

**EXPLANATORY MEMORANDUM TO
THE CIVIL CONTINGENCIES ACT 2004 (AMENDMENT OF LIST OF RESPONDERS) ORDER
2011**

2011 No. xxx

1 This Explanatory Memorandum has been prepared by the Cabinet Office, and is laid before Parliament by Command of Her Majesty.

2 Purpose of the instrument

This Instrument adds The Greater London Authority to the list of Category 1 responders in Part 1 of Schedule 1 to the Civil Contingencies Act 2004 ('the Act')¹.

3 Matters of special interest to the Joint Committee on Statutory Instruments

None.

4 Legislative Context

Part 1 of Schedule 1 to the Act assigns category 1 responder status to certain organisations. The Greater London Authority is now being added to this list.

5 Territorial Extent and Application

This instrument applies to England.

6 European Convention on Human Rights

The Minister for Cabinet Office has made the following statement regarding human rights: In my view, the provisions of the Civil Contingencies Act 2004 (Amendment of List of Responders) Order 2011 are compatible with the Convention rights.

7 Policy Background

7.1 Part 1 of the Act (Local Arrangements for Civil Protection), establishes a statutory framework of roles and responsibilities, based on the principle of Integrated Emergency Management, for those organisations involved in civil protection at the local level. Part 1 of the Act divides local responders into two categories and establishes a different set of duties for each. Category 1 responders, those organisations listed in Part 1 of Schedule 1 to the Act, are those organisations that collectively form the core of local emergency preparedness and response.

7.2 In London, resilience planning at the regional level takes place through the London Regional Resilience Forum. This is soon to be superseded by a pan-London Local Resilience Forum, a change that requires amendment to the Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005². These amendments are intended to be made by the Civil Contingencies Act 2004 (Contingency Planning) (Amendment) Regulations 2011, which will, together with the Explanatory Memorandum, be presented to this Committee in due course.

¹ <http://www.legislation.gov.uk/ukpga/2004/36/contents>

² <http://www.legislation.gov.uk/uksi/2005/2042/contents/made>

7.3 The London Regional Resilience Forum has previously been supported by the London Resilience Team. This team was based in the Government Office for London. As well as supporting and providing the secretariat for the London Regional Resilience Forum, the London Resilience Team carried out a number of activities essential to London emergency planning arrangements including, writing and exercising pan-London plans on behalf of all of London's responders, ensuring that resilience plans are in place for the Olympic Games and, in an emergency which is not Police led (e.g. pandemic flu, severe weather), it led the co-ordination of the pan-London multi-agency response. With the announcement of the abolition of the Government Offices for the Regions, the duties of the London Resilience Team were relocated. The Mayor of London and the London Assembly agreed that the duties outlined above should be taken on by the Greater London Authority. To support this we now lay this statutory instrument which adds the Greater London Authority to the list of Category One responders in Schedule 1 to the Act.

7.4 Making the Greater London Authority a Category 1 responder will facilitate co-operation between the GLA and other responders in the Greater London Area and will ensure arrangements to support civil contingency planning in London dovetail with arrangements outside the capital and reflect current response arrangements in the capital.

8 Consultation Outcome

This change is a consequence of the previously announced abolition of the Government Office for London; the transfer of functions has been agreed in negotiation with the Mayor of London and the GLA. There was therefore no need to consult more widely on moving these functions from the Government Office for London.

9 Guidance

The Guidance that has been issued under section 3 of the Act, *Emergency Preparedness*, will be updated later in 2011 once an on-going review of the Act has been completed. We will issue interim guidance directly to those affected by the proposed changes highlighted in this Explanatory Memorandum.

10 Impact

- 10.1 The impact on business, charities or voluntary bodies is minimal, not reaching the five million pounds threshold for completing and impact assessment.
- 10.2 The impact on the public sector is minimal as this legislative change formalises arrangements that are already in place.
- 10.3 A full Impact Assessment has not been prepared for this instrument. Attached at Annex A is a further note on the decision for the legislative change and the costs associated.
- 10.4 This policy was screened for impact on equalities on 19/01/11. The following evidence has been considered – this instrument formalises arrangements that are already in place. This legislative change is being proposed as part of a broader set of changes to the Greater London Authority's duties in emergency planning, following the closure of the Government Office for London. Assigning the Greater London Authority Category 1 responder status under the Act will not, of

itself, have an impact on equality. As a result of this screening, it has been decided that a full impact assessment is not required.

11 Regulating Small Business

The legislation does not apply to small business.

12 Monitoring and Review

The Schedule of responders in the Civil Contingencies Act is under regular review and this addition to the Schedule will be included in this review.

13 Contact

Eleri Pengelly at the Cabinet Office (Tel: 020 7276 5299 email: elery.pengelly@cabinet-office.x.gsi.gov.uk) can answer any queries regarding this instrument.

Annex A to Explanatory Memorandum to the Merits Committee regarding the Civil Contingencies Act 2004 (Amendment of List of Responders) Order 2011.

Explanation of the reasons for the chosen regulatory changes and the costs associated with these.

Assigning the Greater London Authority Category 1 responder status under the Civil Contingencies Act 2004 ('the Act')

What is the problem under consideration? Why is government intervention necessary?

Due to the closure of the Government Office for London (GOL), it is essential that the pan-London emergency planning duties that were carried out within GOL are now transferred elsewhere to ensure continuity of emergency planning arrangements in London. It has been decided that these duties will pass to the Greater London Authority (GLA). If the GLA is to take on essential emergency planning responsibilities including supporting the pan-London Local Resilience Forum (see below), it should be subject to the same duties under the Act as other key London resilience partners to ensure accountability and consistency.

What are the policy objectives and the intended effects?

Our intention is therefore to make the GLA a Category 1 responder under the Civil Contingencies Act to ensure they are able to play a full role in the emergency planning arrangements for London and fulfil the roles they are taking over from GOL. Giving them this role in legislation is intended to improve cooperation between London responders and help London arrangements more easily dovetail with those in the rest of the country.

What policy options have been considered?

Allowing the GLA to take over the emergency planning duties of GOL without a legislative footing was considered. However, to facilitate the GLA to engage effectively with other London responders on an equal footing, it needed to have the same legal status as other key responders. The Civil Contingencies Act requires all Category 1 responders, inter alia, to cooperate and share information with each other.

Costs

The cost implications of this change will be solely for the GLA. The duties assigned under the Civil Contingencies Act are part of a broader transfer of emergency planning responsibilities from the Government Office for London to the GLA following its closure. The costs of taking on Category 1 responder status are therefore tied up in the broader costs associated with these other duties and are minimal.

For the financial year 2010-11 (the transfer of all these activities took place from 1 Dec 2010 with the intention that the GLA be named as a responder subsequently), it is estimated that costs will total £65,000. That figure includes staff and transfer costs. The Department for Communities and Local Government has agreed to fund the GLA's additional costs arising from the transfer of London resilience activities in 2010-11 and will be contributing £65,000 up to 31 March 2011. For future financial years, it is estimated that the GLA's ongoing costs from London resilience activity will be £234,000 per annum; £214,000 of which is staff costs, with £20,000 being the supplies and services budget. The GLA bid for this money as part of the Spending Review process.

Only a fraction of the above costs are related to the GLA's new legal duties. The vast majority of these costs relate to the broader transfer of emergency planning responsibilities, separate from their new Category 1 status. The work they are undertaking via the above funding relates to a co-ordination role for pan-London emergency planning by all London responders under the Act. The legislative change relates only to the GLA's own discrete role as a contributor to pan-London preparedness (see Appendix 1).

Duties on Category 1 Responders

Category 1 responders are required by the Act to:

1. Assess the risk of emergencies occurring and use this to inform contingency planning

- Periodically assess the risk of emergencies occurring which affect or may affect the area in which the organisation exercises its functions
- Review the risk assessment as often as is necessary to ensure that they are in a reasonable position to maintain and update their emergency and business continuity plans and comply with their duties in the Act
- Cooperate with other Category 1 responders in the local resilience area to maintain a Community Risk Register (CRR)

2. Put in place emergency plans

- Produce written plans which set out what should occur in the event of an emergency and consider the extent to which particular types of emergencies will place demands on a responder's resources and capacity.
- This emergency plan may be a multi-agency plan drawn up and maintained by more than one responder acting jointly.

3. Put in place Business Continuity Management arrangements

- Produce and maintain plans which outline how a responder will continue to perform its functions in the event of the emergencies occurring which are included in its risk assessments.
- Include a procedure in the plan for determining whether an emergency has occurred which is likely seriously to obstruct a responder in performing its day-to-day functions.

4. Maintain arrangements to warn, inform and advise the public in the event of an emergency

- Consider what is necessary and desirable for the public to know in relation to preventing emergencies, reducing, controlling or mitigating their effects, or taking other action in relation to emergencies.
- Publish plans and assessments as far as publication is necessary or desirable for the purpose of preventing an emergency; reducing, controlling or mitigating its effects; or taking other action in connection with an emergency.

Both Category 1 and Category 2 responders are required to:

5. Share information with other local responders to enhance co-ordination

- Responders (including Cat 2 responders) must share information with other responders within their local resilience area in order to help them fulfil their civil protection duties under the Act. This can either be done formally via Local or Regional Resilience Forums, or informally between responders.

6. Co-operate with other local responders to enhance co-ordination and efficiency

- Category 1 and 2 responders must co-operate with each other. The primary means by which this is done is via the Local Resilience Forum, a meeting of responders which takes place every 6 months. Responders must attend or be effectively represented at these meetings.