



# Civil Contingencies Act 2004

## 2004 CHAPTER 36

### 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,
  - (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

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- (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.
- [<sup>F1</sup>(4A) In relation to Northern Ireland, the power to make orders—
  - (a) under subsection (4)(a) in relation to subsection (1)(a) or (b), and
  - (b) under subsection (4)(b),
 is exercisable by the Department of Justice in Northern Ireland (and not by a Minister of the Crown).]
- (5) The event or situation mentioned in subsection (1) may occur or be inside or outside the United Kingdom.

#### Textual Amendments

- F1** S. 1(4A) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 5, **Sch. 3 para. 95(2)** (with arts. 28-31, Sch. 3 para. 110)

#### Commencement Information

- II** S. 1 wholly in force at 14.11.2005; s. 1 not in force at Royal Assent, see s. 34; s. 1(1)-(3)(5) in force at 14.11.2005 by [S.I. 2005/2040](#), **art. 3(a)**; s. 1(4) in force at 14.11.2005 by [S.I. 2005/2040](#), **art. 3(a)** and [S.S.I. 2005/493](#), **art. 4(a)**

### *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,

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- (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
  - (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);

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- (h) permit or require a person or body listed in Part 1 or 3 of Schedule 1 to cooperate, 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;
  - (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.
- [<sup>F2</sup>(7) In relation to emergencies that do not fall within section 1(1)(c), the power under subsection (3) to make regulations in relation to the Chief Constable (PSNI) is exercisable by the Department of Justice in Northern Ireland (and not by a Minister of the Crown).
- (8) Subsection (5) has effect in relation to the power of the Department of Justice under subsection (3) as if—
- (a) paragraphs (e), (h) and (i) were omitted;

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- (b) in paragraph (p) for the words from “a Minister of the Crown” to “department” there were substituted a Northern Ireland department.
- (9) In relation to emergencies that do not fall within section 1(1)(c), a Minister of the Crown has no power by virtue of subsection (5)(h) or (i) to make provision permitting or requiring the Chief Constable (PSNI) to co-operate with, or provide information to, a person or body listed in Part 1 of Schedule 1.]

#### Textual Amendments

- F2** S. 2(7)-(9) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 5, **Sch. 3 para. 96(2)** (with arts. 28-31, Sch. 3 para. 110)

#### Commencement Information

- I2** S. 2 partly in force; s. 2 not in force at Royal Assent see s. 34; s. 2(3)(5) in force for specified purposes at 22.7.2005 and s. 2(1)(2) in force for specified purposes at 14.11.2005 by S.I. 2005/2040, **arts. 2(a), 3(b)**; s. 2(4)(6) in force and s. 2(5) in force for specified purposes (S.) at 6.10.2005 and s. 2(1)(2) in force for further specified purposes (S.) at 14.11.2005 by S.S.I. 2005/493, **arts. 3(a)(b), 4(a)(b)**

### 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—
- comply with regulations under section 2(3) or (4), and
  - 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”.
- [<sup>F3</sup>(6) In relation to emergencies that do not fall within section 1(1)(c), the power under subsection (1) to issue guidance to the Chief Constable (PSNI) is exercisable by the Department of Justice in Northern Ireland (and not by a Minister of the Crown).]

#### Textual Amendments

- F3** S. 3(6) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 5, **Sch. 3 para. 97(2)** (with arts. 28-31, Sch. 3 para. 110)

#### Commencement Information

- I3** S. 3 partly in force; s. 3 not in force at Royal Assent see s. 34; s. 3(1)(3)(4)(5) in force for specified purposes at 14.11.2005 by S.I. 2005/2040, **art. 3(c)**; s. 3(2) in force and s. 3(4)(5) in force for specified

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purposes (S.) at 6.10.2005 and s. 3(3) in force for specified purposes (S.) at 14.11.2005 by [S.S.I. 2005/493](#), [arts. 3\(c\)\(d\), 4\(c\)](#)

#### 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).

#### Commencement Information

- I4** [S. 4](#) partly in force; [s. 4](#) not in force at Royal Assent see [s. 34](#); [s. 4\(2\)\(4\)\(5\)](#) in force for specified purposes at 22.7.2005 and [s. 4\(1\)\(6\)\(8\)](#) in force for specified purposes at 14.11.2005 and [s. 4\(1\)\(2\)\(4\)\(5\)\(6\)\(8\)](#) in force for further specified purposes at 15.5.2006 by [S.I. 2005/2040](#), [arts. 2\(b\), 3\(d\), 4](#); [s. 4\(3\)\(7\)](#) in force and [s. 4\(4\)\(5\)](#) in force for specified purposes (S.) at 6.10.2005 and [s. 4\(1\)\(8\)](#) in force for further specified purposes (S.) at 14.11.2005 and [s. 4\(1\)](#) in force for further specified purposes (S.) at 15.5.2006 by [S.S.I. 2005/493](#), [arts. 3\(e\)\(f\), 4\(d\)\(e\), 5](#)

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## 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,
  - (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.

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- [<sup>F4</sup>(6) In relation to emergencies that do not fall within section 1(1)(c), the power under subsection (1) to require the Chief Constable (PSNI) to perform a function is exercisable by the Department of Justice in Northern Ireland (and not by a Minister of the Crown).
- (7) Subsection (4) has effect in relation to the power of the Department of Justice under subsection (1) as if—
- (a) paragraphs (d) and (e) were omitted;
  - (b) in paragraph (f) for the words from “a Minister of the Crown” to “department” there were substituted a Northern Ireland department.
- (8) In relation to emergencies that do not fall within section 1(1)(c), a Minister of the Crown has no power by virtue of subsection (4)(d) or (e) to make provision permitting or requiring the Chief Constable (PSNI) to co-operate with, or provide information to, a person or body listed in Part 1 of Schedule 1.]

#### Textual Amendments

- F4** S. 5(6)-(8) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 5, **Sch. 3 para. 98(2)** (with arts. 28-31, Sch. 3 para. 110)

#### Commencement Information

- I5** S. 5 partly in force; s. 5 not in force at Royal Assent see s. 34; s. 5(1)(3)(4) in force for specified purposes at 14.11.2005 by [S.I. 2005/2040](#), **art. 3(e)**; s. 5(2)(5) in force and s. 5(3)(4) in force for further specified purposes (S.) at 14.11.2005 by [S.S.I. 2005/493](#), **art. 4**

## 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).
- [<sup>F5</sup>(7) In relation to emergencies that do not fall within section 1(1)(c), the following powers are exercisable by the Department of Justice in Northern Ireland (and not by a Minister of the Crown)—



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- (a) the power under subsection (1) to make regulations requiring or permitting the Chief Constable (PSNI) to disclose information to another person or body listed in any Part of Schedule 1;
- (b) the power under subsection (4) to issue guidance to the Chief Constable (PSNI).]

#### Textual Amendments

- F5** S. 6(7) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 5, **Sch. 3 para. 99(2)** (with arts. 28-31, Sch. 3 para. 110)

#### Commencement Information

- I6** S. 6 partly in force; s. 6 not in force at Royal Assent see s. 34; s. 6(1) in force for specified purposes at 22.7.2005 and s. 6(3)(4)(6) in force for specified purposes at 14.11.2005 by S.I. 2005/2040, **arts. 2(c), 3(f)**; s. 6(2)(5) in force and s. 6(3) in force for specified purposes (S.) at 6.10.2005 and s. 6(6) in force for specified purposes (S.) at 14.11.2005 by S.S.I. 2005/493, **arts. 3(g)(h), 4(h)**

### 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).

[<sup>F6</sup>(4A) In relation to provision of a kind that could be made by the Department of Justice in Northern Ireland by an order under section 5(1) or by regulations under section 6(1), in subsection (2) the reference to the Minister is to be read as a reference to the Department of Justice and subsection (4) is to be read accordingly.]

- (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) [<sup>F7</sup>made by the Minister or the Department of Justice (as the case may be)].

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### Textual Amendments

- F6** S. 7(4A) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 5, **Sch. 3 para. 100(2)** (with arts. 28-31, Sch. 3 para. 110)
- F7** Words in s. 7(5) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 5, **Sch. 3 para. 100(3)** (with arts. 28-31, Sch. 3 para. 110)

## 8 Urgency: Scotland

- (1) This section applies where—
- 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
  - 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)—
- they may revoke or vary the direction by further direction,
  - 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
  - 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).

### Modifications etc. (not altering text)

- C1** S. 8 partly in force; s. 8 not in force at Royal Assent see [s. 34](#); s. 8 in force (S.) at 14.11.2005 by [S.S.I. 2005/493](#), **art. 4**

## 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—
- to provide information about action taken by the person or body for the purpose of complying with a duty under this Part, or
  - 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—

*Status: Point in time view as at 12/04/2010.*

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- (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).
- [<sup>F8</sup>(5) In relation to emergencies that do not fall within section 1(1)(c), the power under subsection (1) to require the Chief Constable (PSNI) to provide information or an explanation is exercisable by the Department of Justice in Northern Ireland (and not by a Minister of the Crown).
- (6) If it appears to the Chief Constable (PSNI) that a requirement imposed by virtue of subsection (5) may require the Chief Constable (PSNI) to provide national security information, the Chief Constable (PSNI) may refer the requirement to a Minister of the Crown.
- (7) The Minister may set aside or otherwise modify the requirement as the Minister considers appropriate so that the Chief Constable (PSNI) is not required to provide any information which appears to the Minister to be national security information.
- (8) “National security information” means information the disclosure of which to the public would, or would be likely to, adversely affect national security.]

#### Textual Amendments

- F8** S. 9(5)-(8) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 5, **Sch. 3 para. 101(2)** (with arts. 28-31, Sch. 3 para. 110)

#### Commencement Information

- I7** S. 9 partly in force; s. 9 not in force at Royal Assent see s. 34; s. 9(1)(3)(4) in force for specified purposes at 14.11.2005 by [S.I. 2005/2040](#), **art. 3(h)**; s. 9(2) in force and s. 9(3)(4) in force for further specified purposes (S.) at 14.11.2005 by [S.S.I. 2005/493](#), **art. 4**

## 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) [<sup>F9</sup>, 15(7) or 15A(8)]—
- (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.
- [<sup>F10</sup>(3) In relation to emergencies that do not fall within section 1(1)(c), the power under subsection (1)(a) to bring proceedings in respect of a failure by the Chief Constable

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(PSNI) is exercisable by the Department of Justice in Northern Ireland (and not by a Minister of the Crown).]

#### Textual Amendments

- F9** Words in s. 10(1) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 5, **Sch. 3 para. 102(2)** (with arts. 28-31, Sch. 3 para. 110)
- F10** S. 10(3) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 5, **Sch. 3 para. 102(3)** (with arts. 28-31, Sch. 3 para. 110)

## 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)—
- the Scottish Ministers,
  - a person or body listed in Part 2 of Schedule 1, and
  - 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.

#### Modifications etc. (not altering text)

- C2** [S. 11](#) partly in force; [s. 11](#) not in force at Royal Assent see [s. 34](#); [s. 11](#) in force (S.) at 14.11.2005 by [S.S.I. 2005/493](#), [art. 4](#)

## 12 Provision of information

Regulations or an order under this Part may, if addressing the provision or disclosure of information, make provision about—

- timing;
- the form in which information is provided;
- the use to which information may be put;
- storage of information;
- disposal of information.

### [<sup>F11</sup>12A Northern Ireland: provision or disclosure of national security information

- (1) A Minister of the Crown may, for the purposes mentioned in subsection (2), make regulations addressing the provision or disclosure of national security information.
- (2) Regulations under this section are to apply for the purposes of any regulations or order made by the Department of Justice in Northern Ireland under this Part; and any regulations or order made by the Department has effect subject to regulations under this section.

*Status: Point in time view as at 12/04/2010.*

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- (3) “National security information” means information the disclosure of which to the public would, or would be likely to, adversely affect national security.
- (4) Regulations under this section may (in particular)—
- (a) provide that national security information is not to be provided or disclosed, or is to be provided or disclosed only in specified circumstances or in a specified way, despite any provision of regulations or an order made by the Department of Justice;
  - (b) provide that a certificate signed by a Minister of the Crown certifying that the disclosure of information to the public would, or would be likely to, adversely affect national security is conclusive evidence of that fact;
  - (c) provide that such a certificate may identify the information to which it applies by means of a general description and may be expressed to apply to information within that description that comes into existence after the certificate is made;
  - (d) confer other functions on a Minister of the Crown or any other specified person or body (and a function conferred may, in particular, be a power or duty to exercise a discretion).]

#### Textual Amendments

**F11** S. 12A inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 5, **Sch. 3 para. 103** (with arts. 28-31, Sch. 3 para. 110)

### 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).
- [<sup>F12</sup>(4) In relation to emergencies that do not fall within section 1(1)(c), the power under subsection (1) to make provision in relation to the Chief Constable (PSNI) is exercisable by the Department of Justice in Northern Ireland (and not by a Minister of the Crown).]

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#### Textual Amendments

- F12** S. 13(4) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 5, **Sch. 3 para. 104(2)** (with arts. 28-31, Sch. 3 para. 110)

#### Commencement Information

- I8** S. 13 partly in force; s. 13 not in force at Royal Assent see s. 34; s. 13(1)(3) in force for specified purposes at 22.7.2005 by [S.I. 2005/2040](#), **art. 2(e)**; s. 13(2) in force and s. 13(3) in force for specified purposes (S.) at 6.10.2005 by [S.S.I. 2005/493](#), **art. 3(i)(j)**

### 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.

#### Commencement Information

- I9** S. 14 partly in force; s. 14 not in force at Royal Assent see s. 34; s. 14(1) in force at 14.11.2005 by [S.I. 2005/2040](#), **art. 3(j)**; s. 14(2) in force (S.) at 6.10.2005 by [S.S.I. 2005/493](#), **art. 3(k)**

### [<sup>F13</sup>14A Northern Ireland: consultation

- (1) A Minister of the Crown must consult the Department of Justice in Northern Ireland before making regulations or an order under this Part in relation to the Chief Constable (PSNI).
- (2) The Department of Justice must consult a Minister of the Crown before making regulations or an order under this Part.]

#### Textual Amendments

- F13** S. 14A inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 5, **Sch. 3 para. 105** (with arts. 28-31, Sch. 3 para. 110)

### 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;
  - (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,

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- 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 <sup>F14</sup>[an order is made] 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.

#### Textual Amendments

**F14** Words in s. 15(5) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 5, **Sch. 3 para. 106(2)** (with arts. 28-31, Sch. 3 para. 110)

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## **[<sup>F15</sup>15A Northern Ireland: cross-border collaboration**

- (1) In relation to emergencies that do not fall within section 1(1)(c)—
  - (a) the power under section 15(3) or (6) to make regulations or an order permitting or requiring the Chief Constable (PSNI) to co-operate with, or provide information to, a person or body listed in Part 2 of Schedule 1 is exercisable by the Department of Justice in Northern Ireland (and not by a Minister of the Crown);
  - (b) the power under section 15(4) to issue guidance is exercisable by the Department of Justice (and not by a Minister of the Crown) in relation to regulations made by the Department.
- (2) Where the Chief Constable (PSNI) has a duty under section 2, a Minister of the Crown may, in relation to emergencies that do not fall within section 1(1)(c), make regulations—
  - (a) permitting or requiring another 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 the Chief Constable (PSNI) in connection with the performance of the duty;
  - (b) permitting or requiring another person or body listed in Part 1 or 3 of Schedule 1 to provide information, either on request or in other specified circumstances, to the Chief Constable (PSNI) in connection with the performance of the duty.
- (3) A Minister of the Crown may issue guidance about a matter addressed in regulations under subsection (2).
- (4) If the Department of Justice in Northern Ireland makes an order under section 5(1) imposing a duty on the Chief Constable (PSNI), a Minister of the Crown may make an order—
  - (a) permitting or requiring another 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 the Chief Constable (PSNI) in connection with the duty;
  - (b) permitting or requiring another person or body listed in Part 1 or 3 of Schedule 1 to provide information, either on request or in other specified circumstances, to the Chief Constable (PSNI) in connection with the duty.
- (5) Where a person or body listed in Part 1 of Schedule 1 (other than the Chief Constable (PSNI)) has a duty under section 2 or 4, the Department of Justice in Northern Ireland may, in relation to emergencies that do not fall within section 1(1)(c), make regulations—
  - (a) permitting or requiring the Chief Constable (PSNI) (if listed in Part 1 or 3 of Schedule 1) to co-operate, to such extent and in such manner as may be specified, with the person or body listed in Part 1 of Schedule 1 in connection with the performance of the duty;
  - (b) permitting or requiring the Chief Constable (PSNI) (if listed in Part 1 or 3 of Schedule 1) to provide information, either on request or in other specified circumstances, to the person or body listed in Part 1 of Schedule 1 in connection with the performance of the duty.
- (6) The Department of Justice in Northern Ireland may issue guidance about a matter addressed in regulations under subsection (5).



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- (7) 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 Department of Justice in Northern Ireland may, in relation to emergencies that do not fall within section 1(1)(c), make an order—
- (a) permitting or requiring the Chief Constable (PSNI) (if listed in Part 1 or 3 of Schedule 1) to co-operate, to such extent and in such manner as may be specified, with the person or body listed in Part 1 of Schedule 1 in connection with the duty;
  - (b) permitting or requiring the Chief Constable (PSNI) (if listed in Part 1 or 3 of Schedule 1) to provide information, either on request or in other specified circumstances, to the person or body listed in Part 1 of Schedule 1 in connection with the duty.
- (8) A person or body must comply with regulations or an order under this section and must have regard to guidance under this section.
- (9) In this Act, except where the contrary intention appears, a reference to an order under section 5(1) includes a reference to an order under subsection (4) or (7) above.]

#### Textual Amendments

- F15** S. 15A inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 5, **Sch. 3 para. 107** (with arts. 28-31, Sch. 3 para. 110)

## 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),

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- (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 [<sup>F16</sup>by a Minister of the Crown or the Scottish Ministers] by statutory instrument.
- [<sup>F17</sup>(1A) Any power of the Department of Justice in Northern Ireland under this Part to make regulations or an order is exercisable by statutory rule for the purposes of the <sup>M1</sup>Statutory Rules (Northern Ireland) Order 1979.]
- (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.
- [<sup>F18</sup>(3A) An order under section 1(4), 5(1) or 13(1) may not be made by the Department of Justice in Northern Ireland unless a draft has been laid before and approved by resolution of the Northern Ireland Assembly.]
- (3B) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (3A) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.]
- (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.
- [<sup>F19</sup>(5A) Regulations made by the Department of Justice in Northern Ireland under this Part are subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).]
- (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.

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### Textual Amendments

- F16** Words in s. 17(1) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 5, **Sch. 3 para. 108(2)** (with arts. 28-31, Sch. 3 para. 110)
- F17** [S. 17\(1A\)](#) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 5, **Sch. 3 para. 108(3)** (with arts. 28-31, Sch. 3 para. 110)
- F18** [S. 17\(3A\)\(3B\)](#) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 5, **Sch. 3 para. 108(4)** (with arts. 28-31, Sch. 3 para. 110)
- F19** [S. 17\(5A\)](#) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 5, **Sch. 3 para. 108(5)** (with arts. 28-31, Sch. 3 para. 110)

### Commencement Information

- I10** [S. 17](#) partly in force; [s. 17](#) not in force at Royal Assent see [s. 34](#); [s. 17\(6\)](#) in force for specified purposes at 22.7.2005 and [s. 17\(1\)\(2\)\(4\)](#) in force for specified purposes at 14.11.2005 by [S.I. 2005/2040](#), **arts. 2(g), 3(l)**; [s. 17\(3\)\(5\)](#) in force and [s. 17\(1\)\(6\)](#) in force for specified purposes (S.) at 6.10.2005 by [S.I. 2005/493](#), **art. 3(l)(m)**

### Marginal Citations

- M1** [S.I. 1979/1573 \(N.I. 12\)](#).

## 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),

[<sup>F20</sup>“Chief Constable (PSNI)” means the Chief Constable of the Police Service of Northern Ireland,]

“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.

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#### Textual Amendments

- F20** Words in s. 18(1) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 5, **Sch. 3 para. 109** (with arts. 28-31, Sch. 3 para. 110)

**Status:**

Point in time view as at 12/04/2010.

**Changes to legislation:**

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