

**SECOND SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 3849 of 12 May, 2011

LEGAL NOTICE NO. 64 OF 2011.

INTERPRETATION AND GENERAL CLAUSES ACT

**CIVIL CONTINGENCIES ACT 2007 (AMENDMENT)
REGULATIONS 2011**

In exercise of the powers conferred on it by section 23 (g)(ii) of the Interpretation and General Clauses Act, and of all other enabling powers, and for the purpose of transposing into the law of Gibraltar 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, the Government has made the following Regulations—

Title and commencement.

1. These Regulations may be cited as the Civil Contingencies Act 2007 (Amendment) Regulations 2011 and come into operation on the day of publication.

Amendments of the Civil Contingencies Act 2007.

2. The Civil Contingencies Act 2007 (in these Regulations referred to as “the Act”) is amended in accordance with regulations 3 to 5.

Insertion of Part 5.

3. The Act is amended by inserting the following Part after Part 4—

**“ 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.

- 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,

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.
- (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.
- (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–

- (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.

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.”.

Amendment of the Schedule.

4. The title of Schedule to the Act is changed to “Schedule 1” and all references in the Act to “Schedule” shall be amended to read “Schedule 1”.

Insertion of Schedule 2.

5. The following is inserted after Schedule 1–

“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.”.

Dated 12th May, 2011.

P R CARUANA,
Chief Minister,
For the Government.

EXPLANATORY MEMORANDUM

These Regulations amend the Civil Contingencies Act 2007 in order to transpose into the law of Gibraltar 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.

