

**EXPLANATORY MEMORANDUM TO THE  
CIVIL CONTINGENCIES ACT 2004 (AMENDMENT OF LIST OF RESPONDERS)  
ORDER 2005**

**2005 No.**

1. This explanatory memorandum has been prepared by the Cabinet Office and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

**2. Description**

- 2.1. This Order amends Schedule 1 of the Civil Contingencies Act 2004, which sets out which organisations are subject to the duties in that Act (i.e. Category 1 and Category 2 responders). The Order provides that the Health Protection Agency's (HPA) duties as a Category 1 responder only apply to its operations in Great Britain, and do not extend to Northern Ireland. The Order also makes Strategic Health Authorities (SHAs) Category 2 responders.

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

- 3.1. None.

**4. Legislative Background**

- 4.1. In part this instrument corrects a defect in schedule 1 of the Act. The functions of the HPA in Northern Ireland should not be covered by the Act; although the HPA is a UK-wide body, in Northern Ireland the functions of the HPA are a transferred matter. However, the HPA delivers some services in or for Northern Ireland on behalf of Northern Ireland departments, principally (although not exclusively) the Department of Health, Social Services and Public Safety.
- 4.2. This instrument is also being made to reflect the evolution of SHAs' co-ordination role in relation to emergency planning and response. Making SHAs Category 2 responders under the Act will give them an appropriate role in local multi-agency civil protection arrangements.
- 4.3. This is the first time that the powers under section 13 of the Act have been used.

## **5. Extent**

5.1. The Order provides that the HPA is only a Category 1 responder in relation to its operations in Great Britain. SHAs exist in England only.

## **6. European Convention on Human Rights**

6.1. Mr Jim Murphy 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 2005 are compatible with the Convention rights.

## **7. Policy background**

### The Civil Contingencies Act

7.1. The Civil Contingencies Act (“the Act”) received Royal Assent on 18 November 2004. The aim of Part 1 of the Act is to establish a new statutory framework for local civil protection activity in the United Kingdom which is capable of meeting the challenges of the 21<sup>st</sup> century. It establishes a clear set of roles and responsibilities for organisations with a front line emergency response role, and will help ensure that they are prepared to deal effectively with the full range of emergencies. A short guide to the Act has been produced by the Cabinet Office and copies have been placed in the libraries of the House.

7.2. The Cabinet Office consulted publicly on the supporting draft Regulations and statutory guidance under Part 1 of the Act between December 2004 and March 2005. The revised draft Regulations and statutory guidance, amended in the light of the public consultation, were published by the Government on 23 May 2005. The next step in the implementation process will be to seek the consent of the National Assembly for Wales to the draft Regulations and statutory guidance, and to consult the Scottish Executive, with a view to laying the draft Regulations before Parliament in July. The bulk of the duties under Part 1 of the Act will be commenced in November 2005. Copies of the revised draft Regulations and statutory guidance under Part 1 of the Act have been placed in the libraries of the House along with a more detailed explanation of the implementation process.

### HPA in Northern Ireland

7.3. The Government has worked hard to ensure that the Act regime reflects the various devolution settlements in the UK. Civil protection is primarily a transferred matter in Northern Ireland. Local responders dealing with reserved matters in Northern Ireland (e.g. Police Service of Northern Ireland, Maritime and Coastguard Agency) are subject to the duties in the Act. However, organisations which fall within devolved competence are not covered by the Act – Northern Ireland Ministers will ensure that they will operate in a way which is consistent with the duties set out in the Act by establishing a non-statutory civil protection framework. This instrument will clear up a discrepancy in the way that the devolution settlement is reflected in the Act, by providing that the functions of the HPA are subject to the provisions of the Act only in so far as they relate to Great Britain. This aspect of the instrument has been discussed and agreed with the Northern Ireland Administration. The operations of the HPA in Northern Ireland will come within the crisis management

structure of the Department of Health, Social Services and Public Safety and the overall Northern Ireland Civil Contingencies Framework.

### Making SHAs Category 2 responders

- 7.4. The Act splits local responders into two categories, imposing a different set of duties on each. Category 1 responders are those organisations at the core of emergency response (e.g. emergency services, local authorities, Primary Care Trusts), and are subject to the full range of civil protection duties. There is also a second category of responders. Category 2 responders are less likely to be involved at the heart of the emergency response, but will be heavily involved in incidents affecting their sectors (e.g. utilities, Health and Safety Executive). The Act requires Category 2 responders to co-operate and share information with other local responders.
- 7.5. It has become necessary to make Strategic Health Authorities a Category 2 responder in order to reflect the evolution of SHAs co-ordination role in relation to emergency planning and response. Making SHAs Category 2 responders under the Act will ensure that they play an appropriate role in local multi-agency civil protection arrangements.
- 7.6. SHAs are the local headquarters of the NHS. As such they are able to mobilise and commit resources across the authority area and are responsible for co-ordination of health services in the event of an emergency as defined in the Act. As part of their role they are responsible for leading local strategic planning, and ensuring that local plans are consistent with NHS guidance and other relevant legislation and guidance.
- 7.7. SHAs also act as a liaison point with other partner organisations outside the NHS and in many areas would represent NHS bodies on Local Resilience Forums (local multi-agency civil protection forums which will be established by Regulations under Part 1 of the Act). Not being a Category 2 responder would mean that SHAs could not fulfil this representative role, and would not be able to seek information and co-operation from other local partners in its own right.
- 7.8. The decision to make SHAs Category 2 responders was made following representations received from SHA Chief Executives and emergency planning leads and in close consultation with representatives of wider NHS bodies. As noted above, Cabinet Office consulted publicly on the draft Civil Contingencies Act Regulations and guidance between December 2004 and March 2005. While the consultation documents did not specifically seek consultees' views on whether or not SHAs should be Category 2 responders, a number of consultees from health and non-health organisations emphasised the importance of the SHAs being brought within the Act framework. As part of the consultation process the Cabinet Office held eleven roadshow events in the English Regions and in Wales, which also demonstrated clear support for these proposals among representatives of the health responder community.

## **8. Impact**

- 8.1. A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2. This instrument merely codifies SHAs' role in existing non-statutory civil protection arrangements, and will not therefore impose a significant new burden on them.

## **9. Contact**

Queries about this instrument should be directed to Daniel Greaves, Head of the Civil Contingencies Act Implementation Team at the Cabinet Office. He can be contacted on 020 7276 5053 or [ccact@cabinet-office.x.gsi.gov.uk](mailto:ccact@cabinet-office.x.gsi.gov.uk).