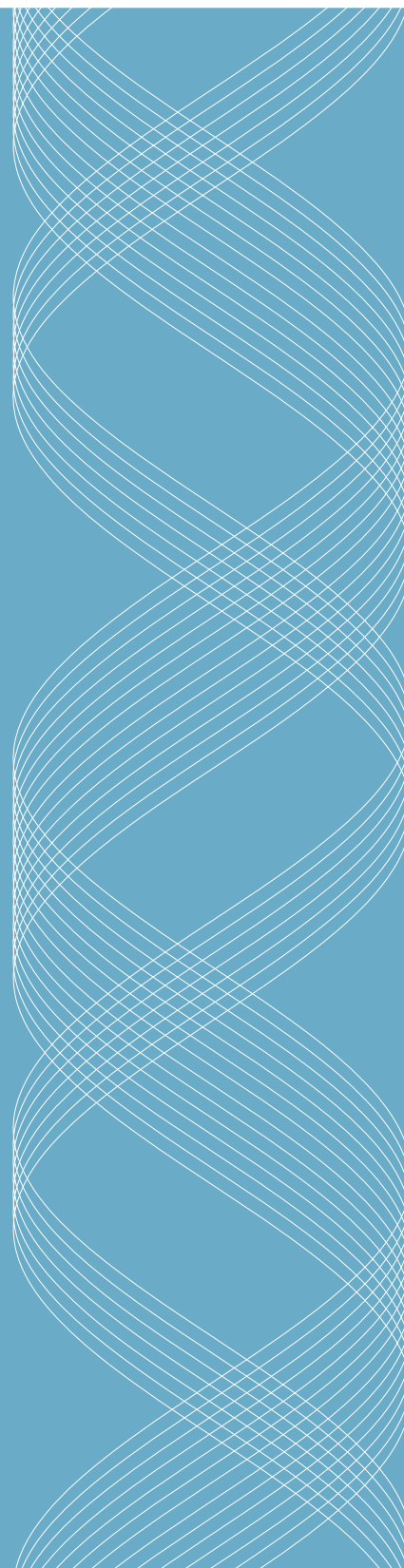




Civil Contingencies Act 2004: Consultation on the draft Regulations and Guidance





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Cabinet Office

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Ministerial foreword by Ruth Kelly Minister for the Cabinet Office



The Government has made significant progress in improving the resilience of the UK to disruptive challenges. We have undertaken a wide range of measures to enhance our capabilities, and made significant new investment. The Civil Contingencies Act 2004 supports this step change. The Act provides a coherent and unambiguous legislative framework for building resilience by establishing clear roles and responsibilities for those at the forefront of response.

The Government made a commitment to consult on the draft Regulations and Guidance under Part 1 of the Act. We are now fulfilling this promise. This document outlines how the provisions of the Act will be delivered through the Regulations and the accompanying Guidance and explains how you can contribute to the development of the final material.

Our consultation in June 2003 on the draft Civil Contingencies Bill generated a high number of responses. We are grateful to the many individuals and organisations that responded to that consultation and shared with us their experience and expertise in the area of emergency preparedness. I hope that a similarly high number of people will respond to this consultation.

I look forward to hearing your views.

RUTH KELLY
Minister for the Cabinet Office

Executive Summary

1. The Civil Contingencies Bill received Royal Assent on 18 November. It is now the Civil Contingencies Act 2004 ("the Act").

2. Part 1 of the Act identifies the organisations that play a vital role in civil protection throughout the UK. Part 1 establishes a statutory framework for civil protection at the local level, setting out clear roles and responsibilities for front line organisations in preparing for emergencies. These organisations are referred to as 'local responders'.

3. In order to ensure that the provisions of Part 1 of the Act are implemented effectively, a package of Regulations and Guidance is required. The Government is now consulting on the package. The Government is not consulting on the Act itself but it is referenced to assist the reader. It can be found at <http://www.ukresilience.info/ccact> along with the rest of the consultation package.

4. The policy development process for the draft Regulations and Guidance has been undertaken in close consultation with a range of stakeholders. The involvement of these experts has been central in the development of practical guidance which is designed to assist practitioners in implementing the requirements of the Act.

5. There are four documents in the consultation package;

- a) This consultation document;
- b) Draft Regulations;
- c) Draft Guidance in two volumes;
 - a. *Preparing for Emergencies*; and
 - b. *Responding to Emergencies*

6. The purpose of this document is to give an overview of the draft Regulations and Guidance in support of the Act and to invite your views.

7. The draft regulations are part of the statutory framework. The Regulations spell out the requirements of the Act in more detail. The Government wants to ensure that the right balance is struck between prescription and permissiveness.

8. Between them, the two volumes of guidance cover in the six phases of Integrated Emergency Management. *Preparing for Emergencies* outlines the first four stages of prevention Anticipation, Assessment, Prevention and Preparation whilst *Responding to Emergencies* details the later stages of Response and Recovery. The Government wants to ensure that the structure and content of both documents is right.

9. *Preparing for Emergencies* is statutory guidance outlining the seven main duties in Part 1 of the Act, which relate to the preparatory phases of civil protection, and how those duties should be interpreted. It also focuses on outlining good practice in carrying the duties and providing further useful information.

10. *Responding to Emergencies* is non-statutory guidance, and primarily deals with post-emergency response and recovery. It provides an overview of the multi-agency response arrangements at the local level and the relationship with central and regional tiers of government.

Responding to this consultation

11. The primary audience for this consultation is local responders who will be responsible for interpreting the provisions of the Act for their organisations and ensuring they are understood and implemented.

12. The consultation period is 12 weeks and the deadline for responses is 3 March. Further details of the consultation process can be found at the end of this document.

Draft Part 1 Regulations

13. The seven main civil protection duties are set out on the face of the Act, though the extent of those duties, and the manner in which they are to be performed, is detailed in the draft Regulations. The draft Regulations are supported by *Preparing for Emergencies*.

14. The Regulations apply to England and Wales and to some organisations in Scotland and Northern Ireland which have non-devolved functions. For example, within Northern Ireland and Scotland, the Police Service of Northern Ireland and the Maritime and Coastguard Agency are covered by the Regulations and Guidance issued by a Minister of the Crown. The arrangements reflect the devolution settlements. The Scottish Ministers will be issuing separate Regulations and Guidance which relates to local responders in Scotland which fall within devolved competence.

15. The Regulations the Government is consulting on relate to Part 1 of the Act. The Regulations indicate in more detail what the extent of the seven civil protection duties is, and how they should be performed.

16. The Regulations are divided into nine Parts⁽¹⁾. Part 2 of the draft Regulations specifies the framework for performing the duties imposed by Part 1 of the Act, defining and explaining the overarching concepts;

- a) co-operation and the role of local resilience forums;
- b) cross border co-operation with Category 1 responders in Scotland including the use of protocols to set out the terms of co-operation;

- c) the “lead” responder approach;
- d) exemptions from the emergency planning duties when an emergency is already defined under other regulations such as the Control of Major Accident Hazards Regulations 1999;
- e) arrangements to jointly undertake duties under the Act; and
- f) the geographical application of the Act in Part 1 of the Regulations.

17. The requirements of the seven main duties of Part 1 of the Act are detailed in Parts 3 to 8 of the Regulations. These include specifying the required mechanisms for co-operation and information sharing and the establishment and maintenance of Community Risk Registers.

18. The Act provides that local responders must comply with the Regulations. While the Guidance issued under the Act (which encompasses most of Volume 1) is not binding in the same way, the Act provides that local responders must “have regard” to it.

Questions on the draft Part 1 Regulations

Q1: Do the draft Regulations strike the right balance between prescription and permissiveness?

Q2: Are there any areas of the Regulations that should be in the Guidance?

Q3: Are there any areas of the Guidance that should be in the Regulations?

(1) Both Acts of Parliament and Regulations are divided into Parts. Parts of Acts are subdivided into sections. Parts of Regulations are subdivided into Regulations.

Draft Guidance in support of Part 1 Regulations: Preparing for Emergencies

19. *Preparing for Emergencies* provides statutory guidance advice and useful information about civil protection in a number of key areas. It details the pre-emergency phases of civil protection work – Anticipation, Assessment, Prevention and Preparation. It explains the operation of the Part 1 Regulations, setting out clearly the distinction between requirements of the Act to which local responders must comply and that guidance to which they must have regard. Additional guidance which is outside the direct scope of the Act is given. *Preparing for Emergencies* also provides information about civil protection arrangements at the regional and national levels.

20. During 2004, the Government involved practitioners and experts in the development of the Guidance by establishing six working groups. These groups considered what guidance was required for each of the main civil protection duties under Part 1 of the Act. They also proposed amendments to the draft Regulations which had been published when the Bill first went before Parliament in January 2004. Membership of the working groups was made up of expert individuals from a range of practitioner organisations such as the Emergency Planning Society, Association of Chief Police Officers, and the National Steering Committee for Warning and Informing the Public and the Business Continuity Institute.

21. The resilience framework described in the Guidance is purposely flexible to allow local responders latitude to implement its provisions in accordance with priorities in their areas. It seeks greater consistency and coherence in UK arrangements, but does not seek to create or impose standardised requirements across the UK or upon all those organisations involved in civil protection. Accordingly, the level of direction and prescription is low.

22. *Preparing for Emergencies* has 19 chapters. Most chapters, with the exception of the Introduction, have a similar structure. For ease of use, the chapters are separated into four parts:

- a) summary, which provides an overview of the chapter;
- b) requirements on local responders imposed by the Act and Regulations;
- c) guidance on good practice in how to fulfil the requirements of the Act and Regulations; and
- d) additional information to help carry out the duties of the Act and Regulations.

Later chapters which do not follow directly the requirements of the Act, also follow a similar structure.

23. The Introduction provides an overview of the provisions of the Act and information about how to use the Guidance. The seven main duties of the Act are outlined in chapters 2-8.

24. Chapter 9 focuses on the civil protection frameworks and arrangements that will apply in London, where they will differ from the rest of the UK. The special arrangements in the Devolved Administrations are detailed in chapters 10-12. Chapters 17-18 complete the picture by providing an overview of the non-statutory but complementary role of the regional tier in civil protection.

25. An overview of how the provisions of the Act will be monitored and enforced is provided in chapters 13 and 16. A series of performance indicators have been developed in relation to each of the main Part 1 duties to assist local responders in assessing their own progress with implementation of the Act.

26. For completeness, brief information about those organisations that do not have statutory duties under the Act, but that might be involved in the preparation of planning arrangements is detailed in chapter 15.

Questions

Q4: Do you have comments on the structure and design of the draft guidance document

Preparing for Emergencies?

Q5: Is there additional guidance or are there further references that should be included in the draft guidance document *Preparing for Emergencies*? For example, are enough practical examples provided?

In addition, the response pro forma asks for your comments on individual chapters (questions 6-24)

Responding to Emergencies

27. The second document, *Responding to Emergencies*, is non-statutory guidance. It details the post-emergency phases of civil protection work – Response and Recovery. It provides useful reference material about response structures and mechanisms at local, regional and UK levels.

28. *Responding to Emergencies* is intended for two audiences. Firstly, it is an accompanying reference manual to *Preparing for Emergencies*, providing practitioners with an overview of the response mechanisms and detail the relationship between central and regional tiers of government. Secondly, it will be of use to all front line responders and supporting agencies, including senior staff, who require an overview of what will happen in response to an emergency and how the different response services fit together.

29. The document builds upon the established material within the Cabinet Office publication, *Dealing with Disaster*. It has provided a good overview of the organisations and processes involved in emergency response. In many respects, it has been accepted as the standard reference manual because it has provided a comprehensive account of how the multi-agency response framework operates in the UK. It has been revised on several occasions to include sections on the media and warning arrangements. It has been useful both to those practitioners new to the profession who needed familiarisation with the area and those who wanted to gain a better understanding of emergency response

30. The overall structure and much of the material from *Dealing with Disaster* remains pertinent, though, where necessary, it has been amended or extended to reflect the changes as a result of the Act.

31. *Responding to Emergencies* has thirteen chapters. Each chapter provides an overview of the structures in place to respond to an emergency. The general principles of response detailing the management and co-ordination of an emergency and the shift from response to recovery are outlined in chapters 2 and 3.

Key concepts that are commonly used throughout the emergency services and local responder communities such as Integrated Emergency Management are explained in chapter 2. Chapter 3 provides an overview of the characteristics and responsibilities of key responder organisations that are central to response and recovery. Many of these organisations are included in Schedule 1 to the Act. Chapter 4 details the care and treatment of those involved in an emergency, providing classifications and explanations of these such as injured, survivor etc.

32. The explanation of the new regional tier of government, its role in response arrangements and details of the role of central government are outlined in chapters 7, 8 and 12 respectively. The description of the role of the media in an emergency has been revised and is contained in chapter 6.

Questions

Q25: Do you have comments on the structure and design of the draft guidance document *Responding to Emergencies*?

Q26: Is there additional guidance or are there additional references that should be included in the draft guidance document *Responding to Emergencies*? For example, are enough practical examples provided?

In addition, the response pro forma asks for your comments on individual chapters (questions 27-40)

Consultation arrangements and next steps

33. This consultation will last for a period of twelve weeks from 9 December 2004 until 3 March 2005. This consultation is being carried out in accordance with the six criteria in the Cabinet Office Code of Practice on Consultation. This Code is available at www.cabinetoffice.gov.uk/regulation/consultation/code.asp

34. To assist those who wish to respond to this consultation, a response pro forma is available. We strongly encourage responders to reply using this format. The pro forma and instructions for completion can be found at <http://www.ukresilience.info/ccact> If you do not have access to the Internet or you experience difficulties with the pro forma, please contact Toby Francis-Bromley on 0207 276 5015.

35. It would be helpful when responding if you state whether you are responding as an individual, replying on behalf of an organisation, or representing the views of a representative organisation. If responding on behalf of a representative organisation, please make it clear who the organisation represents and, where applicable, how the views of the members were assembled.

36. A response can be submitted by letter or, preferably, by e-mail:

Civil Contingencies Act Regulations and
Guidance Consultation,
Second Floor,
10 Great George Street,
London,
SW1P 3AE

ccact@cabinet-office.x.gsi.gov.uk

37. If you have any questions or complaints about the process please contact:

Cabinet Office Consultation Unit,
Kirkland House,
5th Floor,
22 Whitehall,
London,
SW1A 2WH

Next steps

38. The Government will begin the process of reviewing and revising the Regulations and Guidance as soon as the consultation process ends, continuing to work closely with the Devolved Administrations and the representatives of external stakeholders. The Government will seek to agree the final package as quickly as practicable in order to give a clear indication of the likely expectations of local responders at the earliest stage.

39. The Government is currently reviewing the options for the commencement of the duties. The Government believes that a delay is necessary between the final package of Regulations and Guidance being settled and commencement of the duties. A delay is also necessary in order to allow the new investment from Spending Review 2004 – which comes on stream in April 2005 – to make a difference. Provisionally, the Government is considering October 2005 as a suitable point for commencement. However, this will not be confirmed until discussions with all stakeholder representatives are concluded. The Government will also need to consider the need to seek Parliamentary and Devolved Administration approval for certain elements of the package, and external events may have a bearing on the shape of the timetable during 2005.

40. In the interim, the Government encourages local responders to begin thinking about the challenges of implementation, and to undertake planning to manage a staged approach to delivering the duties under the Act. The draft Regulations and Guidance package may of course be subject to change but should give a reasonable indication of the shape of the final requirements. The Civil Contingencies Secretariat and Regional Resilience Teams will work closely with local responders to support this work.



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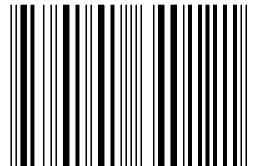
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