

**THIRD SUPPLEMENT TO THE GIBRALTAR  
GAZETTE**

**No. 3,584 of 15th February, 2007**

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**B. 07/07**

**CIVIL CONTINGENCIES ACT 2007**

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**THIRD SUPPLEMENT TO THE GIBRALTAR  
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B. 07/07

**BILL**

**FOR**

**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.

**ENACTED** by the Legislature of Gibraltar.

**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.**

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—

- (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,
- (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.

**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 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) 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—
  - (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
- (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;
  - (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;
- (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)—

- (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”).

(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.

**SCHEDULE**

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

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)

### **EXPLANATORY MEMORANDUM**

This Bill makes provision for the exercise of certain powers where either there is a threat to the population of Gibraltar or an emergency arises.

Part 1 of the Bill (clauses 1 and 2) deals with general matters.

Part 2 of the Bill makes provision for pre-emptive measures.

Clause 3 provides that the Government may make regulations where there exists a threat of damage to human welfare in Gibraltar, irrespective of whether the threat emanates from within Gibraltar or elsewhere.

Clause 4 allows the Minister with responsibility for Civil Contingencies (acting with the consent of the Chief Minister) to order a person or body listed in the Schedule to carry out certain duties so that an emergency is prevented or its effects reduced or controlled. Such an order may require coordination between the various persons or bodies set out in the Schedule.

Where there is urgent need to act and to do so pursuant to clause 4 is not feasible, the Chief Minister may issue written directions instead. A written direction expires after 21 days.

Clause 6 allows for oversight by the Government and any Minister may require a person or body listed in the Schedule to provide it with information as to what actions it has or has not taken.

The Minister with responsibility for Civil Contingencies, the Government and a person or body listed in the Schedule may bring proceedings in the Supreme Court in respect of non-compliance (clause 7) and in such a case the Court may make an appropriate order or grant any appropriate relief.

Part 3 of the Bill relates to emergencies. Emergency is defined in clause 10.

Clause 11 permits the Minister with responsibility for Civil Contingencies to make emergency regulations, where he is satisfied that conditions set out in clause 12 are met.

Clause 13 sets out the scope for the emergency regulations and clause 14 sets out the limitations for regulations made under clause 11.

Clause 15 provides that emergency regulations will lapse after 30 days of being made, unless a shorter period is specified.

Clause 16 allows for written directions to be given, where emergency regulations cannot be made in sufficient time. Directions are only given by the Chief Minister, and lapse after 7 days.

Clause 17 establishes a Civil Contingencies Committee whose role and functions are set out in clause 18.

Clause 19 makes provision for the appointment of a Civil Contingencies Coordinator and, where necessary, assistance.

Clause 20 provides for the making of regulations.

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