

**EXPLANATORY MEMORANDUM TO
THE CIVIL CONTINGENCIES ACT 2004 (CONTINGENCY PLANNING) (AMENDMENT)
REGULATIONS 2011**

2011 No. 615

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 creates one Local Resilience Area for the whole of London where there are currently six. It also removes the duty of the London Fire and Emergency Planning Authority to take the lead responsibility for ensuring that a community risk register is maintained in each local resilience area in London. This Instrument also allows for a transitional period in which the risk registers of the current resilience areas can be taken to fulfil the duty category 1 responders have to create and maintain a risk register for the new London Local Resilience Forum until Category 1 responders cooperate to create the new pan-London community risk register or until 1st April 2012, whichever is the earlier.

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

None.

4 Legislative Context

4.1 Regulation 3 of and the Schedule to The Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005¹, ('the Principal Regulations'), provide for six local resilience areas in London. Regulation 55 of the Principal Regulations also imposes statutory duties on the London Fire and Emergency Planning Authority beyond those imposed on other category 1 responders which have functions which are exercisable in London. This includes a duty to ensure that a community risk register is maintained in each local resilience area in London.

4.2 These Regulations amend the definition of 'local resilience area' and revoke the Schedule to the Principal Regulations in order to create one local resilience area for the whole of London. Regulation 55 is also amended to remove the duty on the London Fire and Emergency Planning Authority to maintain the community risk register for each local resilience area in London.

¹ <http://www.legislation.gov.uk/uksi/2005/2042/contents/made>

5 Territorial Extent and Application

This instrument applies to England

6 European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7 Policy Background

- 7.1 The Civil Contingencies Act Enhancement Programme was established to review certain aspects of the Civil Contingencies Act 2004², ('the Act') and establish if there were areas where the original intentions of the Act were not being met. It was identified after informal consultation, that statutory structures did not reflect the primary levels at which multi-agency emergency planning takes place in London. The Principal Regulations established six sub-regional Local Resilience Forums in London and, like in the rest of the country, these were intended to be the principal mechanism for multi-agency cooperation under the Act.
- 7.2 A big difference between the London Local Resilience Forums and those in the rest of the country is that while the rest of the Local Resilience Forums are geographically based on police force areas, in London they are based broadly on the Local Authority mutual aid arrangements. This means that Category 1 responders do not naturally fit into a Local Resilience Forum area and often have the increased burden of having to serve two or three areas. It is also the case that multi-agency planning takes place at the pan-London level within the London Regional Resilience Forum in London for almost all capabilities, rather than the sub regional levels at which the Local Resilience Forums currently operate. Where more localised planning is required, this tends to take place at a local level with non-statutory Borough Resilience Forums. This means that the six sub-regional Local Resilience Forums are not functioning as intended by the Act and the accompanying statutory guidance, *Emergency Preparedness*³, nor do they undertake multi-agency planning to the same degree as that undertaken by Local Resilience Forums outside London: they are not the mechanism for multi-agency cooperation they were intended to be.
- 7.3 The Act and the Principal Regulations place no statutory duties on responders through the London Regional Resilience Forum and therefore activity at this level takes place on a voluntary basis. To bring London into line with the rest of the country and to reflect actual resilience planning in London, the London Regional Resilience Forum should become the London Local Resilience Forum in place of the six Local Resilience Forums currently operating in London. The requirement for there to be six sub-regional Local Resilience Forums would be removed from the Regulations, but the groups could, if desired, continue to meet on a voluntary basis.

² <http://www.legislation.gov.uk/ukpga/2004/36/contents>

³ <http://www.cabinetoffice.gov.uk/media/131903/emergprepfinal.pdf>

- 7.4 Work is ongoing on the detailed arrangements for Local Resilience Forums across England and Wales, to address further possible improvements proposed as part of the on-going review of the Act.

8 Consultation Outcome

- 8.1 In March 2008, the Government announced a review of the Civil Contingencies Act in the National Security Strategy. Evidence from independent reviews and findings from the 2008 National Capabilities Survey indicated that implementation of the Act had been largely successful but highlighted areas that would merit a more thorough review. The Civil Contingencies Act Enhancement Programme was therefore established. During the first phase of the programme, which focused on improving the standard and consistency of implementation of the existing Civil Contingencies Act framework, a consultation was held on 'Renewing Civil Contingencies Act Arrangements for London'. The consultation considered whether the Principal Regulations and accompanying guidance remained appropriate and asked whether any changes were necessary to support responders in meeting their duties under the Act. This consultation ran from 30th November 2009 to 26 February 2010.
- 8.2 Generally there was support for the idea of creating a London Local Resilience Forum although there was some concern expressed about taking the six Local Resilience Forums off a statutory footing. It was suggested that while they did not necessarily function as originally intended, they did still add value to multi-agency cooperation and there was a worry that removing them from the Principal Regulations would undermine their role. Consideration continues to be given to the detailed arrangements and further regulations may follow depending on the result of that consideration, however, the purpose of these Regulations is to put in place the London Local Resilience Forum as soon as possible.
- 8.3 The recommendations put forward in the above consultation are being taken forward in the legislative changes outlined in this Explanatory Memorandum.

9 Guidance

- 9.1 Part 1 of the Act establishes a consistent level of civil protection activity across the United Kingdom. It establishes category 1 and category 2 responders and puts statutory duties on them. While the civil protection duties are detailed in the Act, the detail of what those duties mean, and how they should be performed, is delivered through the Principal Regulations. Both the Act and the Principal Regulations are supported by the guidance document *Emergency Preparedness*, which includes guidance to which the organisations covered by the Act must have regard.
- 9.2 *Emergency Preparedness* will be updated later in 2011 once the 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 creation of one London Local Resilience Forum in place of the current six sub-regional Local Resilience Forums will have a nugatory or beneficial impact on responders, reducing the number of meetings they have a statutory requirement to attend. It therefore does not reach the five million pounds threshold for completing an impact assessment nor does it impact on business or the voluntary sector. Therefore, a full impact assessment has not been undertaken for this legislative change. Attached at Annex A is a further note on the decision for the legislative change and the costs associated.

10.2 This policy was screened for impact on equalities on 19/01/11. The following evidence has been considered – this instrument relates to the structure of emergency planning in London and does not refer to the organisations that are involved. As this instrument is formalising arrangements that are largely already in place, no equality differentials have been identified. – 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

This change to the Principal Regulations came about as part of a full review of the Act and the Principal Regulations which was announced by officials during the passage of the Act. It will be reviewed in the next review of the Act.

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 Memoranda to the Merits Committee regarding the creation of one pan-London Local Resilience Forum

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

Creating a pan-London Local Resilience Forum in place of the six current sub-regional Local Resilience Forums

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

The review of the Civil Contingencies Act and its accompanying Regulations, the Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005⁴, ('the Principal Regulations'), highlighted that the prescribed emergency planning arrangements for London do not reflect actual emergency planning arrangements, nor do the prescribed London arrangements dovetail easily with arrangements in the rest of the country. Amendments to the Principal Regulations are required to place actual emergency planning arrangements on a statutory basis and ensure that emergency planning arrangements around the country are compatible. Making the changes now would also support the Greater London Authority (GLA) in its assumption of its new London emergency planning coordination role, as it will simplify the resilience structure within London that the GLA has to engage with and support.

What are the policy objectives and the intended effects?

The objectives are to put emergency planning at the pan-London level on a statutory footing and remove the statutory duty for emergency planning at the sub-regional level. The intended effect is for legislation to reflect actual running and to align London arrangements with the rest of the country. This will reduce the burden on London responders who will only be legally required to attend one Local Resilience Forum rather than the current six.

What policy options have been considered?

The current situation could have been left as it is, leaving in place the six statutory Local Resilience Forums, however, as part of the Civil Contingencies Act Enhancement Programme identified that emergency planning took place at the pan-London level rather than the sub-regional level, it was therefore felt that the legislative framework should reflect the work as it is done. Creating one London Local Resilience Forum in place of the six sub-regional ones also aligns arrangements in London with the rest of the country ensuring continuity in emergency planning.

Consideration was given to whether the sub-regional Local Resilience Forums should be left in regulation alongside the new London one, however, it was felt that this would be excessive regulation and the sub-regional level will be able to continue to meet on a non-statutory basis if deemed necessary by London responders.

⁴ <http://www.legislation.gov.uk/ukxi/2005/2042/contents/made>

Costs

This regulatory change will either have nugatory or beneficial financial impact on responders. At present, there are six sub-regional Local Resilience Forums that the Category 1 responders have a statutory duty to attend at least twice a year. This proposed change to the Principal regulations will create one London Local Resilience Forum in place of the six sub-regional Local Resilience Forums, meaning that responders will have a statutory requirement to attend fewer meetings. This change therefore reduces both the regulatory and financial burden on responders in London.

It should be noted that we are currently considering further changes to the arrangements for Local Resilience Forums in England and Wales and consultation on these changes will begin in spring/summer 2011.