Act on Category 1 responders, which include the duty to assess the risk of an emergency occurring and to maintain plans for the purposes of responding to an emergency. They also provide the mechanism to impose duties on Category 2 responders to co-operate with, and to provide information to, Category 1 responders in connection with their civil protection duties.

1. This Memorandum is submitted to the National Assembly's Business Committee in relation to the Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005, in accordance with Standing Order 26.
2. A copy of the Instrument is submitted with this Memorandum.

Enabling Power

3. The powers enabling this Instrument to be made are contained in sections 2(3) and (5), 4(2), (4) and (5), 6(1), 12, 15(3) and 17(6) of the Civil Contingencies Act 2004. Section 16(1) of the Civil Contingencies Act provides for the National Assembly to be consulted on this Instrument, which relates wholly or partly to Wales and under section 16(2)–(4), the National Assembly's consent is required before this Instrument may be made in respect of local responders which fall under devolved responsibility. Under Standing Order 26, the consent of the Assembly in this case requires a vote in Plenary.

Background

4. A review of emergency planning arrangements and a public consultation exercise undertaken by the UK Government after 2000 concluded that existing legislation no longer provided an adequate framework for modern civil protection efforts and that new legislation was needed.

5. The Civil Contingencies Act 2004, which sets out proposals for a new framework for civil protection work at the local level and a new framework for the use of special legislative measures, received Royal Assent on 18 November 2004. Part 1 of the Act enhances the local response capability by giving local responders a clear and consistent set of duties and responsibilities in relation to civil protection planning. The local responders under the Act are divided into two categories:

- *Category 1 Responders in Wales*, including: all local authorities, emergency services (such as police forces) and NHS Bodies (such as NHS Acute Trusts) and
- *Category 2 Responders*, including utilities, such as gas and electricity; transport, such as train operating companies and Government Agencies, such as the Health and Safety Executive.

Organisations will be placed under the lesser duties of co-operating with Category 2 Responders and sharing relevant information. A list of local responders is at Annex 1.

6. Part 1 of the Act also imposes a series of duties on Category 1 responders, which include the duty to assess the risk of an emergency occurring and to maintain plans for the purposes of responding to an emergency. It also provides the mechanism to impose duties on Category 2 responders to co-operate with, and to provide information to, Category 1 responders in connection with their civil protection duties.

Effect

7. The Civil Contingencies Act 2004 is designed to deliver a single framework for civil protection in the United Kingdom. The Act is divided into two main parts: Part 1 deals with planning at the local level for emergencies; and Part 2 deals with response to an emergency at UK or sub-UK level. Under Part 1, the Act enhances the local response capability by giving organisations that form the core of the local response such as the emergency services and local authorities a clear and consistent set of expectations and responsibilities in relation to civil protection. Part 2 of the Act on Emergency Powers seeks to modernise the outdated legislation which is considered inadequate for the current world in which we live. It replaces the Emergency Powers Act 1920 with a new power for the UK Government to make Emergency Regulations throughout the UK.

8. Under Part 1 of the Act the National Assembly's consent must be sought before Regulations are made that apply to local responders which fall under devolved competence in Wales. In instances where Regulations are made in non-devolved areas the Act ensures that the Assembly must be consulted. The National Assembly is therefore involved in the process of making Regulations which impact upon local responders in Wales and is consulted in all other cases.

9. These Regulations impose a series of duties under Part 1 of the Act on Category 1 responders, which include the duty to assess the risk of an emergency occurring and to maintain plans for the purposes of responding to an emergency. They also provide the mechanism to impose duties on Category 2 responders to co-operate with, and to provide information to, Category 1 responders in connection with their civil protection duties.

10. A number of changes have been made to the Regulations, which impact on arrangements in Wales. These were achieved as a consequence of consultation with the Wales Resilience Forum and subsequent negotiations with Cabinet Office. The changes are as follows:

- The National Assembly for Wales will be consulted on the UK Government risk assessment;
- The National Assembly for Wales will issue its own risk assessments in Wales with the prior consent of the UK Government; and
- Local responders in Wales will be required to share Community Risk Registers with the National Assembly for Wales from time to time to promote a dialogue on the way in which risk assessments are incorporated into Community Risk Registers.

Target Implementation

11. It is intended that this Instrument be made on 28 June 2005 and come into force on 14 November 2005. If these dates are not met then the Regulations will not be brought into force in relation to devolved functions.

Financial Implications

12. The Chancellor of the Exchequer announced in July 2004 that funding for local authorities in England and Wales for their emergency planning functions would increase from £19.1m to £40.7m per annum during the 2005/06 financial year. The Barnett consequential share of this funding for Wales is £2.263m.

13. Any work arising from these Regulations will be accommodated within existing, and planned, administration costs budgets of the individual responders. Consequently there are no additional financial implications for the Assembly

Consultation

With Stakeholders

14. The UK Government published the Regulations on 9 December 2004 on the Cabinet Office's UK Resilience website. The public consultation ran for twelve weeks until 3 March 2005 and included a series of eleven roadshows in the English regions and Wales. 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. The First Minister wrote to Wales Resilience Forum (WRF) members on 7 February 2005 to seek their views on Welsh Assembly Government proposals for certain amendments to the draft Part 1 Regulations. (A list of members of the Forum is attached at Annex 2). The changes outlined in Paragraph 9 above were achieved as a consequence of this consultation.

With Subject Committee

15. The Local Government & Public Services Committee considered the draft Regulations at its meeting on 9 February 2005 (LGPS 02-05(p.1)) as part of the public consultation process. The Committee scrutinised the revised Regulations on 8 June 2005 (LGPS 06-05 (p.1)) where it recommended the approval of the Regulations.

Annex 1

LOCAL RESPONDERS UNDER THE CIVIL CONTINGENCIES ACT 2004

Category 1 Responders in Wales

<p><u>Local Authorities</u></p> <ul style="list-style-type: none">• All principal local authorities (county and county borough councils)• Port Health Authorities <p><u>Government agencies</u></p> <ul style="list-style-type: none">• Environment Agency• Maritime and Coastguard Agency	<p><u>Emergency Services</u></p> <ul style="list-style-type: none">• Police Forces• British Transport Police• Fire and Rescue Authorities• Ambulance Services	<p><u>NHS Bodies</u></p> <ul style="list-style-type: none">• Health Protection Agency• NHS Acute Trusts (Hospitals)• Local Health Boards• Any Welsh NHS Trust which provides public health services
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Category 2 Responders - organisations will be placed under the lesser duties of co-operating with these organisations and sharing relevant information. Those to be included at present are:

<p><u>Utilities</u></p> <ul style="list-style-type: none">• Electricity• Gas• Water and Sewerage• Public communications providers (landlines and mobiles)	<p><u>Transport</u></p> <ul style="list-style-type: none">• Network Rail• Train Operating Companies (Passenger and Freight)• Airports• Harbours and Ports	<p><u>Government agencies</u></p> <ul style="list-style-type: none">• Health and Safety Executive
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Annex 2

Wales Resilience Forum Membership

Chair

- First Minister

Deputy Chair

- Minister for Social Justice and Regeneration

Members of Core Group

- Director, Welsh Local Government Association
- Political representative, Welsh Local Government Association
- Chief Fire Officer (representing the three Fire Brigades)
- Chief Constable (representing the four Police Forces)
- Chief Ambulance Officer
- Director, NHS Wales
- Chief Medical Officer
- Commander 160 (Wales) Brigade
- Air Officer Wales, RAF
- Naval Regional Officer
- Director, Environment Agency Wales
- Regional Operations Manager, Maritime and Coastguard Agency
- Regional Director, Health and Safety Executive
- Senior Director, Welsh Assembly Government
- Head of Emergency and Security Division
- Health Emergency Planning Adviser
- Voluntary Sector Representative

Subsidiary Group (to be invited depending on nature of agenda)

- Director of Communications Directorate
- Emergency Planning Society Wales
- CBI (Wales)
- Water Undertakers
- Gas Suppliers
- Oil Suppliers
- Electricity Suppliers
- Commerce
- BBC
- Wales Council for Voluntary Action
- Telecommunications Operators
- Railway Operators
- Airport Operators

- Harbour Authorities
- Other Welsh Assembly Government Officials
- Officials from the Wales Office
- Officials from the Cabinet Office