# CIVIL CONTINGENCIES ACT 2007

**Principal Act**

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Directive 2008/114/EC

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AN ACT TO MAKE PROVISION FOR THE EXERCISE OF CERTAIN POWERS IN THE EVENT OF, IN THE CONTEXT OF, AND IN RELATION TO, CIVIL CONTINGENCIES.

## PART 1
## General

**Title and commencement.**

1. This Act may be cited as the Civil Contingencies Act 2007 and comes into operation on the day of publication.

**Interpretation.**

2. In this Act–

"emergency" has the meaning given by section 10;

"function" means any power or duty whether conferred by virtue of an enactment or otherwise;

"Minister" means the Minister for Civil Contingencies, acting with the consent of the Chief Minister;

"public functions" means–

(a) functions conferred or imposed by or by virtue of an enactment,

(b) functions of Ministers (or their departments),

(c) functions of public officers;

"serious delay" means a delay that might–

(a) cause serious damage; or

(b) obstruct the prevention, control or mitigation of serious damage.

## PART 2
## Pre-emptive measures

**Pre-emptive measures.**

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3.(1) Where the Government believes that an event or situation threatens damage to human welfare in Gibraltar it may make regulations to prevent, mitigate or control the effects of that event or situation.

(2) An event or situation threatens damage to human welfare only if, on a scale which is greater than the normal risk or incidence thereof, 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) The event or situation mentioned in subsection (1) may occur or be inside or outside Gibraltar.

(4) Regulations made under subsection (1) may impose penalties of a maximum of 5 years imprisonment and fines not exceeding £20,000, and subject to the provisions of the Constitution may provide for the confiscation of goods.

**General measures.**

4.(1) The Minister may by order require a person or body listed in the Schedule 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) A person or body shall comply with an order under this section.

(3) An order under subsection (1) may–

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(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 the Schedule to co-operate, to such extent and in such manner as may be specified, with another person or body listed in the Schedule in connection with a duty under the order;

(e) permit or require a person or body listed in the Schedule 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 the Schedule;

(f) confer a function on a Minister 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.

**Urgency.**

5.(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 4(1); but

(b) there is insufficient time for the order to be made.

(2) The Chief Minister may by direction make provision of a kind that could be made by an order under section 4(1).

(3) A direction under subsection (2) shall be in writing.

(4) Where the Chief Minister gives a direction under subsection (2)–

(a) he may revoke or vary the direction by further direction,

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(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 4(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).

(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 4(1).

**Monitoring by Government.**

6.(1) A Minister may require a person or body listed in the Schedule–

(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.

(2) A requirement under subsection (1) 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.

(3) A person or body shall comply with a requirement under subsection (1).

**Enforcement.**

7.(1) Any of the following may bring proceedings in the Supreme Court in respect of a failure by a person or body listed in the Schedule to comply with section 4(2) or 6(3)–

(a) the Minister;

(b) a person or body listed in the Schedule.

(2) In proceedings under subsection (1) the Supreme Court may grant any relief, or make any order, that it thinks appropriate.

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**Provision of information.**

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

(a) timing;

(b) the form in which information is provided;

(c) the use to which information may be put;

(d) storage of information;

(e) disposal of information.

**Amendment of Schedule.**

9.(1) The Chief Minister may by order amend the Schedule.

(2) An order under subsection (1)–

(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 or another enactment).

**PART 3**
**Emergency**

**Meaning of "emergency".**

10.(1) In this Act "emergency" means–

(a) an event or situation which threatens serious damage to human welfare in Gibraltar; or

(b) an event or situation which threatens serious damage to the environment of Gibraltar.

(2) For the purposes of subsection (1)(a) an event or situation threatens damage to human welfare only if, on a scale which is greater that the normal risk or incidence thereof, it involves, causes or may cause–

(a) loss of human life;

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(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

(b) disruption or destruction of plant life or animal life.

(4) The Chief Minister may by order 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–

(a) it is to be treated as threatening damage to human welfare, or

(b) it is no longer to be treated as threatening damage to human welfare.

(5) The event or situation mentioned in subsection (1) may occur or be inside or outside Gibraltar.

**Power to make emergency regulations.**

11.(1) The Minister may make emergency regulations if he is satisfied that the conditions in section 12 are satisfied.

(2) Regulations under this section must be prefaced by a statement by the person making the regulations–

(a) specifying the nature of the emergency in respect of which the regulations are made, and

(b) declaring that the person making the regulations–

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(i) is satisfied that the conditions in section 12 are met;

(ii) is satisfied that the regulations contain only provision which is appropriate for the purpose of preventing, controlling or mitigating an aspect or effect of the emergency in respect of which the regulations are made;

(iii) is satisfied that the effect of the regulations is in due proportion to that aspect or effect of the emergency.

**Conditions for making emergency regulations.**

12.(1) This section specifies the conditions mentioned in section 11.

(2) The first condition is that an emergency has occurred, is occurring or is about to occur.

(3) The second condition is that it is necessary to make provision for the purpose of preventing, controlling or mitigating an aspect or effect of the emergency.

(4) The third condition is that the need for provision referred to in subsection (3) is urgent.

(5) For the purpose of subsection (3) provision which is the same as an enactment ("the existing legislation") is necessary if, in particular–

(a) the existing legislation cannot be relied upon without the risk of serious delay;

(b) it is not possible without the risk of serious delay to ascertain whether the existing legislation can be relied upon; or

(c) the existing legislation might be insufficiently effective.

(6) For the purpose of subsection (3) provision which could be made under an enactment other than section 11 ("the existing legislation") is necessary if, in particular–

(a) the provision cannot be made under the existing legislation without the risk of serious delay,

(b) it is not possible without the risk of serious delay to ascertain whether the provision can be made under the existing legislation, or

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(c) the provision might be insufficiently effective if made under the existing legislation.

**Scope of emergency regulations.**

13.(1) Emergency regulations may make any provision which the person making the regulations is satisfied is appropriate for the purpose of preventing, controlling or mitigating an aspect or effect of the emergency in respect of which the regulations are made.

(2) In particular, emergency regulations may make any provision which the person making the regulations is satisfied is appropriate for the purpose of–

(a) protecting human life, health or safety,

(b) treating human illness or injury,

(c) protecting or restoring property,

(d) protecting or restoring a supply of money, food, water, energy or fuel,

(e) protecting or restoring a system of communication,

(f) protecting or restoring facilities for transport,

(g) protecting or restoring the provision of services relating to health,

(h) protecting or restoring the activities of banks or other financial institutions,

(i) preventing, containing or reducing the contamination of land, water or air,

(j) preventing, reducing or mitigating the effects of disruption or destruction of plant life or animal life,

(k) protecting or restoring the performance of public functions.

(3) Emergency regulations may make provision–

(a) to confer a function on a Minister or on any other specified person (and a function conferred may, in particular, be–

(i) a power, or duty, to exercise a discretion;

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(ii) a power to give directions or orders (whether written or oral));

(b) provide for, subject to the Constitution, or enable the requisition or confiscation of property;

(c) provide for, subject to the Constitution, or enable the destruction of property, animal life or plant life;

(d) prohibit, or enable the prohibition of, movement to or from a specified place;

(e) require, or enable the requirement of, movement to or from a specified place;

(f) prohibit, or enable the prohibition of, assemblies of specified kinds, at specified places or at specified times;

(g) prohibit, or enable the prohibition of, travel at specified times;

(h) prohibit, or enable the prohibition of, other specified activities;

(i) create an offence of–

(i) failing to comply with a provision of the regulations;

(ii) failing to comply with a direction or order given or made under the regulations;

(iii) obstructing a person in the performance of a function under or by virtue of the regulations;

(j) disapply or modify an enactment or a provision made under or by virtue of an enactment;

(k) require a person or body to act in performance of a function (whether the function is conferred by the regulations or otherwise and whether or not the regulations also make provision for remuneration or compensation);

(l) confer jurisdiction on a court or tribunal (which may include a tribunal established by the regulations);

(m) make provision which applies generally or only in specified circumstances or for a specified purpose;

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(n) make different provision for different circumstances or purposes.

(4) In subsection (3) "specified" means specified by, or to be specified in accordance with, the regulations.

**Limitations of emergency regulations.**

14.(1) Emergency regulations may make provision only if and in so far as the person making the regulations is satisfied–

(a) that the provision is appropriate for the purpose of preventing, controlling or mitigating an aspect or effect of the emergency in respect of which the regulations are made, and

(b) that the effect of the provision is in due proportion to that aspect or effect of the emergency.

(2) Emergency regulations may not–

(a) create an offence other than one of the kind described in section 13(3)(i),

(b) create an offence other than one which is triable only before a magistrates' court,

(c) create an offence which is punishable–

(i) with imprisonment for a period exceeding three months, or

(ii) with a fine exceeding level 5 on the standard scale, or

(d) alter procedure in relation to criminal proceedings.

(3) Emergency regulations may not amend this Part of this Act.

**Duration.**

15.(1) Emergency regulations shall lapse–

(a) at the end of the period of 30 days beginning with the date on which they are made, or

(b) at such earlier time as may be specified in the regulations.

(2) Subsection (1)–

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(a) shall not prevent the making of new regulations, and

(b) shall not affect anything done by virtue of the regulations before they lapse.

**Urgency.**

16.(1) This section applies where–

(a) there is an urgent need to make provision of a kind that could be made by regulations under section 11(1); but

(b) there is insufficient time for the regulations to be made.

(2) The Chief Minister may by direction make provision of a kind that could be made by regulations under section 11(1).

(3) A direction under subsection (2) shall be in writing.

(4) Where the Chief 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 regulations under section 11(1)), and

(c) the direction shall cease to have effect at the end of the period of 7 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 regulations made under section 11(1).

(6) Sections 12, 13 and 14 shall apply when a direction is made under subsection (2).

## PART 4
## Civil Contingencies Committee

**Establishment of Civil Contingencies Committee.**

17.(1) There shall be established a Civil Contingencies Committee ("the Committee").

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(2) The Committee shall comprise such members as the Chief Minister may, by notice in the Gazette, specify.

(3) The Chairman of the Committee shall be the Chief Minister, and in his absence the Minister with responsibility for Civil Contingencies and in his absence any person that the latter may designate.

(4) The Committee shall have the staff and resources that the Government may from time to time provide.

**Role and functions of the Committee.**

18. The role and function of the Committee shall be as follows:–

(a) to advise the Government on any matter relating to civil contingencies and emergencies of all kinds, to draw up plans to pre-empt such contingencies and to deal with their consequences if they should occur;

(b) to co-ordinate the roles and activities of government departments, agencies, authorities, companies, and other authorities and persons in response to a civil contingency;

(c) to organise and conduct exercises for the rehearsal and testing of civil contingency plans;

(d) such other roles and functions as the Minister may designate in writing.

**Appointment of Civil Contingencies Coordinator.**

19.(1) The Government may designate a suitably qualified or experienced person to be the Civil Contingencies Coordinator and to organise and direct the work and functions of the Committee.

(2) The Government may appoint such other persons as it thinks necessary or desirable to assist and support the Civil Contingencies Coordinator.

**Regulations.**

20.(1) The Minister may make such regulations as he thinks fit in relation to the carrying out by the Committee, the Coordinator or other staff of its or their roles and functions, the duties and obligations of others in relation to the Committee and such other matters as he considers necessary to enable the Committee to function effectively.

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## PART 5
## European Critical Infrastructures

**Interpretation.**

21. In this Part−

"critical infrastructure" means an asset, system or part thereof located in Gibraltar which is essential for the maintenance of vital societal functions, health, safety, security, economic or social well-being of people, and the disruption or destruction of which would have a significant impact in Gibraltar as a result of the failure to maintain those functions;

"the Directive" means Council Directive 2008/114/EC of 8 December 2008 on the identification and designation of European critical infrastructures and the assessment of the need to improve their protection, as the same may be amended from time to time;

"European critical infrastructure" or "ECI" means critical infrastructure located in Gibraltar the disruption or destruction of which would have a significant impact in at least Gibraltar and a Member State and the significance of the impact shall be assessed in terms of cross-cutting criteria which must include effects resulting from cross-sector dependencies on other types of infrastructure;

"owners or operators of ECIs" means those entities responsible for investments in, or day-to-day operation of, a particular asset, system or part thereof designated as an ECI under this Part;

"protection" means all activities aimed at ensuring the functionality, continuity and integrity of critical infrastructures in order to deter, mitigate and neutralise a threat, risk or vulnerability;

"risk analysis" means consideration of relevant threat scenarios in order to assess the vulnerability and the potential impact of disruption or destruction of critical infrastructure;

"sensitive critical infrastructure protection related information" means facts about a critical infrastructure, which if disclosed could be used to plan and act with a view to causing disruption or destruction of critical infrastructure installations.

**Identification of ECIs.**

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22.(1) The Government must, in accordance with the procedure referred to in section 23, identify potential European Critical Infrastructures in Gibraltar which−

(a) satisfy the cross-cutting and sectoral criteria set out in this section ; and

(b) meet the criteria in the definitions of the terms "critical infrastructure" and "European critical infrastructure" in section 21.

(2) The cross-cutting criteria referred to in subsection (1) shall comprise the following−

(a) casualties criterion (assessed in terms of the potential number of fatalities or injuries);

(b) economic effects criterion (assessed in terms of the significance of economic loss or degradation of products or services, including potential environmental effects);

(c) public effects criterion (assessed in terms of the impact on public confidence, physical suffering and disruption of daily life, including the loss of essential services).

(3) The cross-cutting criteria thresholds must be based on the severity of the impact of the disruption or destruction of a particular infrastructure and the precise thresholds applicable to the cross-cutting criteria shall be determined on a case-by-case basis by the Government.

(4) The Government shall ensure that the European Commission is informed on an annual basis of the number of infrastructures per sector for which discussions were held concerning the cross-cutting criteria thresholds.

(5) The sectoral criteria must–

(a) take into account the characteristics of individual ECI sectors; and

(b) be classified.

(6) The Government may use such guidelines for−

(a) the application of the cross-cutting and sectoral criteria ; and

(b) approximate thresholds to be used for the purposes of identifying ECIs,

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as are developed pursuant to Article 3 of the Directive.

(7) The following sectors and subsectors shall be subject to this Part−

(a) the energy sector which is divided into the following subsectors−

(i) electricity, comprising infrastructures and facilities for generation and transmission of electricity in respect of supply of electricity,

(ii) oil, comprising oil production, refining, treatment, storage and transmission by pipelines,

(iii) gas, comprising gas production, refining, treatment, storage and transmission by pipelines, and LNG terminals; and

(b) the transport sector which is divided into the following subsectors−

(i) road transport,

(ii) air transport,

(iii) ocean and short-sea shipping, and

(iv) ports.

**Procedure for the identification of critical infrastructures which may be designated as an ECI.**

23.(1) When identifying the critical infrastructures which may be designated as an ECI (the "potential ECI"), the Government must follow the procedure set out in Schedule 2.

(2) A potential ECI which has passed through the procedure set out in Schedule 2 shall only be communicated to Member States which may be significantly affected by the potential ECI.

**Designation of ECIs.**

24.(1) The Government must inform a Member State which may be significantly affected by a potential ECI about its identity and the reasons for its designation as a potential ECI.

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(2) Where a potential ECI is located in Gibraltar, the Government must–

(a) engage in discussions with any Member State which may be significantly affected by the potential ECI; and

(b) designate it as an ECI following an agreement between the Government and the Member States which may be significantly affected.

(3) Where a designated ECI is located in Gibraltar, the Government shall ensure that the European Commission is informed on an annual basis of the number of designated ECIs per sector and of the number of Member States dependent on each designated ECI and only the Member State which may be significantly affected by an ECI shall know its identity.

(4) Where an ECI is located in Gibraltar, the Government shall inform the owner or operator of the infrastructure that the infrastructure has been designated as an ECI and such information shall be classified at an appropriate level.

(5) The process of identifying and designating ECIs under this Part must be–

(a) completed as soon as possible after the coming into operation of this Part; and

(b) reviewed on a regular basis.

**Operator security plans.**

25.(1) The operator security plan ('OSP') procedure shall–

(a) identify the critical infrastructure assets of the ECI;

(b) identify the security solutions that exist or are being implemented for their protection; and

(c) cover, as a minimum, the information set out in section 26.

(2) The Government must assess whether each designated ECI located in Gibraltar possesses an OSP or has in place equivalent measures addressing the issues identified in section 26.

(3) If the Government finds that an OSP or equivalent measures exist and are updated regularly, no further implementation action shall be necessary.

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(4) If the Government finds that an OSP or equivalent measures have not been prepared, it shall ensure, by any measures it deems appropriate, that the OSP or equivalent measures are prepared addressing the issues identified in section 26.

(5) The Government must ensure that the OSP or equivalent measures are in place and are reviewed regularly within one year following designation of the critical infrastructure as an ECI.

(6) The period referred to in subsection (5) may be extended in exceptional circumstances.

(7) The Government shall ensure that the European Commission is notified of any extension granted pursuant to subsection (6).

(8) Compliance with any measure, including a European Union measure, which in a particular sector−

(a) requires, or refers to a need to have, a plan similar or equivalent to an OSP ; and

(b) oversight by the relevant authority of such a plan,

shall be deemed to satisfy all the requirements under this section.

**ECI OSP Procedure.**

26.(1) The ECI OSP procedure must cover at least the following matters−

(a) the identification of important assets;

(b) the conduct of a risk analysis based on major threat scenarios, vulnerability of each asset, and potential impact; and

(c) the identification, selection and prioritisation of counter-measures and procedures with a distinction between−

(i) permanent security measures which identify indispensable security investments and means which are relevant to be employed at all times and this heading must include the further information set out in subsection (2); and

(ii) graduated security measures, which can be activated according to varying risk and threat levels.

(2) The further information referred to in subsection (1)(c)(i) is information concerning−

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(a) general measures such as technical measures (including installation of detection, access control, protection and prevention means);

(b) organisational measures (including procedures for alerts and crisis management);

(c) control and verification measures;

(d) communication;

(e) awareness raising and training; and

(f) security of information systems.

**Security Liaison Officers.**

27.(1) Every designated ECI in Gibraltar must have a Security Liaison Officer or equivalent who shall act as the point of contact for security related issues between the owner or operator of the ECI and the Government.

(2) The Government must assess whether each designated ECI located in Gibraltar possesses a Security Liaison Officer or equivalent.

(3) If the Government finds that a Security Liaison Officer is in place or an equivalent exists, no further implementation action shall be necessary.

(4) If the Government finds that a Security Liaison Officer or equivalent does not exist in relation to a designated ECI, it shall ensure, by any measures it deems appropriate, that such a Security Liaison Officer or equivalent is designated.

(5) The Government must implement an appropriate communication mechanism between the Government and the Security Liaison Officer or equivalent with the objective of exchanging relevant information concerning identified risks and threats in relation to the ECI concerned and this communication mechanism shall be without prejudice to the requirements concerning access to sensitive and classified information.

(6) Compliance with any measure, including a European Union measure, which in a particular sector requires, or refers to a need to have, a Security Liaison Officer or equivalent, shall be deemed to satisfy all the requirements under this section.

**Reporting.**

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28.(1) The Government must conduct a threat assessment in relation to ECI subsectors within one year following the designation of critical infrastructure in Gibraltar as an ECI within those subsectors.

(2) The Government shall ensure that every two years a classified report is sent to the European Commission containing generic data on a summary basis on the types of risks, threats and vulnerabilities encountered per ECI sector in which an ECI has been designated under section 24.

**Sensitive European critical infrastructure protection-related information.**

29.(1) Any person handling classified information under this Part on behalf of the Government must have an appropriate level of security vetting.

(2) The Government must ensure that sensitive European critical infrastructure protection-related information submitted to it is not used for any purpose other than the protection of critical infrastructures.

(3) This section shall also apply to non-written information exchanged during meetings at which sensitive subjects are discussed.

**European critical infrastructure protection contact points.**

30.(1) The Government shall appoint a European critical infrastructure protection contact point ('ECIP contact point').

(2) The ECIP contact point shall coordinate European critical infrastructure protection issues within Gibraltar and shall have such other functions as the Government may prescribe.

(3) The appointment of an ECIP contact point does not preclude other relevant authorities in Gibraltar from being involved in European critical infrastructure protection issues.

## PART 6

**Regulations.**

31.(1) The Government may make regulations for the implementation of any European Union measure.

(2) Section 23(b) of the Interpretation and General Clauses Act shall not apply to any penalty imposed in any regulations made under subsection (1).

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**SCHEDULE 1**

Sections 4, 6, 7, 9

Any airline operating an air service to Gibraltar

Any dispensing chemist or pharmacy

Any government department or statutory authority or agency, and any public officer or any employee or officer of any such statutory authority or agency

Any operator of a route bus service

Any owner or operator of tour buses

Any person/entity who provides a public electronic communications network which makes telephone services available (whether for spoken communication or for the transmission of data)

Any school in Gibraltar

Any shipping company operating a passenger or cargo service to Gibraltar

Any taxi licensee

AquaGib Limited

City Fire Brigade

Customs Department

Gibraltar Broadcasting Corporation

Gibraltar Community Projects Limited

Land Property Services Limited

Royal Gibraltar Post Office

Security and Immigration Limited

St John's Ambulance

Terminal Management Limited

The Chief Environmental Health Officer

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The Director of Public Health

The Environmental Agency Limited

The Gibraltar Bus Company Limited

The Gibraltar Electricity Authority

The Gibraltar Health Authority

The Gibraltar Port Authority

The Port Medical Officer

The Principal Immigration Officer

The Royal Gibraltar Police (save in relation to matters appertaining to internal security or law enforcement)

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**SCHEDULE 2**

Section 23

In identifying critical infrastructures which may be designated as an ECI, the Government must apply the following sequential steps−

(1) in Step 1, the sectoral criteria in order to make a first selection of critical infrastructures within a sector.

(2) in Step 2, the definition of the term critical infrastructure in section 21 to the potential ECI identified under Step 1. The significance of the impact must be determined either by using Gibraltar's own methods for identifying critical infrastructures or with reference to the cross-cutting criteria, at an appropriate Gibraltar level. For infrastructure providing an essential service, the availability of alternatives, and the duration of disruption or recovery must be taken into account;

(3) in Step 3, the transboundary element of the definition of ECI in section 21 to the potential ECI that has passed the first two steps of this procedure. A potential ECI which does satisfy the definition must follow the next step of the procedure. For infrastructure providing an essential service, the availability of alternatives, and the duration of disruption or recovery must be taken into account.

(4) in Step 4, the cross-cutting criteria to the remaining potential ECIs and the cross-cutting criteria must take into account−

(a) the severity of impact;

(b) for infrastructure providing an essential service, the availability of alternatives; and

(c) the duration of disruption or recovery or both,

A potential ECI which does not satisfy the cross-cutting criteria must not be considered to be an ECI.

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