



Analysis of Law in the United Kingdom pertaining to Cross-Border Disaster Relief

Prepared for the British Red Cross by



**British Institute of
International and
Comparative Law**

The views expressed in the report are those of the authors and do not necessarily reflect the views of the British Red Cross.

This report is part of a wider study on cross-border disaster assistance within the EU, carried out in conjunction with five other European National Societies, under the overall co-ordination of the International Federation of Red Cross and Red Crescent Societies.

The wider project received funding from the European Commission, who bear no responsibility for the content or use of the information contained in this report.



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Foreword

The United Kingdom is in the fortunate position of being less susceptible to large-scale natural disasters than many other countries. Even so, and as recent years have shown, our territory may still be subject to such emergencies as flooding, and the effects of severe winter weather.

The purpose of this study, commissioned by the British Red Cross, is to examine the extent to which the legal, administrative and operational framework for disaster response within the UK is able to facilitate potential international relief into our territory, in the event of a large-scale disaster requiring such assistance from beyond our borders.

Using the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (IDRL Guidelines), adopted in 2007 at the 30th International Conference of the Red Cross and Red Crescent, the report recommends a number of possible actions by which the domestic disaster framework may be further strengthened in relation to potential incoming international assistance.

The British Overseas Territories are also touched upon and of course they are more susceptible to natural disasters, the response to which may require help from beyond their borders.

The aim of this report is to provide recommendations based on a realistic assessment of the UK's possible future need for international relief in relation to potential future natural disasters, bearing in mind our traditionally robust domestic emergency response capacity. It is hoped that these pragmatic recommendations may be useful to those domestic policy-makers and legislators charged with overseeing the UK civil contingencies framework.

This report has benefited from the generous comments of a number of individuals, including, among others, Dr Simon Strickland, Mr David Fletcher and Mr Simon Whitbourn (UK Cabinet Office), Mr David

Fisher (International Federation of Red Cross and Red Crescent Societies), Mr Tim Gordon (HMRC), Mr Gordon MacMillan (Hanover Associates UK), Mr Roy Wilshire (Chief Fire Officer, Hertfordshire County) and Ms Moya Wood-Heath (British Red Cross).

We also wish to thank the authors of this report, Justine Stefanelli and Sarah Williams of the British Institute of International and Comparative Law, who were assisted by Katharine Everett, Frances McClenaghan, Hidenori Takai and Payam Yoseflavi.

Michael Meyer
Head of International Law
British Red Cross

30 June 2010

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Executive Summary

Part I: Introduction

1. In November 2007, the State Parties to the 1949 Geneva Conventions unanimously adopted the “Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance” (IDRL Guidelines) at the 30th International Conference of the Red Cross and Red Crescent.
2. Using the IDRL Guidelines as a base, the current study examines the degree to which the legal and regulatory framework of the United Kingdom (UK) is equipped to manage the receipt of international disaster assistance, as and when necessary.
3. This study will form part of a wider project on the facilitation of cross-border assistance within the EU.

Part II: The United Kingdom

Basic Statistics

4. The United Kingdom of Great Britain and Northern Ireland comprises the countries of England and Wales, Scotland and Northern Ireland. The third most populous country in Europe, the UK had an estimated population of 61,383,000 in mid-2008.
5. The UK has traditionally required little or no recourse to international assistance in relation to its domestic disasters.

Executive Structure

6. The UK is a constitutional monarchy whose head of government is the Prime Minister.
7. Although the Westminster Parliament may

legislate in respect of all four countries in Great Britain, competence has been devolved to Scotland, Wales and Northern Ireland through executive and legislative devolution. The extent to which competence has been devolved to each country varies according to the terms of the instrument of devolution.

8. The United Kingdom has three Crown Dependencies and is responsible for a number of Overseas Territories, which are independently administered.

Legal Framework

9. The UK does not operate under a single written constitution; rather, its constitution is found in a number of sources such as case law, statute and practice. Nor does it have a unified legal system: England and Wales, Scotland and Northern Ireland each have their own system, although the recently-established Supreme Court is the final court of appeal for the entire UK.
10. The UK became a Member State of the EU in 1973. Its membership in the European Union (EU) obliges the UK to implement its obligations under EU law. EU law is given effect in UK law by the European Communities Act 1972.
11. The UK is also a State Party to the European Convention on Human Rights (ECHR). The ECHR is given effect in UK law by the Human Rights Act 1998.

Part III: Likely Disaster Scenarios and Past Experience

The UK's Most Likely Disasters

12. The disasters most likely to be experienced in the UK fall into three broad categories: (1) natural events; (2) major accidents; and (3) malicious attacks.

Past Disasters in the UK

13. Recent disasters in the UK confirm that the disasters most often experienced in the UK fall under the category of natural events, the most recent being a road salt shortage in early 2010 due to unusually severe winter weather.
14. These disasters have cost the UK significantly in terms of *money*, while fatalities have typically been low.

Disasters and the Overseas Territories

15. Given their geographic location, many of the Overseas Territories are particularly vulnerable to natural disasters. Several have been affected by severe storms, hurricanes and earthquakes, and two have active volcanoes. Man-made disasters also pose a risk to the Overseas Territories.

The United Kingdom and International Assistance

16. The UK is committed to the provision of humanitarian assistance abroad and is one of the largest providers of humanitarian assistance. The UK provides humanitarian assistance abroad through its Department for International Development and through other government departments.
17. There appears to be only one instance in which the UK has formally requested international assistance in recent years, although there a few recent examples of ad hoc co-operation and assistance.
18. If international assistance is deemed necessary, the UK may take advantage of the EU's Civil Protection Mechanism (CPM), NATO's Euro-Atlantic Disaster Response Coordination Centre (EADRCC) or it may choose to use both mechanisms.

Part IV: National Disaster Management Mechanism

Civil Contingencies Act and Implementing Regulations

19. The UK's legislative framework for civil protection is embodied in the Civil Contingencies Act (CCA) and its implementing regulations and guidance. The CCA governs local arrangements for civil protection and emergency powers.
20. The CCA extends to the UK, including the devolved administrations. It does not extend to the Crown Dependencies or the Overseas Territories, which have their own civil contingency arrangements.
21. Neither the CCA nor the implementing regulations address technical issues that may be raised by the provision of international assistance to the UK.
22. In addition to the CCA, there exists an array of sector specific legislation that may be applicable in an emergency.
23. Emergency regulations made pursuant to the CCA could be used to cover situations relating to the technical aspects of the IDRL Guidelines that are not governed by existing legislation, as and when necessary. Emergency regulations are intended to be used as a last resort, and their use is subject to a number of safeguards.

Part V: Emergency and Response

Level of Emergency

24. The UK Cabinet Office has outlined three levels of emergency which will dictate which entity is to respond to particular emergencies based on their severity, nature and location.
25. The Civil Contingencies Secretariat (CCS) within the Cabinet Office plays a significant role in the co-ordination of disaster response among responsible government departments.
26. In the event of a catastrophic or serious emergency, the Prime Minister, Home Secretary or other senior Ministers will direct the central government response from the Cabinet Office Briefing Room.
27. All serious emergencies will be handled by one lead government department or devolved administration taking overall responsibility.

28. Most response co-ordination is managed at the local level by local and regional resilience forums and local authorities. There is also potential involvement of the military, the National Red Cross Society and other voluntary organisations and the private sector.

Part VI: Information Exchange, Co-ordination of Relief and Early Warning

Information Exchange

29. Under the Civil Contingencies Act (CCA), information sharing is considered fundamental to the ability of Category 1 and 2 responders to fulfil their duties and make sound judgments regarding risk assessment and response.

Data Protection

30. During an emergency, responders may need to collect and share information of a personal nature.
31. The UK framework for the protection of personal data in processing mainly consists of the Data Protection Act 1998, the CCA and the Human Rights Act 1998.
32. While this legislative framework does not provide specific exemptions for information sharing in an emergency, current guidance indicates that the legislation has sufficient flexibility to enable exchange of information as may be required.

Co-ordination of Relief

33. During an emergency, response is typically managed from the local level against a three-tiered management system of command, control and co-ordination.
34. There is no guidance regarding the co-ordination of international assisting actors, although all responders would be expected to attend briefings and to co-ordinate with the responsible authority.

External Early Warning

35. UK disaster management law and policy does not fully specify a procedure for informing other governments about disasters or emergencies likely to cause disasters.

36. The UK is a State Party to a number of specific obligations under international agreements regarding early warning.
37. Domestic arrangements are in place to facilitate notification to various international organisations, for example, the International Atomic Energy Agency in the event of a nuclear incident and the World Health Organisation in the event of a public health emergency.

Part VII: Requests for and Offers of International Assistance

UK Focal Point

38. The Civil Contingencies Secretariat is responsible for issuing requests for international assistance through the CPM and EARDCC mechanisms, for and responding to such requests.
39. The Foreign and Commonwealth Office is responsible for maintaining the relationship of the UK with other States and international organisations. This would include issuing requests for international assistance (other than through the CPM and the EARDCC mechanisms) and for responding to such requests.
40. Other government departments may have a role in communicating with other States and international organisations regarding emergency assistance, particularly where the department in question has a pre-existing relationship with a particular State or international organisation.

Form and Content of Requests for Assistance

41. There is currently no standard form or content for requests for assistance. However, it is the policy of the Civil Contingencies Secretariat that requests should specify the type, nature and quantity of aid required.

Part VIII: National Legal Facilities for Entry and Operation

Entry of Personnel

42. The UK is not part of the EU Schengen arrangements for immigration and therefore maintains its own policies and laws.
43. As a general rule, a person who is not a British citizen may not enter the UK without permission; however, there are some exceptions to this rule, e.g., for nationals of European Economic Area (EEA) States.
44. Foreign aid personnel who do not fall under one of the three categories above (and who are not EEA nationals), may be allowed entry into the UK based on the Tier 5 Temporary Worker scheme. There are no procedures for expediting visas and immigration clearance in the context of an emergency.

Recognition of Professional Qualifications

45. The UK has a complex system for the recognition of professional qualifications. Recognition is divided largely according to profession.
46. Some of the legislation includes provision for exceptions in emergency, although this is rare.
47. “Disaster relief personnel” are not regulated as a separate profession, although there are special rules for professional groupings that may be involved in disaster relief, e.g. nurses, paramedics and doctors.

Customs and Taxation

48. UK legislation exempts certain goods imported from outside the Customs Union of the European Union by charities and other not-for-profit organisations from customs duties and value added tax (VAT).
49. Certain organisations and groups are entitled to VAT exemptions on goods if they fall under one of the categories provided for in the legislation, such as a registered charity or an organisation concerned with the relief of distress generally, such as the British Red Cross Society or the Salvation Army.
50. Certain purchases may be made with charity funds at a zero-VAT rate where (1) the purchasing body is an ‘eligible body’ that is

paying with charitable or donated funds, or (2) the goods are bought in order to donate to an eligible body.

51. The temporary admission procedure may also be used for relief items that can be reused in other disasters such as equipment or vehicles.

Telecommunications

52. The UK has implemented EU legislation providing a framework for access and authorisation to networks and services. However, this legislation is aimed mostly at increasing competition and not at access to networks in an emergency.
53. UK legislation provides certain bodies with the competence to set the conditions for access to networks and services. Within this authority is the ability to give directions or to make decisions in times of national security risk.
54. The UK has also begun to employ a new satellite-based telecoms system for aid providers; however, this system is not available to the private sector.

Currency

55. UK legislation implemented EU law which limits the amount of cash a natural person can carry into or out of the EU to €10,000 or its equivalent in other currencies.
56. Legislation pertaining to wire transfers and cross-border payments may also affect the ability to freely bring funds into the UK.
57. Special measures do not exist which would allow individuals to bring currency into the UK more easily in the case of an emergency.

Transport

58. Emergency vehicles do not have to pay toll charges and are exempt from the London congestion charge.
59. Non-EU drivers generally must be in possession of a license granted by the UK. However, UK legislation regarding the temporary use of foreign vehicles in the UK exempts relief vehicles from the licensing requirement, as well as vehicles carrying goods for medical or surgical care in emergency relief and in particular for relief in natural disasters.
60. Flights bearing disaster goods would be considered by the UK Civil Aviation Authority as charter flights which are generally treated liberally.

61. None of the rail legislation provides for exceptions or expedited procedures in times of emergency.
62. Foreign ships are further permitted to anchor for specific reasons, including so as to provide assistance to persons, ships or aircraft in distress.

Rescue Animals

63. UK legislation provides that pet animals must enter the UK through channels approved by the Secretary of State.
64. The legislation allows dogs, cats and ferrets to enter the UK with a passport and for third country animals to enter with a third country certificate
65. UK legislation concerning entry into the territory does not provide for exceptions in relation to animals required for relief assistance. However, rules on temporary admission may be applicable.

Food

66. Organisations seeking to send food aid into the UK may have to comply with food quality standards and hygiene, which are drawn directly from EU Regulations and found also in UK legislation.
67. UK legislation lists several key definitions and places general obligations on food business operators relating to food safety, labelling and presentation, traceability of food and procedures for withdrawal from the market in the event the food is unsafe.

Medicines and Narcotic Substances

68. Any medicines imported into the UK as aid may have to comply with standards of quality, including international obligations relating to narcotic substances.
69. EU legislation on pharmaceuticals is mainly restricted to good manufacturing practice and procedures for the authorisation of certain medical products for human and veterinary use, with the ultimate aim of safe marketing of the product. There is no relevant legislation concerning the import or export of such products. However, medicinal products are considered a 'good' under Community law and would therefore receive exemptions from otherwise applicable duties.

70. The UK is party to the UN Single Convention on Narcotic Drugs (1961) and the UN Convention on Psychotropic Substances (1971) which limit the possession, use, trade in, distribution, import, export, manufacture and production of drugs exclusively to medical and scientific purposes.

Extended Hours

71. UK legislation imposing a maximum work week allows for exceptions in situations where characteristics peculiar to certain specific services such as the armed forces or the police, or to certain specific activities in the civil protection services, inevitably conflict with the legislation.
72. There are also exceptions related to the continuity of essential services.
73. There is no requirement that government officers or people with key decision-making power be exempted from the maximum weekly working periods in any circumstances.
74. Many government offices that would be relevant in the delivery of international assistance are already available 24 hours, 7 days a week, in particular customs and visa services.

Motor Vehicle Insurance, Registration and Temporary Importation

75. The UK has enacted European legislation that exempts vehicles registered in other EU Member States that are temporarily brought into the UK by overseas residents from UK registration and licensing requirements.
76. No such exemption applies to non-EU drivers.
77. A motor vehicle may not be driven on UK roads without a license. The UK has implemented EU legislation requiring the recognition of driving licenses between Member States. No such legislation applies to non-EU licenses.
78. Registration requirements apply to any vehicle operating within the UK. Registration marks from other EU Member States will be recognised in the UK.
79. The UK has implemented EU legislation which exempts vehicles registered in other EU Member States that are temporarily brought into the UK by overseas residents from UK registration and licensing requirements, including the recognition procedure.

Public Procurement Rules

80. EU law on public procurement may interfere with the UK's ability to receive the assistance of its choice in the long term after the immediate aftermath of a disaster has subsided.
81. However, these rules do not appear to affect the UK's ability to negotiate specific contracts in the immediate aftermath of a disaster.

Part IX: Issues Pertaining to International Disaster Relief Organisations

Domestic Legal Status

82. UK law, including the Civil Contingencies Act, does not provide for special procedures for the registration of not-for-profit organisations in case of emergency.
83. However, if a foreign humanitarian organisation has legal personality under the law of the home State, as a general rule, UK law will also recognise it as a legal entity.

Privileges and Immunities

84. The UK is a party to the Vienna Convention on Consular Relations and the Vienna Convention on Diplomatic Relations. These conventions are partially implemented by the Diplomatic Privileges Act 1964 and the Consular Relations Act 1968.
85. Under these Acts, there is no specific procedure for recognising the international privileges and immunities of diplomatic and consular officials. A person entitled to privileges and immunities under the Acts enjoy such privileges and immunities from the moment he or she enters the UK to take up post or, if already in the UK, from the moment when the appointment is notified to the UK Government or when he or she enters on his or her duties with a consular post.
86. Neither Act applies to international organisations or persons connected with them. International organisations are generally not entitled to sovereign or diplomatic immunity in the UK, unless such privileges and immunities are granted by legislative instrument, but 'only to the extent of such grant'.

Private Sector and Individual Assistance from Abroad

87. If a local authority or other body decides that it is necessary to set up an appeal fund to respond to the needs of disaster victims, it must follow certain procedures.
88. Depending on the type of fund that is set up, differing levels of tax treatment will apply.

Accountability of Affected State Government for Activities of Foreign Relief Personnel

89. The State may be subject to civil and criminal liability for the activities of foreign relief personnel within the UK.
90. This liability may extend to other public authorities, i.e., those authorities that are not government departments or Crown servants.
91. The legality of decisions of public bodies and any delegated legislation may be reviewed through a process of judicial review.
92. Public bodies must also ensure that they act in line with the European Convention of Human Rights as implemented by the UK Human Rights Act 1998.

Accountability of Assisting Actors

93. Relief organisations may be subject to anti-corruption provisions and rules concerning fraud may also be applicable.
94. It is considered an offence in the UK to obstruct or hinder persons in a certain capacity who provide emergency services and who are responding to emergency circumstances.
95. There is no law recognising a duty to rescue in the absence of special circumstances that may result in civil liability in tort. There is, moreover, no duty for voluntary organisations to respond in an emergency. However, where a volunteer does provide assistance, they assume a duty of care and may be liable for any negligence in the provision of the assistance.
96. In practice, it is the foreign employer's responsibility to ensure the health and safety of his or her employees.

Liability and Payment

97. The Civil Contingencies Act and associated instruments do not discuss issues of liability and payment.

98. There is a potential conflict regarding responders in relation to who bears financial responsibility for resources and staffing devoted to assistance operations and any liability incurred. This potential conflict exists on two levels: (1) internally between local responders; and (2) between the UK and international assisting actors.

Security

99. The police have primary responsibility to ensure security and co-ordinate the activities of response teams in land-based emergencies, although in serious conditions, military assistance may be provided to the police.
100. The UK is a State Party to two international conventions ensuring the safety of United Nations (UN) and associated personnel in humanitarian assistance operations and operations aimed at delivering emergency humanitarian assistance.

Access to Disaster-Affected Persons

101. UK law and policy does not provide that approved international disaster relief providers will have freedom of access to disaster-affected persons.
102. There is some legislation that might affect the ability of aid providers to assist affected certain groups, such as immigration legislation and legislation pertaining to the safeguarding of children and vulnerable adults.

Distribution of Relief

103. There is no official document setting forth basic policies regarding the distribution of aid or any priorities thereto.
104. Any distribution policy would have to satisfy the provisions of the Human Rights Act 1998 unless it is possible to derogate in the circumstances of a particular emergency.

Legal Facilities for Aid Providers

105. National laws, policies or plans do not specifically provide for free or reduced price facilities for relief providers.
106. There is no national law providing for the limitation of legal facilities on the grounds of national security, health or public morals.

Part X: Conclusions and Recommendations

107. Generally, the UK is well-equipped to respond to any disaster that occurs within its territory.
108. The UK does not have a set of operational rules for incoming international assistance that can be activated in times of emergency. It appears that most decisions in that regard would be made on an ad hoc basis, should international assistance be required.
109. In several instances, the membership of the UK in the EU has enhanced the ability for individuals and groups from other Member States to travel into the UK without being subject to the constraints that apply to third country nationals.
110. UK law and policy does, in several instances, correspond to the principles enshrined in the IDRL Guidelines. However, there are identifiable differences, which may impact upon the delivery of international assistance.
111. In light of these conclusions, the Report makes the following recommendations:
- a. The UK Government may wish to consider the potential role of Part I of the CCA in the context of international assistance, including whether future guidance issued under the CCA should refer to the potential contribution of international responders. This exercise could form part of the CCA Enhancement Programme.
 - b. The UK Government may wish to consider the areas in which UK law does not correspond to the IDRL Guidelines, either partially or at all, and determine if further measures – whether legislative or policy – are necessary or appropriate, in order to facilitate further potential international assistance, having regard to relevant EU provisions and competences.
 - c. The UK Government may wish to consider whether any potential shortcomings in the UK legal framework in relation to the receipt of international assistance could, and should, be addressed by the use of emergency powers, both under the CCA and under other, sector-specific, legislation, having regard to the applicable pre-conditions and safeguards for the use of emergency regulations, and the intention that such measures should only be adopted as a last resort.

- d. The CCS may wish to consider developing a specific policy on requesting and accepting offers of assistance from abroad on behalf of the UK. For instance, this could specify clearly that it is the CCS that is to coordinate and approve all such requests for and offers of international assistance, and not for individual responders or departments. This policy could then be distributed to all government departments and emergency responders and to all UK embassies, missions and consulates.
- e. Any policy developed may also address issues of liability and payment for services requested and accepted by the CCS on behalf of the UK, for instance by identifying the appropriate unit or department responsible for payment and liability.
- f. The CCS may wish to consider developing a standard format for the request of international assistance so as to avoid problems of uninvited assistance (where appropriate). The form used by the Monitoring and Information Centre (MIC) could serve as a guide in this respect. Any standard form may also include a provision requiring the offering state or organisation to wait for confirmation of acceptance before dispatching assistance.
- g. The UK Foreign & Commonwealth Office (FCO) may wish to consider whether it currently has sufficient resilience and resource to fulfil its functions in relation to emergencies occurring within the UK, which may be of an intense and / or protracted nature. In particular, the FCO may wish to consider nominating an FCO contact point or policy team to assist with enquiries concerning offers of international assistance to the UK. The FCO contact point would co-ordinate offers of assistance received through the UK diplomatic service and from outside the CPM and EADRCC mechanisms and liaise with the CCS as to how to respond to such offers. If appropriate, this supporting role of the FCO could be incorporated into any potential policy to be distributed to UK embassies, missions and consulates, as per point d above.
- h. The UK Government, in particular the CCS, should continue its involvement and close relationship with the NATO EADRCC and the MIC.
- i. The UK Government, in particular the CCS, should continue to develop close relationships with potential emergency providers from the voluntary and private sectors, including the British Red Cross, who, as a recognised humanitarian auxiliary to the public authorities, is well placed to support UK disaster preparedness plans, and to continue to contribute to response and recovery efforts.
- j. The UK Government, in particular the Ministry of Justice (MoJ) and the CCS, should continue to support the Crown Dependencies in further enhancing their civil protection arrangements, including the legal, policy and institutional framework for the receipt of international assistance, as appropriate. This may include informing the governments of the Crown Dependencies of the IDRL Guidelines and encouraging the use of the IDRL Guidelines to strengthen such frameworks within their territory, as well as informing the development of bilateral and regional disaster assistance agreements, as appropriate.
- k. The UK Government, in particular the FCO and the CCS, should continue to support the Overseas Territories in further enhancing their civil protection arrangements, including the legal, policy and institutional framework for the receipt of international assistance, as appropriate. This may include informing the governments of the Overseas Territories of the IDRL Guidelines and encouraging the use of the IDRL Guidelines to strengthen such frameworks within the Territory, as well as informing the development of bilateral and regional disaster assistance agreements, as appropriate.
- l. The UK Government, in particular the CCS and the FCO, may wish to consider the negotiation of bilateral and regional disaster assistance agreements, as appropriate. Depending on the content of such agreements, the IDRL Guidelines could be used to inform their development.

Table of Abbreviations

BBC	British Broadcasting Corporation	IHR	International Health Regulations
BT	British Telecom	LGD	Lead Government Department
CCA	Civil Contingencies Act 2004	LRF	Local Resilience Forum
CCS	Civil Contingencies Secretariat	MACA	Military Aid to the Civil Authorities
CEMG	Central Emergency Management Group, Northern Ireland	MACC	Military Aid to the Civil Community
CEPU	Central Emergency Planning Unit of Northern Ireland	MACP	Military Aid to the Civil Power
COBR	Cabinet Office Briefing Room	MAGD	Military Aid to Other Government Departments
CONOPS	Concept of Operations	MEL	Midland Expressway Limited
COMAH	Control of Major Accident Hazards	MHRA	Medicines and Healthcare Products Regulatory Agency
CPM	Civil Protection Mechanism	MIC	Monitoring and Information Centre
CRR	Community Risk Register	MoJ	Ministry of Justice
DFID	Department for International Development	MSMO	Military Support to the Mounting of Operations
DPA	Data Protection Act	NATO	North Atlantic Treaty Organization
EADRCC	Euro-Atlantic Disaster Response Coordination Centre	NHS	National Health Service
EC	European Community	NICCMA	Northern Ireland Central Crisis Management Arrangements
ECHO	EU Humanitarian Aid Office	NIOBR	Northern Ireland Office Briefing Room
ECHR	European Convention on the Protection of Human Rights	NRR	National Risk Register
EEA	European Economic Area	OCHA	Office for the Coordination of Humanitarian Affairs
EHRC	Equality and Human Rights Commission	OECD	Organisation for Economic Co-operation and Development
EPA	Emergency Powers Act	RRF	Regional Resilience Forum
EU	European Union	SCG	Strategic Co-ordinating Group
FCO	British Foreign & Commonwealth Office	SEER	Scottish Executive Emergency Room
GDP	Gross Domestic Product	TEC	Treaty Establishing the European Communities
GFRS	Gloucester Fire & Rescue Service	TEU	Treaty on European Union
GMC	General Medical Council	TFEU	Treaty on the Functioning of the European Union
GPEX	Gross Public Expenditure on Development	UK	United Kingdom of Great Britain and Northern Ireland
HMG	Her Majesty's Government	UN	United Nations
HRA	Human Rights Act 1998	US	United States
IAEA	International Atomic Energy Agency	VAT	Value Added Tax
ICAO	International Civil Aviation Organization	WAG	Welsh Assembly Government
ICRC	International Committee of the Red Cross	WHO	World Health Organization
IDRL	International Disaster Relief Law		
IFRC	International Federation of the Red Cross and Red Crescent Societies		

I. Introduction

The occurrence of natural and technological disasters within the territory of the Member States of the European Union (EU) has long been a concern. When these disasters are on a large scale, or their effects cross international boundaries, international assistance and co-operation may become a necessary component of disaster relief planning. However, it is often the case that the applicable legal framework does not consider the legal and technical measures necessary to facilitate international assistance, for example, expedited procedures for crossing borders or importing relief goods.

Recognizing this, in 2001 the International Federation of the Red Cross and Red Crescent Societies (IFRC) initiated its International Disaster, Laws, Rules and Principles (IDRL) Programme to study the legal framework within which disaster assistance is provided and used. The Programme and its partners reviewed the international, regional and national frameworks regarding international response to natural and technological disasters.

After several years of research and global consultations with governments and other stakeholders evaluating common problem areas and best practice, the IFRC led negotiations for the development of the “Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance” (IDRL Guidelines).¹ In November 2007, the state parties to the Geneva Conventions unanimously adopted the IDRL Guidelines at the 30th International Conference of the Red Cross and Red Crescent.

The current study was commissioned by the British Red Cross. Using the IDRL Guidelines as a base, the study examines the degree to which the legal and regulatory framework of the United Kingdom is equipped to manage the receipt of international disaster assistance, as and when necessary. It does not examine measures used to deal with situations of armed conflict situations or terrorist acts within the

UK, although it may consider humanitarian responses to such situations. The study reviews legislation, jurisprudence (as relevant), policies, and practice in order to determine the extent to which the current UK legal and regulatory framework corresponds to the IDRL Guidelines.

This study will form part of a wider project on the facilitation of cross-border assistance within the EU. It will be supplemented by an evaluation of the framework of the EU as well as five other EU Member States, prepared by the National Red Cross Societies of Austria, Bulgaria, France, Germany and the Netherlands.

Research undertaken for this study was greatly assisted by information and analysis contributed during a one-day workshop, organised by the British Red Cross and the British Institute of International and Comparative Law and hosted by the Cabinet Office in late 2009. The workshop brought together stakeholders from national, regional and local government offices, statutory bodies, academic institutions and the charity sector. It provided a forum for discussion of various issues concerning the capacity of the United Kingdom to respond to possible legal, technical and practical problems potentially arising from the receipt of international relief assistance in the event of a serious disaster within its territory.² Relevant information and commentary from the workshop has been included in this report. In addition to discussions at the workshop, many individuals assisted in the drafting of this Report, either through interviews conducted by telephone or responses provided by email.

All references to EU treaty articles in the Report are those which appear in the newly-enacted Treaty of Lisbon. The Treaty entered into force on 1 December 2009 and comprises two separate treaties: the Treaty on European Union (Lisbon TEU) and the Treaty on the Functioning of the European Union (Lisbon TFEU). One consequence of the entry into

force of the Lisbon Treaty is the renumbering of articles from the Treaty of Nice.³ Therefore, references to the Lisbon Treaty will be accompanied in brackets by reference to previous articles in the Treaty of Nice where appropriate.

The Report is divided into eleven parts, including an Executive Summary and this Introduction (Part I). Part II introduces the United Kingdom with a review of relevant statistics, its executive structure and its legal framework. Part III is a discussion of disasters likely to strike the UK and any relevant past experience. Part IV discusses the national framework for disaster management, which is complemented by Part V, an overview of the categorization of emergency levels and types of responding actors. Part VI reviews the UK framework for informing the public, information exchange, relief co-ordination and early warning. Part VII consists of a survey of requests and offers of international assistance. Part VIII discusses the technical provisions of the IDRL Guidelines. Part IX is a review of issues pertaining to international disaster relief organisations, such as domestic legal status and the application of any privileges and immunities. Part X presents the report's conclusions and recommendations.

II. The United Kingdom

a. Basic Statistics

i Geography and climate

The United Kingdom of Great Britain and Northern Ireland (UK) comprises the countries of England and Wales, Scotland and Northern Ireland. It consists of an archipelago of islands, including Great Britain, north-eastern Ireland and several smaller islands. The main island, Great Britain, is located off the north-western coast of continental Europe, and is separated from the north-west coast of France by the English Channel. It is connected to France by the Channel Tunnel. Northern Ireland is the only part of the UK with a land boundary, with its southern and western boundaries adjoining the Republic of Ireland. The UK is surrounded by the Atlantic Ocean, the North Sea, the English Channel and the Irish Sea. The territorial boundaries of the United Kingdom are shown in Figure 1.

Figure 1⁴



The UK also claims a 12 nautical mile territorial sea⁵ and an exclusive economic zone.⁶

The total area of the UK is approximately 245,000 square kilometres. The largest country within the UK is England, comprising approximately 130,410 square kilometres and consisting mostly of low level terrain with the exception of a mountainous area in the north-west. Its main rivers and estuaries are the Thames, Severn and the Humber. It is composed of nine regions, including London. Scotland, the second largest country, accounts for 78,772 square kilometres, including its almost 800 islands, many of which are considered remote areas. It is divided by the Highland Boundary Fault into the Highlands in the north-west and the Lowlands in the south-east. Wales represents less than one tenth of the total area of the UK, at 20,758 square kilometres, and is a mostly mountainous region. Finally, Northern Ireland is approximately 14,160 square kilometres in area and has a hilly terrain. It is also home to the UK's largest body of water, Lough Neagh, at 388 square kilometres. The UK has a fairly moderate climate, ranging between -10 °C to 35 °C with a steady rainfall all year round.

The UK has traditionally required little or no recourse to international assistance in relation to its domestic disasters. Its lack of land borders has decreased the likelihood of the UK suffering from the effects of disasters in neighbouring states. In addition, the UK has in general relied successfully on its own resources to respond to recent natural disasters in its territory. Disasters affecting remote areas and smaller islands will, however, present issues of access. Disasters may also affect one or more regions within the UK, therefore involving one or more levels of government, including regional and devolved administrations (see below).

ii. Population and population centres

The population of the UK was estimated at 61,383,000 in mid-2008.⁷ It is the 19th largest population in the world and the third most populous in Europe. Its capital city, London, is located in the south-east of England, and has a population of 7.5 million in its Greater Urban Area and 12 to 14 million in the Greater Metropolitan Area. Other key population centres in England include Greater Birmingham (5.3 million), Leeds (715,404), Manchester (450,000) and Newcastle (273,600). The capital city of Scotland is Edinburgh, with a population of 468,000, although Glasgow has a population of 620,000. Cardiff, the capital city of Wales, has a population of 330,000 and Belfast, the capital of Northern Ireland, has a population of 645,000. The number of densely-populated cities within the UK means that disasters may have a potentially widespread and immediate impact.

The UK is also a popular destination country. Since 2004, approximately 500,000 people have arrived to live in the UK for at least one year, most not being British citizens. In 2008, overseas residents made 31.9 million visits to the UK. It is thus likely that significant disasters, particularly affecting London and other key immigration and tourism destinations, will affect foreign nationals resident in, or visiting, the UK.

iii. Economic and political factors

The UK is a developed country, with the world's sixth largest economy (measured by GDP) and the third largest economy in Europe. It was the first industrialised state and a major power during the 19th and 20th centuries. While its influence has been somewhat diminished since, it remains a major world power. The UK is a permanent member of the United Nations Security Council, a member of the Commonwealth of Nations, G8, G7, G-20 major economies, North Atlantic Treaty Organisation, Organisation for Economic Co-operation and Development, World Trade Organisation, Council of Europe and a member state of the European Union. It is also a recognised nuclear weapon state.

The UK has a small coal reserve along with significant, yet continuously declining natural gas and oil reserves. In 2009, half of gas supplies were from external sources, with this figure expected to rise as national sources continue to be depleted. As of late 2009, the UK has 19 nuclear reactors generating one fifth of its electricity needs. Its first commercial generator commenced operations in 1956. Government policy is committed to the use of nuclear energy in the future, including the modernisation and replacement of existing generators and the development of further sites.

b. Executive Structure

The United Kingdom is a constitutional monarchy comprising a union of four countries: England, Scotland, Wales and Northern Ireland. It has three Crown Dependencies, Jersey, Guernsey and the Isle of Man, which are self-governing and do not form part of the UK, although the UK is responsible for their foreign affairs and defence and may legislate with respect to their interests. It is also responsible for 14 Overseas Territories (see below).

The monarch, currently Queen Elizabeth II, is the Head of State of the United Kingdom as well as the Head of State of 15 nations in the Commonwealth. The UK is a parliamentary democracy, based on the Westminster system. The UK Parliament meets in London at the Palace of Westminster (hence it is called the Westminster Parliament) and comprises two houses: the House of Commons (elected members) and the House of Lords (appointed members). Legislation requires the consent of both Houses and the assent of the monarch. Despite the process of devolution (see below), the Westminster Parliament remains the supreme legislative authority in the United Kingdom, as it retains the competence to repeal devolution instruments.

The Head of Government is the Prime Minister. This position is held by the Member of Parliament that commands the greatest majority in the House of Commons, and is usually the leader of the largest political party in the Commons. The monarch formally appoints the Prime Minister and his or her Cabinet (although the Prime Minister will select the members of the Cabinet) and asks them to form Her Majesty's Government (HMG). Members of the Cabinet are typically drawn from members of the Prime Minister's political party in both houses of Parliament. The Cabinet is directly responsible to the House of Commons. Together, the Prime Minister and Cabinet exercise executive power. The Cabinet decides the government's policy and direction, particularly with regard to legislation. In practice, many decisions are delegated to Cabinet sub-committees in the relevant policy areas. The Crown "personifies the executive government of the country" and is associated with the idea of executive authority.⁸ Most major public powers are vested in the Crown through its ministers.

While the Westminster Parliament may legislate to a varying degree for all four constituent entities, some competence has been devolved to Scotland, Wales and Northern Ireland in a process known as devolution. There are two basic types of devolution. Executive devolution is the transfer of subordinate policy-making and administration. Legislative devolution involves the transfer of the competence to determine policy and to enact legislation.⁹ The devolution

agreements between the United Kingdom and each entity differ in terms of transferred competence. Pursuant to the devolution agreements, the Westminster Parliament has undertaken not to legislate on devolved matters without the prior consent of, or collaboration with, the devolved administration.¹⁰ Further, while the main features of the devolution settlements are to be found in the individual devolution Acts, the laws are complemented by a series of agreements ('concordats') that set out principles by which mutual relations are to be conducted. The concordats themselves are not legally binding; however, there is a clear expectation that the spirit and letter of the concordats will be observed by all parties.¹¹

A 2001 Memorandum of Understanding provided for the establishment of a Joint Ministerial Committee as a consultative forum for ministers of the UK Government, Scottish Ministers, Welsh Secretaries and Northern Irish Ministers. The Committee operates as a co-ordinating body that discusses matters of common interest and facilitates the resolution of any inter-governmental disputes.

i. England

England is the only region that does not operate under a devolved system with its own separate governmental and legislative structure. However, several of the government departments, such as the Department for Environment, Food and Rural Affairs and the Department of Health, are concerned with matters largely affecting England only. Rather than a system of devolution, England operates according to a regional system under which ten Government Offices for the Regions are charged with implementing certain policies, such as transport, employment and public health in the nine regions of England.¹²

ii. Scotland

The devolution of Scotland is based on the Scotland Act 1998 (Scotland Act). The Scotland Act established a system of legislative devolution, transferring the power to pass primary legislation and its attendant responsibilities to new executive structures. The Scotland Act created a unicameral Scottish Parliament and a Scottish Administration and specifies those powers that have been reserved to the Westminster Parliament, rather than listing those that have been transferred. Reserved powers include those relating to: international relations and the EU; immigration and nationality; companies; employment; civil service; national security; and broadcasting. However, there are several exceptions even within the areas reserved. Areas expressly devolved to Scotland include: private law; criminal law; the judiciary; roads and transport; health; and environmental protection.¹³

There are some limits to the Scottish Parliament's power to legislate. The Scottish Parliament cannot enact legislation relating to reserved matters, nor can it legislate in contravention of the Human Rights Act 1998 (see below) or EU law. It also may not modify the Scotland Act itself. However, the Scottish Parliament is able to repeal or amend Acts of the Westminster Parliament that touch upon devolved matters.

iii. Wales

Devolution under the Government of Wales Act 1998 (Wales Act) is executive in nature. Devolution has not occurred to the same extent as in Scotland. Wales therefore has no power to make primary legislation and no separate Parliament was created by the Wales Act. Rather, the Wales Act established the unicameral National Assembly for Wales, or Cynulliad Cenedlaethol Cymru (the Assembly). The Wales Act delineates the matters devolved to Wales as including: agriculture; the environment; health and health services; highways; transport; and social services.¹⁴ The Assembly is not a separate executive body for the government of Wales; it is rather a corporate formation. However, in practice most of the powers delegated to the Assembly have been exercised by the Welsh Ministers and civil servants under what is known as the Welsh Assembly Government operating under a cabinet-style framework.

In 2006, devolution in Wales was revisited with the Government of Wales Act 2006, which sought to address specific problems encountered in the first decade of devolution. The 2006 Act has three aims, including the enhancement of the legislative powers of the Assembly within areas of devolution. It officially establishes the Welsh Assembly Government as an entity separate from, but accountable to, the National Assembly. The Welsh Assembly Government acts on behalf of the Crown rather than as delegates to the National Assembly as was previously the case. It also provides for enhanced legislative powers in three ways: (1) conferring wider powers on the Welsh Assembly Government to make subordinate legislation; (2) creating a new Order in Council mechanism that allows the Westminster Parliament to confer enhanced legislated power in devolved fields; and (3) by allowing the Assembly to make all legislation in the devolved areas without recourse to the Westminster Parliament, subject to a referendum.

iv. Northern Ireland

The first devolution agreement with Northern Ireland was based on the Government of Ireland Act 1920 (1920 Act) and lasted until 1972. The 1920 Act established a system for legislative devolution similar to that of Scotland and created a Parliament of

Northern Ireland and an Executive headed by a Governor answerable to the Crown. In the late 1960s, civil unrest led to a decision by central authorities to regain direct control over the affairs of Northern Ireland, thus ending the devolution established under the 1920 Act. Years later, after several attempts to settle the political unrest, a new devolution agreement was reached in the Northern Ireland Act 1998 (the Act). Under the 1998 Act, powers are either transferred, reserved or excepted. The Northern Ireland Assembly¹⁵ has primary legislative powers for transferred matters, including: agriculture; economic development; the environment; health; and employment. Excepted matters are listed in Schedule 2 and cannot be transferred to the Assembly. These include international relations, defence and national security. Reserved matters are in Schedule 3 and are matters that, although outside the competence of the Assembly, may be transferred if the Westminster Parliament legislates to that effect. These matters include: import and export controls; and telecommunications and broadcasting.

v. Crown Dependencies and Overseas Territories

The United Kingdom is responsible for the three Crown Dependencies of the islands of Guernsey and Jersey (together the Channel Islands) and the Isle of Man. The Crown Dependencies do not form part of the United Kingdom, but are independently administered zones, with local legislatures having the power to pass legislation with the assent of the Crown. The UK remains constitutionally responsible for the defence and international representation of the crown dependencies, as well as their good governance. The UK Ministry of Justice (MoJ) is responsible for managing the relationship between the Crown Dependencies and the international community (and the UK), although all departments share some responsibility for the CDs within their area of expertise.

In addition to the Crown Dependencies, the United Kingdom exercises sovereignty in respect of fourteen British Overseas Territories,¹⁶ as detailed in Annex I.¹⁷ These territories do not form part of the United Kingdom. Three of the Overseas Territories, British Antarctic Territory, British Indian Ocean Territory and South Georgia and South Sandwich Islands are uninhabited.

The UK Foreign & Commonwealth Office (FCO) is responsible for the interests of all Overseas Territories, with the exception of the Sovereign Base Areas territory, which is within the jurisdiction of the Ministry of Defence. The Overseas Territories Department is headed by the Foreign Office Minister for the Overseas Territories. The FCO handles

international relations on behalf of the Overseas Territories, although several of the territories maintain diplomatic links with neighbouring states. The United Kingdom provides financial assistance to the Overseas Territories through the Department for International Development (DFID). Other Government Departments also exercise functions in relation to the Overseas Territories within their own field of expertise, for example the Department for Transport leads on aviation and maritime safety and security in the Overseas Territories.

The relationship between the UK and an Overseas Territory is different to the relationship between the UK and another State. Within each Overseas Territory, there is an officer responsible for administering the government of that territory (known variably as Governor, Governor and Commander in Chief, Commissioner or Administrator). That officer is responsible to the Secretary of State, and ultimately to the Queen and the UK Government for the security and proper governance of the territory.¹⁸ The Overseas Territories vary also in the extent of constitutional development, ranging from close to full internal self-government to the Governor acting as the law-making authority. In general, the officer responsible for administration retains special responsibility for defence, external affairs, internal security, police and the public service.

vi. London

London consists of two separate cities: the City of London and the City of Westminster, each with city status. The Greater Metropolitan area of London consists of areas once belonging to the counties of Middlesex, Kent, Surrey, Essex and Hertfordshire. Special arrangements have been made for the governance of London. It is administered according to two tiers: the first is city-wide; the second tier is local. The city-wide administration occurs through the Greater London Authority which consists of two elected bodies: (1) the Mayor of London, who has executive powers, and (2) the London Assembly, which is in charge of reviewing the decisions of the Mayor and has the power to veto the Mayor's budget proposals. Local administration takes place through 32 local councils and the City of London Corporation. They are responsible for most local services, such as social services, schools and local roads.

Greater London is policed by the Metropolitan Police Service, with the exception of the City of London, which has its own police service.

c. Legal Framework

The UK does not operate under a single written constitution. Instead, its constitution is found in a number of sources, including cases, statutes and various parliamentary conventions and practices. As a protected constitutional status is not assigned to particular statutes, the Westminster Parliament may amend or repeal these ‘constitutional’ instruments through an ordinary Act of Parliament, that is, no specific procedure is required to achieve constitutional reform. This reflects the principle of ‘parliamentary sovereignty’, which is accepted as meaning that Parliament may make or repeal any law it pleases and that no body has the right to override or set aside an act of Parliament. Legislative instruments may take the form of primary legislation (acts) or secondary legislation (Orders in Council, regulations).

The United Kingdom does not have a unified legal system, as historically it was the union of previously independent nations. Instead, there are three distinct legal systems. England and Wales and Northern Ireland are based on common law principles, while Scotland is a hybrid of common law and civil law.¹⁹ The highest judicial authority is the Supreme Court, which is the final court of appeal within the UK for all civil cases and criminal cases from England, Wales and Northern Ireland.²⁰ The Supreme Court replaced the House of Lords as the highest court in October 2009. The Judicial Committee of the Privy Council remains the highest court of appeal for several independent Commonwealth countries, the UK Overseas Territories, and the British Crown Dependencies.

The UK operates according to a largely dualist theory of international law, which emphasises the difference between national and international law. The relationship between international and national law differs according to whether the international obligation or right is found in a treaty or in a rule of customary international law. The power to conclude treaties in the United Kingdom is an exercise of the royal prerogative, the powers of the monarch that are exercised by the executive (i.e., the Government). It is an established convention – known as the Ponsonby rule – whereby treaties are laid before Parliament before being ratified, so as to allow an opportunity for parliamentary debate and scrutiny.²¹ However, as Parliament is the only body authorised to make law, the courts require a treaty to be incorporated by legislation into UK law. The consequence is that an unincorporated treaty does not create rights or obligations under UK law that can be reviewed by the courts. However, this does not mean that every treaty will require implementing legislation to give effect to international obligations. It may be considered, for example, that domestic law already complies with the international obligations in question, and hence no legislative act is required.

In contrast, UK courts have accepted that customary international law is automatically incorporated into UK law and does not require legislative action or judicial pronouncement (crimes under customary international law are a possible exception to this general principle). Customary international law principles form part of the common law and can be overridden by inconsistent statutes. The courts will also require clear evidence of a rule of customary international law before they will apply it.

The UK has ratified two international agreements that have had significant effect on national law: the Treaty of Accession of the United Kingdom to the European Communities 1972 (signed, 22 January 1972; acceded, 1 January 1973) and the European Convention on Human Rights and Fundamental Freedoms (ratified in 1951). The impacts of both treaties on the domestic legal framework are considered below.

i. EU law

The UK became part of the European Union (then, the European Economic Community) in 1973, by virtue of the Treaty of Accession. The European Communities Act 1972 provides for the incorporation of European Community law into the domestic law of the United Kingdom. Section 2(1) of the Act states:

All such rights, powers, liabilities, obligations and restrictions from time to time created or arising by or under the Treaties, and all such remedies and procedures from time to time provided for by or under the Treaties, as in accordance with the Treaties are without further enactment to be given legal effect or used in the United Kingdom shall be recognised and available in law, and be enforced, allowed and followed accordingly.

Community law obligates the UK (and other Member States) to implement Community law obligations.²² Implementation of legislation in areas wholly within the competence of the EU varies according to the form of law at issue. Implementation of foreign and security policy and legislation relating to police and judicial co-operation in criminal matters is done according to the procedure normally associated with implementing international obligations. *Regulations* are directly applicable in national law and therefore do not necessarily require transposition legislation. However, it is often the case that supplementary legislation will be necessary, for example, to ensure that the regulation is enforceable in the UK by creating criminal offences for breaches of the regulation. *Directives* are addressed to the Member States and require legislation to give them effect in national law, as well as any supplementary legislation to make them

enforceable. However, the Member States are free to choose the method by which they achieve the objective of the directive. *Decisions* are treated in the same way as directives, although they will be addressed to specific individuals or states and therefore binding only upon the addressee.

The Westminster Parliament retains a residual power to implement Community law through secondary legislation in Scotland and Wales that has been expressly included in each devolution agreement.²³ Article 355(3) Lisbon TFEU (ex Article 299(4) of the Treaty Establishing the European Communities (TEC)) provides that its provisions apply to the European territories for whose external relations a Member State is responsible. Therefore, for the UK, that is the Crown Dependencies of Guernsey, Isle of Man and the Channel Islands. Special arrangements apply to Overseas Territories listed in the Treaty according to Article 355(2) Lisbon TFEU (ex Article 299(3) TEC). Article 355(5)(b) (ex Article 299(6)(b) TEC) provides that the Lisbon TFEU shall not apply to the Sovereign Base Areas in Cyprus. Further, subsection (c) specifies that the Lisbon TFEU applies to the Channel Islands and the Isle of Man “only to the extent necessary to ensure implementation of the arrangements for those islands set out in the Treaty concerning the accession of new Member States...”

There are three methods of implementing Community law into UK domestic law. First, pre-existing UK legislation or case law may already provide for all or part of the obligations created by Community law. Although that is considered as technically adequate, it is often the case that new legislation or explanatory memoranda will have to be drafted to refer to the Community measure. Secondly, primary legislation may be necessary where no pre-existing powers exist to give effect to the Community legislation at issue. Finally, secondary legislation will be used where national legislation already provides for specific powers to enact legislation relating to the subject matter of the Community legislation.

The European Union (Amendment) Act 2008 enabled the UK to ratify the Lisbon Treaty. It amends section 1 of the European Communities Act 1972 by adding the Treaty of Lisbon²⁴ to the list of treaties in force for the UK. It does not make any changes to the procedural implementation of EU law. Implementation in relation to the Community Treaties will also apply in relation to the Treaty of Lisbon.²⁵

ii. European Convention on Human Rights

The European Convention on Human Rights (ECHR) is given effect in UK domestic law by the Human Rights Act 1998 (HRA), which entered into force on 2 October 2000. The HRA makes rights protected by

the ECHR part of UK law. Under section 2, the Convention rights should be interpreted in accordance with the jurisprudence of the European Court of Human Rights. By section 3, all legislation is to be interpreted so far as possible in a way that is compatible with Convention rights. A public authority (which includes courts and tribunals but not Parliament) must not act incompatibly with a Convention right, unless the action in question is required by primary legislation which cannot be read compatibly with Convention rights (section 6). Where primary legislation is incompatible with a Convention right it is not invalid; however, the court can issue a declaration of incompatibility, which should lead to an amendment to the law. All government bills introduced to Parliament must include a statement as to the Bill’s compliance with the Convention rights (section 19).

The HRA is applicable to the devolved administrations,²⁶ but is not applicable in the Overseas Territories or Crown Dependencies. In the Overseas Territories, human rights are governed under the individual constitution of each territory. The Crown Dependencies have their own human rights legislation.²⁷

III. Likely Disaster Scenarios and Past Experience

The study now turns to an examination of the disaster scenarios most likely to affect the UK. These scenarios are based on those identified by the Local Resilience Forums (LRF), Regional Resilience Forums (RRF), the devolved administrations and central Government in their respective risk assessments.

a. The UK's Most Likely Disasters

The Government published its latest National Risk Register²⁸ (NRR) in 2010, which is intended to complement local (called 'Community Risk Registers' – CRR) risk assessments²⁹ and to identify those threats or hazards considered most likely to occur within the UK. The NRR is based on the National Risk Assessment, a classified cross-government document assessing the impact of major risks that the UK could face over a five-year period. It is intended to enable the prioritization of emergency planning. The NRR is intended to illustrate those emergencies that could have a major impact on all or large parts of the UK.³⁰

The risks identified by the NRR fall into three major categories:

- (1) **Natural events;**
- (2) **Major accidents; and**
- (3) **Malicious attacks.**

These can be further broken down:

(1) Natural events

Human Disease

- > Pandemic influenza
- > New and emerging infectious diseases

Severe Weather

- > Storms and gales
- > Low temperatures and heavy snow
- > Heat waves
- > Drought

Flooding

- > Coastal flooding
- > Inland flooding

Animal Disease

- > Diseases non-transmittable to humans (e.g. Foot and Mouth Disease)
- > Diseases transmittable to humans

(2) Major accidents

Major Industrial Accidents

- > Fires
- > Contamination
- > Technical failure

Major Transport Accidents

- > Air
- > Maritime
- > Road and rail

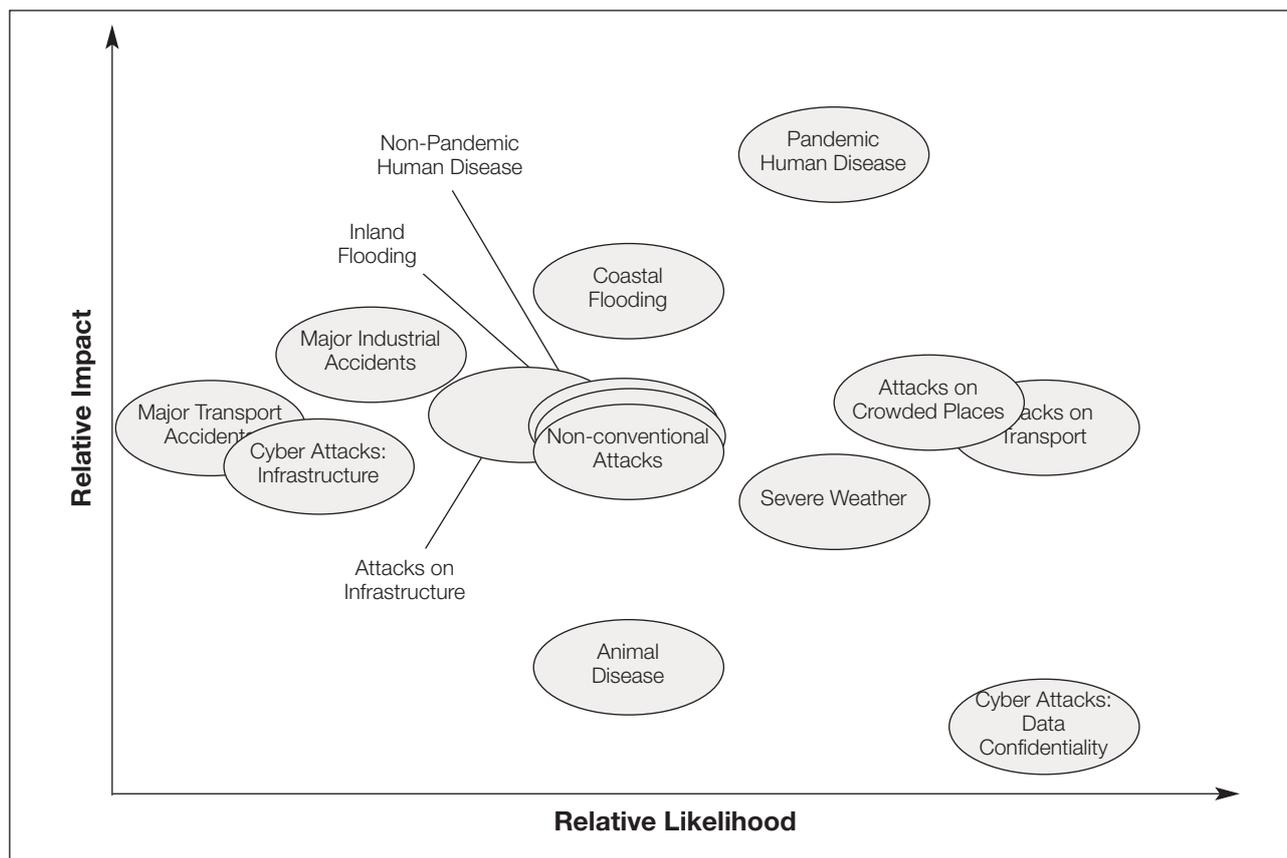
(3) Malicious attacks

Attacks on crowded places

Attacks on critical infrastructure

Attacks on transport systems

Cyber security



The figure above is provided in the NRR as an illustration of the relative likelihood and impact of high consequence disasters outlined in the NRR. The NRR notes that the emergencies included in it are designed as a starting point for those interested in knowing the highest risks to the UK, but that risks will differ depending on the area in which they occur.

A survey of some of the CRRs developed by the LRFs follows the trend in the graph above.³¹ It seems that the most likely disasters are human health or severe weather-related.

b. Past Disasters in the UK

The following table³² presents an overview of 10 recent disasters experienced in the UK, excluding those resulting from terrorist actions. It details the location and date of the incident, as well as who responded and what costs were incurred both financially and in terms of human life.

Disaster	Date	Location	Lead Responders	Cost	Casualties	Fatalities
Floods	Nov 2009	Cumbria	Department for Environment, Food and Rural Affairs	£100 million cost to Insurance Companies ⁱ	900 properties damaged ⁱⁱ	2 ⁱⁱⁱ
Swine Flu	Apr 2009-Present	UK in its entirety	Civil Contingencies Committee	Estimated to be £.50 Billion ^{iv}	Estimated 521,000 cases ^v	457
Salt Shortage	Feb 2009; Dec 2009-Jan 2010	Nation-wide, with specific issues in Hertfordshire, Derbyshire, Wiltshire, Surrey and parts of Wales.	Department for Transport	No data available; however, supplies depleted in some County Councils and salt was sought from abroad.	0	0
Floods	Jun – Jul 2007	The worst affected areas were: > South Yorkshire > Hull > Gloucestershire > Worcestershire > The Thames Valley ^{vi}	Department for Environment, Food and Rural Affairs	£3 Billion ^{vii}	48,000 households and nearly 7,300 businesses were flooded ^{viii}	13 ^{ix}
Avian Flu	2006-2007	UK in its entirety	Department of Health and Department for Environment, Food and Rural Affairs	No data available	0	0
Hertfordshire Oil Storage Terminal fire (Buncefield)	Dec 2005	Hemel Hempstead, Hertfordshire	Department for Environment, Food and Rural Affairs	£1 Billion ^x	43 ^{xi}	0
Heatwave	Aug 2003 ^{xii}	UK in its entirety	Department of Health	No data available		2139 excess deaths recorded ^{xiii}
Foot and Mouth Outbreak	Spring and Summer 2001	UK in its entirety	Department for Environment, Food and Rural Affairs	£6 Billion ^{xiv}	Over 2000 cases reported ^{xv}	0
Floods	Autumn 2000	The worst affected areas were: > York > Shrewsbury > Lewes > Uckfield > Maidstone	Department for Environment, Food and Rural Affairs	£1 Billion ^{xvi}	10,000 properties were flooded ^{xvii}	
Hatfield Rail Crash	Oct 2000	Hatfield, Hertfordshire	Department for Transport	No data available	Over 70 ^{xviii}	4 ^{xix}

c. Disasters and the Overseas Territories

Given their geographic location, the Overseas Territories are particularly vulnerable to natural disasters. In recent years, several have been affected by severe storms, hurricanes and earthquakes, and two have active volcanoes. Man-made disasters also pose a risk, for example pollution, aviation and maritime disasters. The effects of a disaster may be made more serious due to the small population and distance from assistance. One important example is the experience with Hurricane Ivan in 2004.

Hurricane Ivan affected the Cayman Islands severely: 95% of homes suffered roof damage; contact with the island authorities was made difficult; 25% of Grand Cayman was under water; the sewage system was flooded; and the power supply was cut off.³³

The UK Government sent two Navy vessels to provide emergency assistance with communications, essential infrastructure, damage assessment, medical support and food distribution until full scale humanitarian relief could arrive and the civilian rebuilding effort could begin.³⁴ The UK's Department for International Development (DFID), in response to an urgent request from the Government of the Cayman Islands, provided relief items, including plastic sheeting, potable water, hygiene materials and other requested items.³⁵ DFID contributed £500,000 to the International Federation of the Red Cross regional appeal, for the provision of emergency food, shelter needs, water and sanitation and various non-food items.³⁶

A team of 13 nurses and a social worker from Canada travelled to the Cayman Islands to provide medical care.³⁷ It is unclear from the sources available whether there were any obstacles to the receipt of this international assistance in this case.

Speaking about disaster planning in the Overseas Territories generally, Lord Triesman stated in 2006 that:

[D]isaster planning remains high on the UK agenda; and last year's intensive hurricane season showed that no one can afford to drop their guard. The UK continues to assist the territories through advisers, a rapid deployment team, help with capability reviews and emergency aid from Royal Navy vessels in the region. But it is important that the territories themselves take the necessary steps to ensure they are equipped to cope with any disaster.³⁸

d. The United Kingdom and International Assistance

i. Provision of international assistance abroad

The United Kingdom is committed to the provision of humanitarian assistance abroad and is one of the largest providers of humanitarian assistance. In 1997, the Government created DFID to manage Britain's aid to less fortunate countries and countries in distress. The legal basis for DFID is the International Development Act 2002, which allows the Secretary of State for International Development (a Cabinet minister) to provide assistance abroad. In addition to DFID, the UK provides international assistance through other government departments.

ii. Receipt of international assistance

In contrast to the active role played by the UK in relation to the provision of aid externally, the UK has only formally requested international assistance on one occasion, discussed below in relation to the EU Civil Protection Mechanism (CPM). As an early historical example, the UK did accept aid under the Marshall Plan following the end of the Second World War.³⁹

Although the UK central government has not formally requested assistance from abroad in response to UK-based incidents there have been cases in which either assistance was offered, or local governments sought assistance from outside the UK. For example, during a shortage of salt used to combat icy roads in particularly severe winter weather in February 2009 and late 2009/2010, it was reported that at least one local government council would begin to seek salt sources from abroad.⁴⁰

On a small number of occasions, assistance has also been offered to the UK from organisations in other countries, in the absence of a formal request (or alternatively any request at all). For example, hovercraft were sent by Rome's Civil Protection Agency to the UK to offer assistance during flooding in Gloucestershire in 2007. Before the Cabinet Office was able to respond to the offer and notify the Gloucestershire Fire and Rescue Service, the hovercraft were delivered to the affected site. Confusion regarding their origin and whether they were able to be deployed was compounded by a language barrier.

Another example of informal assistance from an entity outside the UK, in 2005 after an explosion at Buncefield Oil Storage Depot in Hertfordshire, the Hertfordshire Fire & Rescue Service was informed by their foam supplier that they were running low on raw material, but could divert a foreign ship to Harwich

that had supplies on board. After some difficulties relating to the port authority's refusal to allow the cargo to be unloaded because it was not packed in accordance with UK standards, the cargo was eventually unloaded with the help of the UK's Office of the Deputy Prime Minister.

iii. The UK and external options for civil protection

EU Civil Protection Mechanism

As outlined in the EU Report accompanying the present study,⁴¹ the EU CPM and its Monitoring and Information Centre (MIC) act as a facilitating body for disaster assistance within the EU.⁴² Our research indicated that although the United Kingdom has used the CPM and the MIC to communicate offers of assistance to other participating states, the United Kingdom has only used the CPM to make a request for assistance on one occasion. In 2010, after unusually severe winter weather, the UK experienced a salt shortage and sent a request to the EU CPM seeking any surplus supplies of road salt that participating States had available for purchase by the UK.⁴³

NATO

In addition to the CPM, the UK also has the option of participating in NATO's framework for disaster response, which is led by the NATO Senior Civil Emergency Planning Committee.⁴⁴ The UK is a founding member of the North Atlantic Treaty Organisation (NATO).⁴⁵ NATO is an alliance of 28 countries from North America and Europe with the aim of "safeguard[ing] the freedom and security of its member countries by political and military means."⁴⁶ NATO engages in defence and crisis management and dialogue with non-NATO countries, in order to attain its goals of liberty and security. The UK has been a large financial contributor to NATO and has pledged a substantial portion of its Armed Forces to NATO assignment in the event that a crisis arises requiring mobilisation of troops. The UK considers its own security as indivisible from that of Europe and has supported a policy to ensure the stability of Europe and the effectiveness of NATO.⁴⁷

Bilateral and regional agreements

It appears that the UK is not a party to any bilateral or regional agreements specifically relating to the provision of disaster assistance. This may reflect the traditional focus of UK contingency planning on self-sufficiency.

IV. National Disaster Management Mechanism

a. Civil Contingencies Act and Implementing Regulations

The Civil Contingencies Act (CCA), and accompanying regulations,⁴⁸ delivers a single framework for civil protection in the United Kingdom. The CCA extends to the United Kingdom, including the devolved administrations. It does not extend to the Crown Dependencies or the Overseas Territories, which have their own civil contingency arrangements.

The Act is separated into two substantive parts. Part 1 imposes responsibilities on local responders to prepare for emergencies, coordinate with other agencies in the region and discharge these duties appropriately in an emergency situation. Part 2 provides for the use of ‘emergency powers’, empowering the government to ‘fast track’ legislation if required to alleviate a serious threat to human welfare, the environment or security. The current framework was introduced so as to modernise previous legislation in order better to equip the UK to deal with twenty-first century challenges such as climate-related disaster and terrorism.⁴⁹ However, while the legislation purports to establish a complete civil protection framework, there is no specific mention of any legal facility to expedite foreign assistance, in the event that such measures become necessary.

Part 1

Part 1 of the CCA discusses Local Arrangements for Civil Protection. It begins in Section 1 by defining ‘emergency’ as (1) an event or situation which threatens serious damage to human welfare in the UK, a devolved territory or region; (2) an event or situation which threatens serious damage to the environment of a place in the United Kingdom, or; (3) war, or terrorism, which threatens serious damage to the security of the United Kingdom. Subsection (4) allows a Minister of the Crown (or Scottish Ministers) to order that a certain event or situation be categorized as an emergency under the CCA. The Act divides local responders into two categories, imposing a different

set of duties on each. Those in Category 1 are those organisations at the core of the response to most emergencies (e.g. emergency services, local authorities, National Health Service (NHS) bodies). Category 1 responders are subject to the full range of civil protection duties. Category 2 organisations (e.g. Health and Safety Executive, transport and utility companies) are ‘co-operating bodies’ that are less likely to be involved in planning work but will be heavily involved in incidents that affect their sector. Category 2 responders have a lesser set of duties, in particular co-operating and sharing relevant information with other Category 1 and 2 responders. Section 13 permits a Minister of the Crown (or Scottish Ministers) to amend the list of Category 1 and 2 Responders in Schedule 1 of the Act by adding or removing an entry or moving an entry between categories.

Part I of the CCA places emphasis on co-operation and response at the local level through local resilience forums. The local response capability has been deemed “the foundation of [the UK] response to all emergencies.”⁵⁰ The local resilience forums are considered to be best placed for planning in terms of allocation of resources and assessment of the disaster. The regional teams and the Government are considered as support mechanisms for the local resilience forums.

A review of the CCA was originally intended for three years after its enactment in 2004. However, due to several unforeseen circumstances and reviews, such as the Pitt Review after the 2007 flooding (discussed below), the review was rescheduled. Since then, the Cabinet Office initiated the CCA Enhancement Programme to facilitate the review, which is now scheduled for completion in 2012. The review consists of four phases. The first phase was completed in October 2009 and focused on consistent implementation of the CCA.⁵¹ The second phase, which followed completion of the first phase, evaluates the potential for changes to the CCA.⁵² The third stage will focus on policy proposals drafted in light of findings from the first two phases. Finally,

the fourth phase will consist of delivery and implementation of the changes.⁵³ The Cabinet Office has indicated that the process will be highly consultative in nature to ensure maximum stakeholder input.

Part 2: Emergency powers

Part 2 of the CCA allows for the making of temporary special legislation (emergency regulations) to assist with the most serious of emergencies. Its provisions are to be used only as a last resort.⁵⁴ Part 2 of the Act entered into force in December 2004. The Act states that emergency powers can only be used if an event or situation threatens: (1) serious damage to human welfare in the UK, a devolved territory or region; (2) serious damage to the environment of the UK, a devolved territory or region; (3) or the security of the UK, from war or terrorism. The regulations introduced by emergency powers may extend to the whole of the UK or to any one or more of the English regions and/or the devolved administrations.⁵⁵ Section 19 (2) and (3) specify exhaustively the kinds of event or situation which may threaten damage to human welfare or the environment. However, the Secretary of State has the power to amend the list of events or situations which may threaten damage to human welfare by providing that in so far as an event or situation involves or causes disruption of a specified supply, system, facility or service, it is (or is not) to be treated as threatening damage to human welfare. This is designed to ensure that should a supply system, facility or service become so essential that disruption of it would warrant the exercise of emergency powers, the Act can be amended accordingly.

The CCA includes three conditions for making emergency regulations:

- > an emergency has occurred, is occurring or is about to occur;
- > it is necessary to make provision for the purpose of dealing with the emergency; and
- > the need for the provision is urgent.

To ensure that emergency powers are not misused, the Act also features a 'triple lock' which provides that emergency powers will only be available if:

- > an emergency that threatens serious damage to human welfare, the environment or security has occurred, is occurring or is about to occur;
- > it is necessary to make provision urgently in order to resolve the emergency as existing powers are insufficient and it is not possible to bring forward a Bill in the usual way because of the need to act urgently; and
- > emergency regulations must be proportionate to the aspect or effect of the emergency at which they are directed.⁵⁶

Emergency regulations may make any provision which the department making the regulations is satisfied is appropriate for the purpose of dealing with an aspect or effect of the emergency.⁵⁷ The Act specifies certain purposes for which provision may be included in emergency regulations.⁵⁸ This list is not exhaustive;⁵⁹ it includes emergency regulations for the purpose of treating human illness, for protecting or restoring the activities of banks or other financial institutions, protecting or restoring activities of Parliament or any of the devolved legislatures or protecting or restoring the performance of public functions. However, emergency regulations may only be made if no other applicable legislation exists, or if existing legislation is insufficient or would cause serious delay.⁶⁰

Emergency regulations may be made by either Her Majesty by Order in Council or by a senior Minister of the Crown if it is not possible to wait for an Order in Council for reasons of serious delay.⁶¹ The regulations must be accompanied by a statement specifying the nature of the emergency and declaring that the conditions set out above have been satisfied.⁶² Emergency regulations shall be made by statutory instrument even if not made by Order of Council and shall be treated for purposes of the UK Human Rights Act 1998 as subordinate, rather than primary, legislation.⁶³ A senior Minister of the Crown must, as soon as possible, bring the regulations before Parliament. Each House must pass a resolution approving the regulations within seven days.⁶⁴ According to guidance developed by the Cabinet Office, the approval process typically takes several days, but can be completed in a minimum of six hours.⁶⁵ Her Majesty has the power to require Parliament to convene in the event that it stands prorogued or adjourned. Similarly, the Speaker of the House may call for the House to meet if it is adjourned and the Speaker of the House of Lords may recall the House of Lords.⁶⁶ Emergency regulations are valid for a period of no more than 30 days from the date on which they are made. New regulations may be made upon their lapse.⁶⁷

The UK Government's Concept of Operations discusses the use of emergency powers. If circumstances permit, the Prime Minister, in consultation with the Home Secretary and other senior ministers, will consult on whether there is a need for emergency powers and whether they are satisfied that the requirements have been met.⁶⁸ The procedures for the use of emergency powers, based on the CCA provisions, are set out in Annex A to the CONOPS.

The CCA also discusses the role of the devolved administrations in the drafting of emergency regulations. Section 29 states that the devolved administrations must be consulted where emergency regulations relate wholly or partly to the devolved

administrations. However, subsection (4) allows the Minister to circumvent the consultation requirement if he or she thinks it is necessary for reasons of urgency. Furthermore, the same subsection provides that a failure to consult will not affect the validity of the regulations.

If emergency regulations are introduced, the Government will appoint a Regional Nominated Co-ordinator to facilitate the co-ordination of activities in the nine English regions. In the devolved administrations, this is the task of the Emergency Co-ordinator.⁶⁹

It is possible that emergency regulations may be adopted so as to cover situations relating to the technical aspects of the IDRL Guidelines that are not governed by existing legislation.

The UK Government has declined to publish drafts of the types of emergency legislation that it might make under Part II of the CCA. The UK Government maintains that, as the emergency measures required in each situation will vary depending on the nature of the emergency and the situation, it is not possible to draft and publish regulations in advance. As discussed above, the CCA sets out the purposes for which emergency powers may be used and outlines the kind of provisions that may be adopted. Draft regulations have been developed and maintained as part of the resilience effort to assist in planning and to 'test' issues that may arise; however, these are only indicative of the nature and scope of regulations that may be adopted in a given situation.

Guidance may also be found in emergency regulations previously issued, such as those issued in November 1973 following industrial action, the last occasion on which emergency regulations were issued.⁷⁰ It is typically the practice of the Government to make a package of several regulations at the outset of an emergency.⁷¹ The 1973 regulations dealt with: (1) transport, for example, changes to restrictions on road vehicles; (2) public utilities, such as measures relating to the supply of water; (3) requisitioning of property and land; and (4) enforcement and special offences.⁷² Prior to those regulations, powers were introduced to prevent payments from abroad and to ban meetings and processions amidst fears of Communism.⁷³

The decision not to publish suggested regulations raises possible concerns that such regulations will not have been subject to debate in Parliament and to consultation with the agencies and partner organisations involved. However, as outlined above, draft regulations will be subject to debate in both Houses and could be amended in response to any concerns.

The use of emergency regulations may pose a problem in terms of the UK's obligations under EU law. As a member state of the EU, the UK cannot legislate in contravention of its obligations under the Treaty of Lisbon. Nor can it legislate in areas where the EU is solely competent to act. While the CCA explicitly acknowledges that any emergency regulations must comply with the Human Rights Act 1998 (see below), there is no reference to the European Communities Act 1972 or the UK's duties under EU law. However, Article 4(2) Lisbon TEU makes it clear that the member states are competent in respect of their national security:

The Union shall respect the equality of Member States before the Treaties as well as their national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government. It shall respect their essential State functions, including ensuring the territorial integrity of the State, maintaining law and order and safeguarding national security. In particular, national security remains the sole responsibility of each Member State.

Article 73 Lisbon TFEU leaves it to the member states to make arrangements between themselves for co-operation and co-ordination between administrations responsible for national security. Taking both Treaty provisions into account, if the UK can argue that the emergency regulations were passed as a mechanism to ensure national security, it is unlikely that it will negatively affect its obligations under the Lisbon Treaty.

As noted above, emergency regulations must be compatible with ECHR rights, as defined in the HRA. Furthermore, emergency regulations may not amend the HRA.

Article 15 of the ECHR permits a State Party to derogate from certain ECHR rights:

In time of war or other public emergency threatening the life of the nation any High Contracting Party may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law.

The European Court of Human Rights (ECtHR) typically accords national governments wide discretion in the determination of the existence of a public emergency under Article 15. The UK has derogated from the ECHR pursuant to article 15 in response to terrorist threats on three occasions.⁷⁴

Section 14(1)(b) of the HRA gives effect to Article 15, permitting the Secretary of State to derogate from the ECHR and its protocols. Thus, presumably, any emergency regulations that would otherwise be incompatible with the HRA will not be considered incompatible where there is a valid notice of derogation relating to the right affected by the emergency regulation and which extends to the action in question. However, experience with previous derogations under the ECHR has shown that the measures introduced requiring the derogation have been challenged, both before UK courts and before the ECtHR. Thus, while the UK has the discretion to determine whether it is experiencing a public emergency and to derogate from the ECHR, it should consider the possible impact of any measures included in an emergency regulation under the CCA that may require derogation from its obligations under the ECHR.

b. CCA Regulations and Guidance

Alongside the CCA, the Government published statutory regulations and guidance concerning implementation of the Act. Regulations are legally binding. Guidance notes are not legally binding and cannot be relied upon to establish rights or obligations. However, the relevant persons or entities are under a duty to have regard to guidance.⁷⁵ The Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005⁷⁶ (“the Regulations”) were introduced to support Part 1 of the Act. They relate to the extent of the duties imposed on responders and the manner in which those duties are to be performed. In particular, the Regulations outline the following:

- > how responders should cooperate;
- > how the duty to assess the risk of emergency occurring is to be carried out and with regard to what kinds of emergencies responders have a duty to assess;
- > how the duty to maintain plans is to be carried out;
- > the publication of plans;
- > the arrangements for communicating with and warning the public;
- > training and exercises by responders;
- > how responders with lead responsibility will be identified;
- > advice and assistance to business and voluntary organisations; and
- > how sensitive information which arises in relation to emergencies is to be treated.

In addition to these statutory Regulations, the UK Government issued statutory guidance on Emergency Preparedness,⁷⁷ which covers Part I of the CCA and its associated Regulations. It is an elaboration of the

duties discussed in both documents and has itself been followed by complementary non-statutory guidance.⁷⁸ These instruments do not discuss technical aspects of prevention, recovery or response.

c. Other Legal Bases for Emergency Powers

During the drafting of the CCA, it was stated that resort to Part II of the CCA should be had only when doing so is a necessity. Hence, the triple lock protections discussed above. In fact, the Joint Committee on the Draft Civil Contingencies Bill stated that:

Where possible, Governments have enacted legislation to deal with specific emergencies. As a consequence, a large body of sector specific emergency legislation exists. Where possible, the Government would turn to the powers available under such legislation first in the event of an emergency.⁷⁹

There are therefore other pieces of legislation providing for emergency powers that can and should be used before resorting to Part II of the CCA. Where emergency requirements could potentially be addressed through emergency provisions in existing legislation, the sponsoring government department will consider the implications of such action and consult with other relevant departments, including the Lead Government Department (LGD) (where not the sponsoring department).⁸⁰ In addition to other legislation, mechanisms such as the Royal Prerogative or common law emergency measures may be employed.

i. Emergency Powers Acts 1920 and 1964

Prior to the CCA, emergency powers were derived from the Emergency Powers Act 1920 (EPA) and the Emergency Powers Act 1964. The entry into force of the CCA repealed the Emergency Powers Act 1920 in its entirety. It also repealed section 1 of the 1964 Emergency Powers Act 1964, pertaining to the definition of ‘emergency’. What remains is section 2, which makes permanent Regulation 6 from the Defence (Armed Forces) Regulations 1939. This provision allows the direct employment of armed forces in “agricultural work or in other work, being urgent work of national importance”. This may be done without the need to declare a state of emergency.

ii. Local Government Act 1972

Section 138(1) of the Local Government Act 1972 provides local governments with the ability to take measures where there is “an emergency or disaster

involving destruction of or danger to life or property occurs or is imminent” in a part of or throughout the council area. It allows councils to “incur expenditure” as is necessary to take action in response to disaster. They may do so alone or in conjunction with other persons or bodies and either in their area or elsewhere in the United Kingdom. Local councils may also make grants or loans to other persons or bodies for any action they may take.

iii. Supply Powers Act 1975

The Supply Powers Act 1975 gives central government broad powers to acquire, produce, process or transport “articles required for the public service”.⁸¹ This includes articles: (1) required by any government department for the discharge of its functions; (2) required for defence of any part of the Commonwealth; (3) required by any international organisation to which the UK is a member or required by any member of such organisation; and (4) considered by the Secretary of State as essential to the needs of the community during war.⁸²

iv. Specific legislation in other sectors

A wide array of emergency provisions exists in sector-specific legislation. These provisions generally provide the relevant actors with exceptional permissions to take measures necessary in response to an emergency or disaster. Some examples include:

Hazardous Waste (England and Wales) Regulations 2005

Part 9 of the Hazardous Waste (England and Wales) Regulations 2005⁸³ makes provision for emergencies and grave danger. In this context, an “emergency or grave danger” is defined as a present or threatened situation arising from a substance or object which is, or which there are reasonable grounds to believe is, hazardous waste, and the situation constitutes a threat to the population or the environment in any place. Regulation 62 allows holders of hazardous waste to “take all lawful and reasonable steps to avert the emergency or grave danger”.

Water Resources Act 1991

The Water Resources Act 1991 creates a possibility for drought orders issued by the Environment Agency in order to allow new or increased extraction from sources in the event of an “exceptional shortage of rain”.⁸⁴ The Act allows for two types of drought orders: ‘ordinary’ and ‘exceptional’, the latter being appropriate where the water deficiency is deemed by the Secretary of State as “likely to impair the economic or social well-being of persons in the area”. However, the Act is more focused on preparation with water resource management plans in order to avoid having to issue the orders.

Energy Act 1976

The Energy Act 1976 is targeted at response to fuel crises. Sections 1 and 2 give the Secretary of State permanent and reserve powers for energy conservation and control. Section 3 makes the powers in Sections 1 and 2 exercisable to the fullest extent upon an Order in Council on the basis of (a) the implementation of international obligations, or (b) if “there exists or is imminent in the United Kingdom an actual or threatened emergency affecting fuel or electricity supplies which makes it necessary in Her Majesty’s opinion that the government should temporarily have at its disposal exceptional powers for controlling the sources and availability of energy”. The term ‘emergency’ is not further defined in the Act. Any Order in Council that is passed is only valid for 28 days, but can be renewed.

Electricity Act 1989

Section 96 of the Electricity Act 1989 confers on the Secretary of State broad powers to give directions necessary for mitigating the effects of any civil emergency. ‘Civil emergency’ is defined as “any natural disaster or other emergency which, in the opinion of the Secretary of State, is or may be likely to disrupt electricity supplies”.

Railways Act 1993

Section 118(1) of the Railways Act 1993 governs the control of railways in times of hostilities, severe international tension or great national emergency. It allows the Secretary of State to give directions to specified actors in order to respond to “great national emergency”. ‘Great national emergency’ is defined under subsection 11 as “any natural disaster or other emergency which, in the opinion of the Secretary of State, is or may be likely to give rise to such disruption of the means of transport that the population, or a substantial part of the population, of Great Britain is or may be likely to be deprived of essential goods or services”.

Food and Environment Protection Act 1985

The Food and Environment Protection Act 1985 gives the Secretary of State (or in Scotland, the Scottish Ministers) the power to make, by statutory instrument, emergency orders where circumstances exist or may exist that are likely to create a hazard to human health through the consumption of food.

Terrorism

Three main pieces of legislation form the framework of prevention and eradication of terrorism throughout the UK. The Terrorism Acts of 2000 and 2006 concern the legal measures available in the prevention of terrorism and address several substantive themes such as investigation, criminal offences and terrorism powers of detention, confiscation, forfeiture and

searches. The Anti-Terrorism, Crime and Security Act 2001 concerns similar issues, but also includes provisions on immigration and asylum and detention without trial. This legislation does not apply to response to situations of emergency resulting from terrorist acts.

v. Royal Prerogative

The Royal Prerogative is the means by which the executive powers of the UK Government that are vested in the monarch may be carried out. Although such powers were originally exercised by the monarch alone, they are now always exercised with the advice of the Prime Minister or Cabinet, who will be held accountable to the Westminster Parliament. These powers may exist in relation to the legislature, foreign affairs, armed forces and times of emergency. Traditionally, the UK Government has had a range of non-statutory powers exercisable in times of emergency or war. For example, the courts have confirmed that there is a power to enter, take and destroy private property.⁸⁵

As noted above, the CCA replaced the previous emergency powers framework. Its purpose is to establish a comprehensive framework for responding to emergencies. Section 22(3) of the CCA states that “emergency regulations may make provision of any kind that could be made by Act of Parliament or by the exercise of the Royal Prerogative”. It then lists the non-exhaustive circumstances under which measures may be taken. In particular, the list includes measures: (1) to confer functions on government officials; (2) to enable or provide for the requisition or confiscation of property; (3) to prohibit or require movement to or from a specified place; (4) creating an offence; (5) make provisions applicable generally or only in specific circumstances for a specific purpose; and (6) to confer jurisdiction on a court or tribunal. The CCA therefore provides a basis for enacting emergency legislation that is equivalent to that of an Act of Parliament or the Royal Prerogative.

In practice the CCA will apply to most situations in which the prerogative would previously have been exercised. However, the CCA does not preclude the use of other non-statutory powers outside of or alongside the CCA framework. Therefore, the royal prerogative may constitute a separate legal basis for executive action in response to an emergency. The question is whether the CCA has wholly occupied the field of the emergency prerogative, hence impliedly abolishing the prerogative power in this area. The inclusion of section 22(3) of the CCA is probably one indication that it has not. A recent review of the prerogative powers suggests that while the CCA has covered most of the field of disaster response, it has not abolished the prerogative power in time of

emergency, particularly where the CCA may not perform effectively.⁸⁶ Moreover, the review concluded that there are several practical reasons why the prerogative should be retained. First, it may be necessary for the armed forces to take immediate steps requiring the occupation of private property under the prerogative. Second, the time taken to make emergency regulations (see above) may render compliance with the CCA impractical in an emergency situation and actions may need to be taken on the basis of the prerogative. Third, the emergency may have disabled part of the command structure for response to a civil emergency, for example the relevant Minister may be unavailable, statutory requirements cannot be fulfilled and officials may have to take emergency action based on the prerogative. The review did note, however, that reliance on the prerogative instead of the CCA would only be necessary “in particularly extreme and urgent circumstances and on a strictly time-limited basis”.⁸⁷ The use of prerogative powers is also limited to an extent by the HRA (subject to any relevant derogation, see above) and common law principles regulating the exercise of such powers.

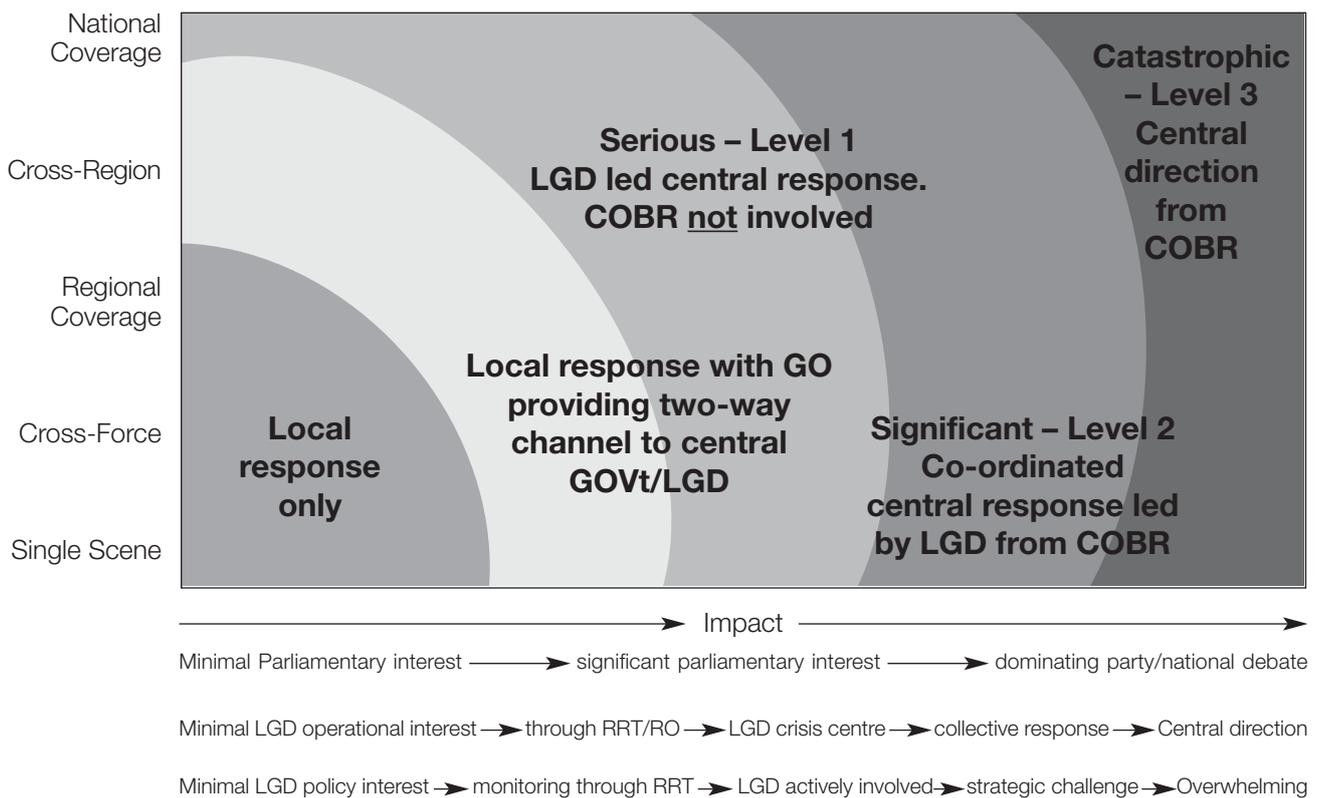
vi. Common law

There is also a well-established option to use common law to deal with emergency situations, although the powers that have been exercised in the past have been ambiguous and set out in terms of the citizens’ duty to support the government or the police. For example, there has been declared a “common law duty of every citizen to provide reasonable support to the police should they so request it”.⁸⁸ Similarly, police officers have a duty to act without request in times of public emergency.⁸⁹

V. Emergency and Response

a. Level of Emergency

The chart below provides a broad overview of the likely engagement of central government for emergencies occurring in England.⁹⁰



Three levels of emergency have been outlined by the Cabinet Office.⁹¹ These levels dictate which entity will respond to particular emergencies based on their severity and location.

Level 1: a significant emergency – a situation that has a narrower focus requiring central government support primarily from a lead government department or devolved administration in addition to the work of the emergency services, local authorities and other organisations as part of their normal day-to-day activities. An emergency of this scale in England or affecting reserved issues elsewhere in Great Britain, would not normally involve the full activation of COBR, although there may be a need for periodic cross-government co-ordination and meetings convened in COBR by the Cabinet Office. In England, the regional tier is likely to have some input, if only to report on the impact of the emergency across their area or, at the request of the Lead Government Department (or Cabinet Office if the central government lead is initially unclear), to monitor the situation and provide an interface with the local Strategic Co-ordination Group. Input may also be required from the devolved administrations where this is necessary.

Level 2: a serious emergency – this is one which has, or threatens, a wide and prolonged impact requiring sustained central government co-ordination and support from many departments and agencies, including the regional tier in England and, where appropriate, the devolved administrations. In England and for reserved issues elsewhere in Great Britain, the central government response would be led from COBR (the Northern Ireland Briefing Rooms – NIOBR – in Northern Ireland) under the direction of the Home Secretary or a nominated lead Minister.

Level 3: a catastrophic emergency – In this case, the response would be led from COBR, often with the Prime Minister in the chair. The Cabinet Office would chair preparatory meetings of officials although other departments might assume the chairmanship of groups addressing specific aspects of the response.

Due to the executive structure and legal framework of the United Kingdom, several actors outside of central government may be involved in a disaster response situation, depending on the severity of the incident, its location and its type.

b. Responding Actors

i. Central Government

Civil Contingencies Secretariat

The Civil Contingencies Secretariat is within the Cabinet Office. Established in 2001, its role is to guide and co-ordinate the activity taking place across government departments and wider stakeholders to ensure that the UK is resilient to any event which could pose a disruptive challenge to the welfare and day to day activities of the UK. This could include the impacts of natural hazards such as flooding and foot and mouth disease, major accidents as well as the consequences of terrorist activity. Its specific objectives are the following: (1) spotting trouble, assessing its nature and providing warnings; (2) being ready to respond; (3) building greater resilience for the future; (4) providing leadership and guidance to the resilience committee; and (5) improving the effective management of its own operations as well as Cabinet Office processes. The CCS is also charged with providing the secretariat to any Cabinet committee which may be involved in disaster management. It assists by following up on actions and decisions made by committees, commissioning papers and briefing for committees, briefing and drafting advice for committee chairs, monitoring policy and offering strategic advice, chairing meetings of official-level interdepartmental groups to help steer policy agendas; and recording conclusions from committees.

The CCS plays a large role in the co-ordination of disaster response among responsible government departments. The CCS and its Director are supported by five teams that work to ensure coherence of disaster relief preparedness and response across the UK. Co-operation also exists at the regional and local levels through regional and local resilience forums. The CCS also works with a number of key partner organisations to ensure a coherent disaster relief framework across the UK. Aside from the government departments, the CCS works with government agencies such as the Maritime and Coastguard Agency and the Environment Agency, public sector practitioner representatives such as the Local Government Association, the Emergency Planning Society, and the Ambulance Service Association, private sector practitioner representatives such as the Chartered Institute of Loss Adjusters, and the voluntary and community sector, for example the British Red Cross and the Salvation Army.

In its most recent Concept of Operations, the UK Government recognised that central government will “work with international partners to share information and request assistance if necessary”.⁹² It also confirmed that it is the Cabinet Office, in particular the CCS, that is responsible for requesting

international civil protection assistance through the EU mechanisms and NATO mutual aid arrangements (see above).⁹³

Cabinet Office Briefing Room

In the event of any catastrophic or serious emergency in England or on reserved issues in the devolved administrations, the Prime Minister, the Home Secretary or other senior Ministers nominated by the Prime Minister, will direct the central government response from Cabinet Office Briefing Room (COBR). COBR is the term used to describe the formation of the crisis response committee, the Ministerial Committee on Civil Contingences. The Committee is composed of representatives of government departments and key stakeholders that are invited to participate depending on the nature of the emergency at issue. Its stated terms of reference are “[t]o consider, in an emergency, plans for assuring the supplies and services essential to the life of the community and to supervise their prompt and effective implementation where required”.⁹⁴ Its constitution depends on the matter at hand, but it is usually chaired by the Prime Minister or another senior level Minister and will be made up of representatives from relevant departments and external organisations.

COBR may also draw on specialist advice so as to perform its role effectively. In addition to arrangements to access scientific and technical advice, COBR may also require specialist legal advice on legal issues arising in the emergency context. In addition to the role of department and agency legal advisers, the Cabinet Office legal team (located within the Treasury Solicitor’s Department) will advise the CCS as necessary on legal matters. The Cabinet Office legal team may also convene and chair meetings of department legal advisers on complex legal issues and brief COBR accordingly.⁹⁵

Lead Government Department

With regard to domestic relief, in all emergencies the UK central government response will be handled by one department or devolved administration taking overall responsibility. The CCS maintains a list of each department allocated responsibility for specific types of emergency. This list is indicative of where it is expected responsibility should lie; however, this may, in some situations, need to be reaffirmed at the time, having regard to the nature of the event and the resulting consequences.⁹⁶ A current version of this list is available in Annex III.⁹⁷ Where it is not clear which department should take responsibility, the Cabinet Office will make a judgement and appoint the most appropriate LGD in consultation with the Prime Minister’s Office. In exceptional cases, where the effects of the emergency are wide-ranging and there is no clearly appropriate lead department, the Prime Minister may appoint a minister to lead in a non-

departmental capacity or a department to lead in a matter that would not normally fall within its remit. It is also possible that the responsible department may differ in the response and recovery phases.

ii. Devolved Administrations

Scotland, Wales and Northern Ireland have their own civil protection arrangements which differ according to devolved responsibilities and local arrangements. Devolved administrations are responsible for:⁹⁸

1. Incidents taking place entirely within a devolved administration and within the responsibility of the administration;
2. Incidents affecting more than one devolved administration; and
3. Incidents relating to non-devolved matters where the lead UK Government or organisation would have responsibility for dealing with the cause of the emergency, regardless of its location. For example, the Maritime Coastguard Agency is the lead on marine safety across the UK and is represented in all four home countries.

Arrangements for co-operation apply within the devolved administrations. In Scotland, the Scottish Emergencies Co-ordinating Committee acts as the CCS equivalent and works with local strategic co-ordinating groups to determine national strategy for civil protection. The National Assembly for Wales acts as the overall co-ordinator and works with the Wales Resilience Forum which includes local responders and government bodies. Finally, in Northern Ireland, the Central Emergency Management Group operates similarly to the English regional resilience forums (RRFs).

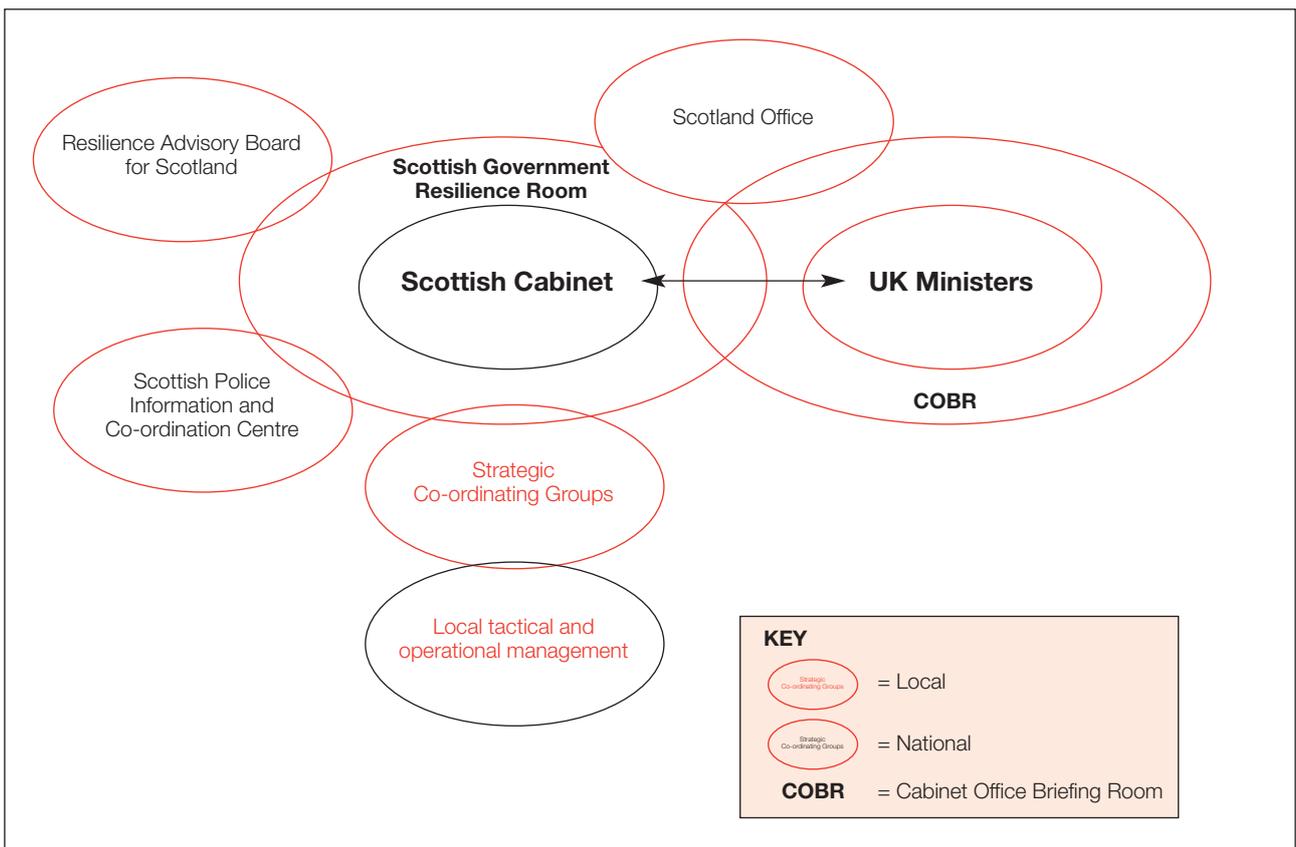
Scotland⁹⁹

The CCA has largely devolved responsibility for civil protection to the Scottish Executive and replicates many of its provisions with specific application to Scotland. The powers of the Scottish Executive therefore largely mirror those of the UK Ministers for England under the CCA. However, Scotland has developed its own guidance for emergency preparedness.¹⁰⁰ The nature of the Scottish Executive’s response is dependent upon the type of emergency and the extent to which Scotland is affected. The Scottish Executive is made up of several directorates which become involved according to the type of emergency and operate under a Director General. When there is an emergency, the Scottish Emergency Action Team of senior officials from the directorates, along with the Director General, will take decisions regarding emergency response. However, the Executive as a whole should be considered as the Lead Government Department.

Within the Scottish Cabinet is the Scottish Executive Emergency Room (SEER). The SEER is a co-ordinating facility that can be likened to the Civil Contingencies Committee in England. Scottish Resilience is directly responsible for the SEER and is responsible for daily planning, promotion and co-ordination of protection efforts across the Executive similar to the CCS in England. Like England, Scotland is divided into regions according to police areas called Strategic Co-ordination Groups with their own representatives from Category 1 Responders as listed in Schedule 1 of the CCA.

Scottish Ministers may consider whether existing legislation is adequate and may request the use of emergency regulations through the UK government. If emergency regulations have been made under the CCA that apply to Scotland, the UK government will appoint a Scottish Emergency Co-ordinator with tasks enumerated in a letter of appointment.

Emergency response structures in Scotland¹⁰¹



Wales¹⁰²

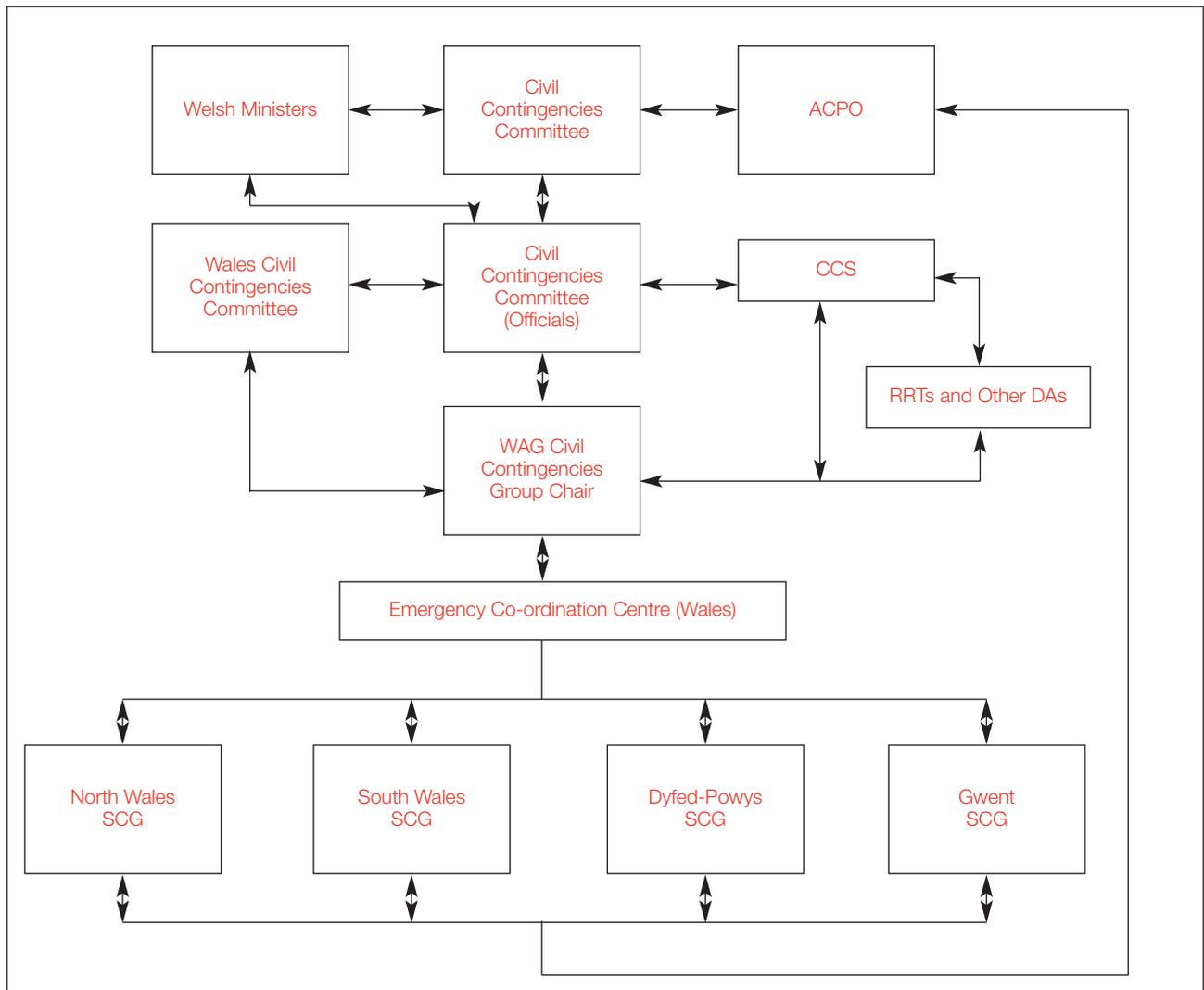
Part 1 of the CCA applies the same way in Wales as it does in Scotland, although in Wales, emergency planning is not devolved. However, the Welsh Assembly Government (WAG) plays an important role in emergencies in, or affecting, Wales. In particular, the WAG does have responsibility for its Fire and Rescue Service and Ambulance Service, as well as other services directly linked to emergency planning. It also has devolved responsibility for important areas such as the environment and animal health. The balance of authority and the interaction between the WAG and the UK Government in relation to emergencies in Wales will depend on the nature of the incident.

Within the WAG, the Emergencies and Securities Branch operates similarly to Regional Resilience Teams in England and co-ordinates planning for Wales. The Welsh Resilience Programme and corresponding Resilience Forum co-ordinate planning among the local forums, devolved administration and UK levels and promotes communication and information sharing between Category 1 and 2 Responders. Local multi-agency Strategic

Co-ordinating Groups will mostly be in charge in the event of an emergency and will develop a Pan-Wales Response Plan which includes the setting up of a Wales Civil Contingencies Committee to act as an advisory body, following a request from the WAG, the Strategic Co-ordinating Group or the Welsh Resilience Forum. The Committee will only meet to discuss non-transferred matters, particularly in respect of terrorist related incidents, with the agreement of the UK Lead Government Department. The Committee discusses issues such as whether the emergency can be handled locally or whether it should be raised to a UK level and will guide the deployment of scarce resources across Wales. The Pan-Wales Response Plan establishes the WAG as the first point of call for requests for advice or assistance from central government and from local responders.

As in Scotland, if emergency regulations are enacted under the CCA affecting Wales, the UK Government will appoint a Welsh Emergency Co-ordinator. The terms of appointment and functions of the Emergency Co-ordinator will be set out in the letter of appointment, and will also be found in the emergency regulations.

Emergency response arrangements in Wales¹⁰³



Northern Ireland¹⁰⁴

As in Scotland, civil protection in Northern Ireland is largely devolved. Duties under Part 1 of the CCA apply only to those organisations whose functions are not transferred to Northern Ireland.¹⁰⁵ Those parts of the CCA that do apply, apply in a slightly varied form.¹⁰⁶ Northern Ireland consequently has its own framework for civil contingencies that draws upon pre-existing frameworks in Northern Ireland, the CCA and other UK policies. The balance of activity and interaction between the Northern Ireland Executive and the UK Government will vary depending on the nature and extent of the incident.

The geographic organisation in Northern Ireland is different from the UK model largely because of Northern Ireland’s small size. Contingency arrangements at the Northern Ireland level are more similar to regional arrangements in England and handle inter-agency co-ordination and communication with the UK through the Northern Ireland Office and the CCS.

There are also sub-regional arrangements in Northern Ireland which include the Health and Social Services Boards, Education and Library Boards and District Council Environmental Health Groups, and local arrangements at the level of District Councils and PSNI District Command Units.

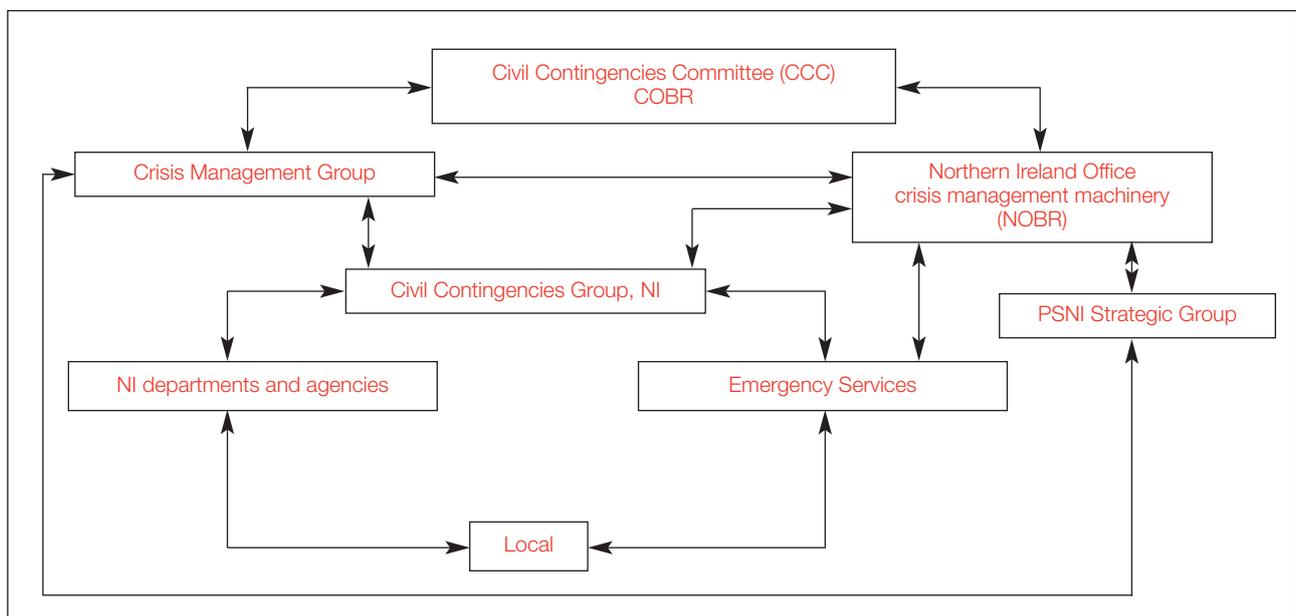
The Northern Ireland Executive is responsible for co-ordination and management of the response to non-terrorist civil emergencies in Northern Ireland, acting through individual ministers or departments (significant emergencies) and the Northern Ireland Central Crisis Management Arrangements (NICCMA) (for serious and catastrophic emergencies). Coordination for responses to terrorist incidents is the

responsibility of the Northern Ireland Office, which would activate its Northern Ireland Office Briefing Room (NIOBR).

Northern Ireland’s Central Emergency Planning Unit (CEPU) of the Office of the First Minister and Deputy Minister share the same functions as the SEER in Scotland. The Northern Ireland Assembly oversees civil contingency arrangements for transferred functions. The CEPU provides information and facilitates planning between various organisations, usually government departments and agencies, but also the emergency services and other public service bodies. The Central Emergency Management Group (CEMG) is comparable to the English Regional Resilience Forums. It is responsible for developing policy and supporting the strategic co-ordination of emergency response. The CEMG is convened only where it is agreed that the emergency is serious enough to affect Northern Ireland infrastructure. The Crisis Management Group directs emergency response in Northern Ireland. Its members are at the Permanent Secretary/Chief Executive level and it is chaired by the Head of the Northern Ireland Civil Service or a lead department. Its role is similar to the roles of the CEMG and CEPU but it has a greater level of responsibility which requires it to report to Ministers, take strategic decisions and monitor implementation and discuss high-level policy issues.

Where an emergency response cannot adequately be handled at a local or sub-regional level, the strategic response will be provided by the emergency services on land or the Maritime and Coastguard Agency where the coast is affected. Locally, the response is usually handled by the emergency services such as the police, who are typically responsible for local inter-agency co-ordination.

Lines of communication in Northern Ireland¹⁰⁷



iii. Local and Regional Resilience

Local Resilience Forums (LRFs) are based on local police areas (except for London) and consist of those responders that have a duty to co-operate under Schedule I of the CCA. The LRFs determine their own strategies for disaster response and prepare for disaster situations by developing local risk registers which anticipate the most likely disaster scenarios to strike in their areas. There are also Regional Resilience Forums tasked with promoting co-operation and co-ordination on a larger scale between the LRFs and the central government bodies through Regional Resilience Teams. They are demarcated according to the nine English regions and led by a senior official. The teams try to ensure that local responders have the support they need and are themselves typically present at the LRFs in their area.

iv. Local Authorities

Local authorities are considered Category 1 responders and are often one of the first responders at the site of an emergency. The local county and district authorities in the UK play a critical role in emergency response by bringing together bodies that would not normally be involved in emergency response and co-ordinating their activities to provide a number of services. They, along with other bodies, perform functions such as: (1) providing shelter for and protecting the welfare of uninjured survivors; (2) facilitating the inspection of disaster sites prior to the entry of aid personnel; (3) co-ordinating the action of the voluntary sector; and (4) providing emergency mortuary capacity in the event that existing structures are overwhelmed. They also provide facilities for other responders and aid personnel and look after their well-being, depending on available facilities.¹⁰⁸

v. London

The executive structure of London and its unique vulnerability to disaster have led to the development of special arrangements in terms of disaster planning and response. These arrangements are set out in the Schedule to the CCA (Contingency Planning) Regulations 2005. London's 33 local councils have been organised into six local resilience forums. It was considered impractical to abide by the normal practice of assigning forums according to police areas since the Metropolitan Police Service covers the whole of the city. In addition to the forums, three regional structures have been added to ensure greater co-ordination and oversight. The London Resilience Team based within the Government Office for London comprises civil servants based in the Office and representatives from the emergency services, NHS, local authorities, transport, London Fire and Emergency Planning Authority and the Salvation Army. The London Fire and Emergency Planning

Authority is responsible for drafting London's Community Risk Register (more below). There is also the London Regional Resilience Forum, which acts as an oversight to the London Resilience Team and comprises several sub-committees responsible for agency co-operation. It is tasked with taking the lead in regional capabilities under Part I of the CCA, while the local boroughs remain in charge of local capabilities with the help of the London Fire and Emergency Planning Authority. The London Regional Resilience Forum differs from other Regional Forums because it is chaired by a Government Minister and its deputy chair is the Mayor of London. It reports directly to the Government. There is also London Resilience which is a consultant body comprising key public and private organisations in London.

In addition to the three main bodies is the London Emergency Services Liaison Panel, which was established in 1973. Its forum, which began in 1996, is chaired by the police and consists of representatives from the emergency services, local and port authorities, and the military. Its mandate is to promote planning co-operation.

vi. Role of the Military

The military may also become involved in civil operations. If that is the case, military action is co-ordinated by the Military Aid to the Civil Authority (MACA) arrangements. Military involvement is not discussed in the CCA; rather, the Cabinet Office's guidance 'Emergency Response and Recovery' and the Ministry of Defence joint doctrine publication entitled, 'Operations in the UK: The Defence Contribution to Resilience'¹⁰⁹ specify the rules and procedures regarding military contribution. Military participation is not guaranteed. Assistance is provided according to availability; there are no standing reserves allocated to MACA. The Cabinet Office Guidance emphasises that "it is therefore essential that responding agencies do not base plans upon assumptions of military assistance: the Armed Forces should be called upon only as a last resort."¹¹⁰

Defence involvement will be the result of specific governmental requests. Where this is the case, a Defence Minister must provide approval. In extreme cases, a formal request is not necessary.¹¹¹ Where the military participates in civil protection, it is offered as assistance and on the understanding that the relevant civil agency remains in control of the given emergency situation.¹¹²

MACA is subdivided into three types of assistance which differ legally and functionally: Military Aid to Other Government Departments (MAGD), Military Aid to the Civil Power (MACP) and Military Aid to the Civil Community (MACC).¹¹³ MAGD requires the

use of Emergency Powers under the Emergency Powers Act 1964 or the CCA and must be explicitly authorised by the Defence Ministers and the Defence Council and be in response to a specific request. MAGD assists in maintaining the provision of essential services to the community through the use of the Armed Forces. MACP largely supports the police power and is based on common law authority, but also indirectly in the Emergency Powers Act 1964 and the CCA. It provides assistance (armed if necessary) in situations exceeding the capacity of the civil power in order to maintain law, order and public safety. MACC provides unarmed assistance in three categories: (A) emergency assistance in times of emergency; (B) routine assistance for special projects or events; and (C) attachment of volunteers. Category A is most relevant to this study. Assistance under Category A includes Search and Rescue facilities for military operations. The Ministry of Defence guidance specifies that Category A response is only appropriate in “those rare situations when the need to act immediately is readily apparent and the threat to human life is manifest”.¹¹⁴ It envisions that use of a Category A response will only be necessary for a period of hours where there is no time for the initial responder or civil agency has no time to consider other options. After such time, the response will most likely transform into the need to utilize MAGD or MACP.

Military Operations in Support of the Standing Strategic and Overseas Tasks is utilized abroad and include several operations. Military Support to the Mounting of Operations (MSMO) is used in the planning, deployment, support and recovery of UK military operations abroad in relation to: (1) reception arrangements for military patients, (2) Defence Critical Assets, (3) UK and US/UK lines of communication and (4) joint contingency plans.¹¹⁵ Additional MSMO operations include the Nuclear Accident Response Organisation, which is aimed at ensuring an effective response to a defence nuclear incident and protecting public health and safety, and Military Resilience, which is used to aid in the recovery from events that significantly impair the functioning of Ministry of Defence units.

Requests from police forces for military assistance would normally be endorsed by the Home Office before being submitted for consideration by Ministers in the Ministry of Defence.¹¹⁶ Other requests for military assistance should normally be made by the relevant UK territorial department.¹¹⁷

vii. Crown Dependencies

The Crown Dependencies are largely responsible for their own civil crisis response with the exception of counter-terrorism policy. The civil protection arrangements described in this report, including the

Civil Contingencies Act 2004, do not apply to the Crown Dependencies. However, the Crown Dependencies can request MACA assistance.

Each of the Crown Dependencies has its own emergency powers legislation and civil contingencies arrangements, which will not be considered further in this report. However, as the UK Government remains ultimately responsible for the good governance of the Crown Dependencies, there is the possibility that the royal prerogative power could be used to intervene in the internal security of the Crown Dependencies. However, this could only be relied upon where there are extreme circumstances, such as a serious breakdown or failure in administration. The Cabinet Office has noted, that, in the unlikely situation that COBR was activated in response to an incident in the Crown Dependencies, the Cabinet Office would decide, in consultation with the Ministry of Justice, the Prime Minister’s Office and other relevant departments who should chair.¹¹⁸

viii. Overseas Territories

The United Kingdom has a constitutional responsibility to ensure internal security for the Overseas Territories, which it interprets as extending to ensure that the territories have the ability to respond directly to a disaster. This is usually achieved in practice by the local disaster management capability, working closely with the Governor of the Overseas Territory. When disasters have occurred in the Territories, the Governor has normally led the immediate emergency response, and has co-ordinated any assistance from the UK and other States (such as emergency equipment sent to the Cayman Islands after Hurricane Ivan). The FCO, and other government departments, have supported this role as appropriate.¹¹⁹ Most of the Overseas Territories have disaster management plans for at least the most likely scenarios, although not all have enacted specific and comprehensive legislation, such as that found in the CCA 2004.¹²⁰

The FCO has noted that, due to their size and local capacity, virtually all of the Overseas Territories would require assistance from the United Kingdom in the event of a disaster. The level of the assistance in each instance would depend on the severity of the disaster and the capabilities of the Territory affected. There is still debate as to what extent the Territories should be expected to contribute to the cost of such assistance. The FCO has specified the high level actions that the UK would consider in the event of a disaster, including ‘deploying UK support staff to the affected Territory, coordinating response from international agencies and putting a Consular Rapid Deployment Team on standby’. The Ministry of Defence also has a role in responding to a disaster. For example, it currently

supplies a ship which operates in the North Atlantic and the Caribbean throughout the hurricane season.

The FCO and DFID have carried out a series of threat assessments and capability reviews aimed at improving disaster response. A recent report noted that while the Overseas Territories had strengthened disaster management capabilities during the previous decade, much remained to be done.¹²¹ In particular, the report raised the following concerns: (1) the disaster plans and testing have had variable coverage, and have tended to concentrate on the Caribbean; (2) limited UK resources and capacity deficits in several Territories may impact upon preparedness and response; (3) arrangements to encourage better risk management would assist, including more expansive training of and support to staff within the Overseas Territories Department (especially governors); (4) scope for increased involvement in the Overseas Territories from other Government Departments; (5) weak governance and public accountability in the Overseas Territories may challenge the ability of the UK to oversee and manage the risk.

ix. National Red Cross Society and other voluntary organisations

The Royal Charter of the British Red Cross Society¹²² acknowledges and explains the role of the British Red Cross in Articles 3, 4.2 and 5.1. Article 3 recognises the British Red Cross as “...a voluntary aid society, auxiliary to the public authorities and particularly to the medical services of the armed forces....” Under Article 4.2, one of the objects of the Society is “to work for the improvement of health, for the prevention of disease and for the prevention and alleviation of human suffering in the British Islands and throughout the world.” Article 5.1 lists one of the powers of the Society as being “to act as an autonomous auxiliary in the humanitarian field, with a special role in enhancing respect for humanitarian values and human dignity”.

The Royal Charter of The British Red Cross Society clearly recognises the legal personality of the National Society. Its ‘Powers’ section gives the British Red Cross the power to perform several lawful acts in furtherance of its objectives, such as acquire interests in real or personal property, carry on trade, enter into and utilize financial instruments, jointly co-operate with other associations or bodies carrying on similar work and draw, accept, endorse, issue or execute promissory notes and other negotiable instruments.

The British Red Cross is not expressly mentioned in the CCA or its implementing regulations. However, Section 23 of the Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005 places an obligation on Category 1 responders to ‘have regard

to the activities of voluntary organisations which carry on activities –

- (a) in the area in which the functions of that general Category 1 responder are exercisable; and
- (b) which are relevant in an emergency.’

A voluntary organisation is ‘relevant’ “if it carries on any activities for the purpose of preventing emergencies, reducing, controlling or mitigating the effects of emergencies, or taking other action in connection with emergencies”.¹²³

In addition, Section 40 of the Regulations details the extent to which responders should provide advice and assistance to voluntary organisations. Subsection (2) provides that the responder “need only provide advice and assistance to those voluntary organisations which it considers appropriate”. The ‘Emergency Planning’ Guidance intend for Category 1 responders to actively consider the voluntary sector not only as part of the response to an emergency, but also in the planning phase.

The British Red Cross describes its role in “helping category one responders to deal with emergencies, as recognised by the government in the Civil Contingencies Act 2004”¹²⁴ by providing a broad range of services to the emergency authorities and other Category 1 Responders. This language makes it clear that the Society itself is not a Category 1 Responder. During the drafting stage of the CCA at a meeting of the Joint Parliamentary Committee on the Bill, it was stated that the British Red Cross wished to be considered as a Category 1 Responder. The Representative from the Society highlighted its unique position in the UK as an auxiliary to the statutory authorities in the humanitarian field and said that the Society felt that it would be “failing in [its] duty” if it did not support its partners and provide relief as a Category 1 Responder. However, the final version of the CCA did not include the British Red Cross in that category.

The British Red Cross is included in high-level planning through its membership in the Voluntary Sector Civil Protection Forum. The Forum also encompasses representatives from central government, statutory authorities and professional associations. The strategic aim of the Forum is to identify and maximise the voluntary sector contribution to UK civil protection arrangements. It is supported by a small Working Party.¹²⁵ At the regional level, a representative of the voluntary sector forms part of the core membership of the Regional Resilience Forum. Furthermore, one of the tasks of the Voluntary Sector Civil Protection Forum is to discuss representation in other regional forums. Chapter 14 of the statutory guidance that supports the Civil Contingencies Act

2004, titled ‘Emergency Preparedness’, suggests four models which would provide for national society participation at the local level:

- (a) engagement through the Local Resilience Forum – each LRF should consider having a voluntary sector representative;
- (b) establishing a voluntary sector subgroup of the LRF;
- (c) bilateral links on the basis of functions – grouping voluntary organisations on the basis of their functions and then linking them with the Category 1 responder responsible for those functions; and
- (d) bilateral links on the basis of capabilities.

The role of voluntary organisations in the provision of international relief is not discussed in the CCA and its associated documents. In fact, Chapter 14 in the ‘Emergency Preparedness’ Guidance does not consider international relief in any detail. The voluntary organisations cited therein are for the most part national in nature, for example, the Royal National Lifeboat Institution. However, Annex 14A specifies examples of voluntary sector activities in support of statutory services and refers specifically to support for the International Committee of the Red Cross (ICRC) in activities concerning documentation, for example, tracing people nationally and internationally.

x. Private Sector

Several organisations from the private sector may have responsibilities in emergency response.¹²⁶ Schedule 1, Parts 3 and 4 of the CCA, broadly names the sectors to which the Act applies: (1) utilities (2) transport; and (3) health and safety. These can be broken down further into bodies such as fixed and mobile telecommunications providers (e.g., BT Group), the Highways Agency, the Health and Safety Executive, gas and electricity providers and water and sewage companies. These bodies are chiefly charged with assisting emergency services and local authorities in the restoration of essential services. Each sector has its own framework for dealing with response to emergencies. For example, the framework for emergency response in the water and sewage sector is governed by the Security and Emergency Measures Direction, which was made under section 208 of the Water Industry Act 1991. It is also often the case that specific bodies will have their own response planning set in place. The British Broadcasting Corporation (BBC) operates under a framework called “Connecting in a Crisis”, which will be discussed in more detail below. Similarly, BT has its own Civil Resilience Team that operates to ensure lines of communication are open during a disaster.¹²⁷

Other private sector bodies may also be involved, depending on the type of emergency and whether they played a part in causing the disaster. For example, industrial site service managers will be involved if there is an industrial accident.¹²⁸

VI. Public Information, Information Exchange, Co-ordination of Relief and Early Warning

a. Public Information and Information Exchange

Accurate, timely and consistent information to the public and key stakeholders is vital. In more contained situations, the press department of the LGD is responsible for keeping the public informed. In wider-ranging emergencies, or those with significant public interest or impact, a News Co-ordination Cell will be established. This will always occur whenever COBR is activated, but may also be used to support an LGD in a level 1 emergency.¹²⁹

The CCA permits a Minister of the Crown to make regulations requiring the disclosure of information by Category 1 and 2 responders in connection with a function of the provider or recipient relating to emergencies.

Regulation 18 of the Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005¹³⁰ outlines when organisations responding to civil emergencies should provide information to other bodies. A Category 1 responder must consider several factors in making the decision whether to provide information about the risk of a particular emergency:

- (1) whether the emergency would seriously obstruct the ability of other Category 1 responders to perform their functions;
- (2) whether other Category 1 responders would consider it necessary or desirable to take action to prevent the emergency, reduce or mitigate its effects, or otherwise take action; and
- (3) whether other Category 1 responders would be unable to take action without additional resources or without changing the deployment of resources it already has.

Regulation 20 requires Category 1 responders to consider their arrangements for warning and informing the public in the maintenance of their general plans for emergencies.

Moreover, under Regulation 47, both Category 1 and Category 2 responders have the right to request information if it is reasonably required in connection with the performance of a duty or another function which relates to an emergency, and if it is not otherwise reasonably available. Regulation 49 provides that the receiving responder is obliged to provide the information requested unless certain exemptions relating to national security and confidentiality apply.

Information sharing is considered “fundamental” to the ability of Category 1 and 2 responders to fulfill their duties under the CCA and to make sound judgments concerning risk assessment and response. Category 1 and 2 responders are encouraged not only to exchange information between categories, but also within the same category (i.e., Category 2 responder should share information with Category 1 responders and with other Category 2 responders).¹³¹ The CCS comments that generally, most information will be free-flowing between responders, but there will be some instances where a formal request is necessary, for example, where the information is not publicly available or where it might have implications for national security.¹³²

b. Data Protection

During an emergency, responders may need to collect and share information of a personal nature. In the UK, the legal framework mainly consists of the Data Protection Act 1998 (DPA), the CCA, the Human Rights Act 1998 (incorporating Article 8 of the ECHR) and the common law duty of confidence.

i. Data Protection Act

The Data Protection Act 1998 implements the EU Data Protection Directive. The EU Directive applies to data processed by automated means and data that is intended to be part of a non-automated filing system, i.e., paper files. It is aimed at protecting the rights of

persons with respect to the processing of personal data by establishing guidelines relating to quality of the data and legitimacy of the data processing. It does not apply to data processing in the course of an activity falling outside the scope of EU law, such as public security, defence or State security.

The DPA applies in England, Wales, Scotland and Northern Ireland. It provides a legislative framework for the lawful processing of personal data in certain circumstances, and requires a balancing of the rights of the individual in protecting personal information and the sometime competing public interest in using personal data. Processing applies to anything done to personal data, and includes collection, use, disclosure, destruction and holding / storing of personal data. Personal data is defined as data relating to living individuals, so does not apply to data concerning deceased persons, including fatalities in an emergency.

In general, the DPA applies to a data controller that is established in the UK or in the European Economic Area (EEA). However, where the data controller is established outside of the UK or the EEA and uses equipment in the UK to process data, the controller must appoint a representative in the UK for the purposes of the DPA.

The DPA does not provide for an exemption in times of emergency. Emergency responders must therefore comply with the eight data protection principles set out in the DPA. In particular, information must be:

- > Processed fairly and lawfully, and satisfy a legitimising condition (see below);
- > Processed for specific and not incompatible purposes;
- > Adequate, relevant and not excessive;
- > Not kept longer than necessary;
- > Processed in accordance with individuals' rights;
- > Kept secure; and
- > Not transferred to countries outside the EEA without adequate protection.

In order to comply with these principles, data controllers must: (1) ensure that there is a legal basis for processing the data; (2) ensure that the processing of data is fair; (3) meet one of six conditions in order to process personal data (as set out in Schedule 2 to the DPA); (4) meet one of the further conditions specified in Schedule 3 to the DPA where the data is of a sensitive nature; and (5) ensure that the data is processed in accordance with the data protection principles.

The DPA applies to all organisations which hold or use personal data, including both the public and private sectors. However, private sector organisations

generally cannot, in the absence of a court order, be compelled to disclose information, including in an emergency. However, there are provisions that enable a private organisation to share information in particular situations. Obtaining data from private actors may be a slow process, particularly in sectors where there is a high degree of confidentiality. There has also been some caution and reluctance on the part of the private sector to share information unless legally required to do so.

ii. Civil Contingencies Act

Secondary legislation made under the CCA also provides a legal basis for information sharing. As discussed above, regulations made under the CCA require Category 1 and 2 responders to share information relating to emergency preparedness / civil protection with other Category 1 and 2 responders, on request. This is not an exemption from the requirements of the DPA; however, it may provide one of the criteria to legitimise the sharing of information under the DPA. Responders must confirm that the DPA conditions have been satisfied and that there is no breach of the duty of confidence (see below).

iii. Human Rights Act

The HRA gives effect in UK law to Article 8 of the ECHR. This article protects the right to respect for private and family life, home and correspondence. However, the HRA does not preclude the sharing of personal information. It allows public authorities to interfere with the Convention right in limited circumstances, in particular where the interference is in pursuit of a legitimate aim (which includes national security, public safety, the protection of health and the prevention of disorder), there is a legal basis to share the information, the interference with the right is proportionate to the aim, and consideration has been given to utilising the least intrusive method.

iv. Common law

The common law duty of confidence imposes a duty on public authorities and individuals to respect confidential information relating to individuals. The information must have some aspect of confidentiality and to have been given with an expectation of confidentiality – not all information is subject to this obligation. The obligation can be overridden where there is an overriding public interest, which would not be difficult to establish in an emergency.

v. Guidance

Recent incidents in the UK, in particular the response to the 2005 terrorist bombings in London, revealed concerns regarding the application and interpretation

of the DPA and other applicable legislation in an emergency context. In particular the perceived need for the individual concerned to have consented to any disclosure had prevented or caused delay in the sharing of personal data. In response, the Government produced guidance on sharing data for emergency planners and responders. The guidance adopts key principles to aid responders when deciding whether or not to collect or share information. It notes that the data protection framework does not prohibit the collection and use of personal data, but instead requires that emergency responders should consider the risks and potential harm of not sharing the information against the potential damage to the individual. In an emergency situation, the public interest in sharing the data will generally be more significant than in normal circumstances. Wherever possible, responders should attempt to comply with the framework, for example by releasing information that is less personal. The guidance also concludes that where an individual shares personal data in an emergency, acting in good faith, it is unlikely that the individual would be personally liable. It is possible, however, that the organisation to which the individual belongs may face legal action for unlawful sharing of personal information.

c. Co-ordination of Relief

During an emergency, response is typically managed from the local level. In the UK, there is a general framework in place for the localised response to emergencies that is applicable to every emergency, and which has the flexibility to adapt to varying situations.¹³³ The framework operates against a three-tiered management system of command, control and co-ordination. Co-ordination takes place through multi-agency efforts to achieve specific objectives created and defined by multi-agency groups called Strategic Co-ordinating Groups (SCG). SCG's co-ordinate the actions of responders and define strategy and objectives for response as a whole. All involved responders are expected to work together under the guidance of the SCG to accomplish the objectives.¹³⁴

The level and type of the emergency will dictate whether other actors, such as the regional tier, a devolved administration or the central government, must become involved. The Cabinet Office's Concept of Operations document sets out details of those arrangements. Where non-local bodies become engaged, their role is to identify what action would best address issues at the regional, devolved or national level. They are not to take the focus from the local level.

It may be the case that, due to the nature of the emergency, the response will be initiated by the regional or central government, or by all three levels

simultaneously. Decisions relating to activation of response abide by the principle of subsidiarity and guidance states that the policy should be to activate the SCG as a precautionary measure.¹³⁵

There is no guidance regarding the co-ordination of international assisting actors. However, there is some indication that international actors would be expected to co-ordinate with local actors.

d. External Early Warning

UK disaster management law and policy does not fully specify a procedure for informing other governments or the United Nations about disasters or emergency hazards likely to cause disasters. There is no clear description of what would trigger a communication, how it would be made or any relevant timeline. The FCO is responsible for ensuring that the UK meets its bilateral and multilateral obligations to notify neighbours and/or partners of an emergency, although another department or the CCS may be responsible for the notification.¹³⁶ With regard to the EU mechanism, the MIC will commence monitoring of the situation once the emergency occurs. Offers from other participating states could be made to the MIC where they would await acceptance from the UK.

The UK is a State Party to a number of specific obligations under international agreements regarding early warning. The Convention on Early Notification of a Nuclear Accident (1986) establishes a notification system for nuclear accidents capable of having transboundary effect and requires States to report the time, location and type of release in connection with the accident either directly to the affected States or through the International Atomic Energy Agency (IAEA). The UK Department of Energy and Climate Change is responsible for notifying the international community in the event of a UK nuclear accident.¹³⁷ The UK ratified the Convention in 1990 with one reservation relating to the UK's decision to notify the IAEA of an accident relating to nuclear weapons or weapons test, although not of the type specified in Article 1 of the Convention. The UK is also a State Party to the related Convention on Assistance in Case of a Nuclear Accident or Radiological Emergency (1986). This Convention establishes a framework for international co-operation to facilitate assistance and support in the event of a radiological or nuclear emergency. States have to notify the Agency of their available relief resources, such as experts and equipment, and decide whether it is capable of responding to any requests for assistance. The Agency functions as the co-ordinator between States in this regard. The Convention has 103 parties. The UK ratified the Convention in 1990 with one reservation, and its provisions are implemented through the Atomic Energy Act 1989.

The Control of Major Accident Hazards (COMAH) Regulations 1999,¹³⁸ as amended in 2005,¹³⁹ implement the Seveso Directives¹⁴⁰ of the European Community. The main aim of the COMAH Regulations is to prevent and mitigate the effects of major accidents involving hazardous substances. The regulations are enforced by the Health and Safety Executive and the Environment Agency in England and Wales and by the Health and Safety Executive and the Scottish Environment Protection Agency in Scotland. The Regulations place several duties on operators of establishments subject to the Regulations to (1) notify basic details to the competent authorities concerning the establishment; (2) take all measures necessary to prevent major accidents and limit their consequences to people and the environment; (3) prepare a major accident prevention policy; (4) prepare safety reports; (5) notify certain information to the public concerning their activities; and (6) prepare and test an on-site emergency plan. Schedule 7 of the 1999 COMAH Regulations lists the criteria for notification of a major accident to the European Commission and information to be notified.

The UK is a State Party to the Convention on the Transboundary Effects of Industrial Accidents. The Convention entered into force in 2000 and has 37 parties. The UK signed the Convention in 1992 and ratified it on 5 August 2002. The UK's ratification was made possible due to similar obligations under the Seveso Directives and their implementation by the COMAH Regulations, discussed above. The Convention applies to all industrial accidents capable of having transboundary effects, including accidents caused by natural disasters, except: (1) nuclear accidents or radiological emergencies; (2) accidents at military installations; (3) dam failures; (4) land-based transport accidents; (5) accidental release of genetically-modified organisms; and (6) accidents caused by activities in the marine environment. The Convention operates against a framework of co-operation and information exchange. It obliges the Contracting Parties to identify hazardous activities within their jurisdiction and to inform any affected parties as to their intention to conduct such activities. The Parties are also required to establish a system of notification and to designate a single point of contact to receive and send notifications. The Cabinet Office is the nominated contact point for notifications to be made under this Convention. The UK issued a notification pursuant to Article 10 of the Convention in response to the fire and explosion at the Buncefield Oil Storage Depot on 12 December 2005. The notice issued complied with the requirements of Article 10 and Annex IX of the Convention, in that it contained details of the date, time and location of the incident, its type and magnitude and a health assessment from the Health Protection Authority regarding the contents of the plume. The notice was issued to contacts in the

Netherlands, France and Belgium (even though only France is a State Party to the Convention). Further information was sent to the same contacts on 19 December, including a situation report and further information about the plume.

In addition to the formal notification under the Convention, the UK kept EU Member States informed as to the plume and the health and environmental issues. It also ensured that the CPM and the Nato EARDCC, were updated as to the situation, including by sending a briefing note advising steps taken. The UK is also a State Party to the International Health Regulations (IHR) 2005 and is therefore required under Article 6 to notify the World Health Organisation (WHO) within 24 hours of assessment of events which may constitute a public health emergency. The UK Health Protection Agency has been designated as the 'National IHR Focal Point' for the United Kingdom, including the devolved administrations, the Crown Dependencies and the Overseas Territories.¹⁴¹ The Agency is responsible for the assessment as to whether events constitute a public health emergency of international concern and to communicate to the WHO IHR contact point urgent communications, including the notice under Article 6.¹⁴²

The Radiation (Emergency Preparedness and Public Information) Regulations 2001 requires operators, carriers and the relevant local authority to devise emergency plans in case of a radiological emergency, which are to be updated on a regular basis and provided to the Health and Safety Executive for approval. Information concerning the risks of radiation and details of emergency plans is to be provided to the public. Should such an emergency occur, the local authority / carrier / operator is to implement the emergency plan, and must notify the Health and Safety Executive without delay and consult with relevant emergency services, the health authority, the Agency, and other relevant persons or services. The local authority is also to provide specified information to the public, including the nature and extent of any incident, potential health and environmental consequences and, as appropriate, details about tuning in to television or radio broadcasts concerning the incident.

The Nuclear Installations Acts 1965 and 1969 establish the legal framework for the installation and operation of nuclear reactors and other installations, including the issue of licences to operators. Section 22 of the 1965 Act introduced requirements for reporting to the Health and Safety Executive of dangerous occurrences on licensed sites or in transit. What are deemed to be dangerous occurrences and how such incidents are to be reported is set out in the Nuclear Installations (Dangerous Occurrences) Regulations 1965.¹⁴³

Neither set of Regulations consider responsibility for informing other States in the event of a radiological or nuclear disaster. The Department of Energy and Climate Change (DECC) is responsible for the UK's international policy on nuclear safeguards and other nuclear non-proliferation issues, including liaising with the IAEA. It is also responsible for the UK's Radioactive Incident Monitoring Network, which supports all UK radiological emergencies. It is likely that DECC would be responsible for any notification required by the UK's international obligations in this area. However, the Ministry of Defence and the Department for Transport also have responsibilities, in relation to incidents at defence nuclear installations and material in transit (MOD) and release of radiation from civil nuclear material in transit (DfT).

The UK may also be subject to a legal obligation, resulting from customary international law and/or other treaties, to consult and notify other states regarding transboundary harm and risk based on the principle that co-operation and early notification is key to the prevention of transboundary harm.¹⁴⁴

VII. Requests for and Offers of International Assistance

a. UK Focal Point

The CCA and its associated instruments are focused primarily on response by United Kingdom authorities. Until recently, responsibility for liaising with international organisations and other States was largely not considered in planning arrangements made pursuant to the CCA. However, the latest CONOPS issued by the Cabinet Office now considers liaison between the UK Government and international partners. It recognises the following roles.

First, the FCO has an extensive network of embassies and High Commissions through which it manages the UK's relationship with other countries. The FCO is also responsible for maintaining the UK's relationship with international organisations, including those that may become involved in the provision of international assistance, such as the United Nations, NATO and the EU.¹⁴⁵ The FCO representative in COBR will advise on the concerns of and communications with other governments and will handle requests for support or assistance issued by the UK Government (outside of requests made through the CPM and EADRCC – see below).¹⁴⁶ It is likely, however, that while the FCO would issue such requests on behalf of the UK Government, it would not itself initiate the request, and would issue a request only in collaboration with COBR, the CCS and other relevant government departments. The FCO would also communicate with other relevant authorities in assisting in locating foreign nationals affected by an emergency situation in the UK.

In relation to incidents occurring abroad, the FCO will normally be the LGD and will chair meetings of COBR, unless the event has significant effects in the UK.¹⁴⁷ For example, the DECC may lead in response to an accident at an overseas civil nuclear facility affecting the UK, and the Department of Health would lead in response to a pandemic. The FCO is also the LGD in relation to return and repatriation of British citizens following an incident overseas, at least until arrival in the UK.¹⁴⁸

Unlike the position regarding emergencies occurring outside the UK, it appears that the FCO has not designated a lead policy desk or team within the FCO tasked with their response to UK incidents.¹⁴⁹ Second, as noted previously, the Cabinet Office, in particular the CCS, is responsible for liaising with the CPM and the EADRCC and would issue requests for assistance on behalf of the UK Government through those systems.¹⁵⁰ A named contact point within the CCS has been established for such purposes.

Other government departments may have bilateral relationships with particular international or multilateral organisations. Wherever possible and appropriate, these relationships will be used in response to an emergency occurring within the UK (for example the Department of Health and the WHO and the DECC and the IAEA).¹⁵¹

b. Form and Content of Requests for Assistance

There is currently no standard format for requests for assistance in the UK. However, it is considered good practice within the CCS to specify the type, nature and amount of aid required, as well as any relevant contact information, in order to reduce the need for recipients of requests to reply to ask for more detail. When making a request for assistance, the UK would consider offers through the MIC, EADRCC or general offers outside those two frameworks. The suggestion has been made that any standard form include a provision requiring the offering state to wait for confirmation of acceptance before dispatching assistance. The MIC has a standard alert sheet which contains basic information relating to the cause or type of disaster, the relevant contact person in the requesting State, and a table indicating the type of assistance needed. It also contains a brief summary of the event and any additional relevant information, such as activities already undertaken by the requesting State. This form may serve as a model upon which the UK could develop its own proforma.

c. Termination of Relief

UK law and policy do not provide for a period of notification to international actors prior to terminating their disaster-related legal facilities. Presumably this would be done on an ad hoc basis, depending on the specific circumstances of the disaster.

VIII. National Legal Facilities for Entry and Operation

Part V of the IDRL Guidelines discusses the technical measures for facilitation of entry and operations regarding personnel, equipment and goods. These provisions are included as an acknowledgement of the existence of administrative and legal barriers to the efficient delivery of disaster assistance across borders. In order to provide assistance effectively, it is desirable that national laws allow for consideration of special procedures or exemptions in relation to technical legislation which would apply regardless of whether a disaster is at hand. This includes areas relating to immigration, customs, taxation, transportation and telecommunications. These issues will be discussed in this section.

a. Entry of Personnel

IDRL Guidelines

Part V Section 16 of the IDRL Guidelines provides that Affected States should provide for expedited or free-of-charge visa and work permit procedures for recovery personnel.

- > The UK is not part of the EU Schengen arrangements for immigration and therefore maintains its own policies and laws.
- > As a general rule, a person who is not a British citizen may not enter the UK without permission.
- > Nationals of European Economic Area (EEA) States do not generally require leave to enter or remain in the UK and the Immigration Rules do not apply.
- > Foreign aid personnel who do who do not fall under any exceptions and who are not EEA nationals, may be allowed entry into the UK based on the Tier 5 Temporary Worker scheme.
- > However, as the UK has not yet had the need to consider this issue, there is not a set policy as to what would happen in practice.

i. The UK and the Schengen Agreement

In 1985, Belgium, France, Germany, Luxembourg and the Netherlands signed the Schengen Agreement abolishing immigration checks at their internal borders and creating a common external border. The Agreement was implemented by a further treaty and the border free zone so created is called the Schengen area. The two Schengen agreements were incorporated into the EU framework by the Treaty of Amsterdam, and the Schengen area has since expanded to cover most of the EU Member States.

The UK takes part in some of the Schengen arrangements, namely, police and judicial cooperation in criminal matters, the fight against drugs and the Schengen Information System. However, the UK is not a part of the Schengen area and maintains its own immigration policy and rules.

ii. UK Immigration Law

The Immigration Act 1971 is the principal enactment that regulates entry into and stay in the UK. Together with the Immigration Rules, the Act sets out the main rules on the United Kingdom's immigration controls. The Act is also supplemented by the Immigration Act 1988, the Asylum and Immigration Appeals Act 1993, the Asylum and Immigration Act 1996, the Special Immigration Appeals Commission Act 1997, the Immigration and Asylum Act 1999, the Nationality, Immigration and Asylum Act 2002, the UK Borders Act 2007 and the Borders, Citizenship and Immigration Act 2009.

Non-British citizens (i.e., those persons who do not have the right of abode in the UK) are subject to such regulation and control of their entry into, stay in, and departure from the United Kingdom as is imposed by the Immigration Act 1971. As a general rule, a person who is not a British citizen may not enter the UK without permission. However, exemption has been given to certain classes of people, of which those relevant to international disaster relief include:

- > members of diplomatic missions;
- > visiting members of foreign governments; and
- > officials of certain international organisations.

Nationals of European Economic Area States do not generally require leave to enter or remain in the UK and the Immigration Rules do not apply. Nationals of an EEA State are admitted to the UK if they produce on arrival a valid national identity card or passport issued by an EEA State. They are then entitled to reside in the UK for a period of three months from the date of admission. Thereafter, they are entitled to reside in the UK for so long as they remain a qualified person, namely, a jobseeker, a worker, a self-employed person, a self-sufficient person or a student. However, an EEA national may be refused entry or removed on grounds of public policy, public security or public health.

iii. UK immigration status of foreign civilian aid personnel

UK immigration status Tier 5 (Temporary Worker) may be applicable to foreign aid personnel who do not fall within the exemptions listed above. Tier 5 (Temporary Worker) is a visa arrangement for a temporary worker whose entry helps to satisfy cultural, charitable, religious or international objectives.¹⁵²

An application for entry clearance or leave to enter under Tier 5 (Temporary Worker) is to be made by an applicant. In order to apply, an applicant needs a sponsor¹⁵³ (i.e., a person or Government that the Certificate of Sponsorship Checking Service records as being a sponsor for a migrant¹⁵⁴). For an entry clearance or leave to enter to be granted, the applicant must (1) possess a valid certificate of sponsorship¹⁵⁵ and (2) meet the maintenance requirement.¹⁵⁶ However, there is no provision for urgent applications.

Tier 5 (Temporary Worker) has subcategories which include: international agreement; charity worker; and religious worker.

International agreement

The provisions applicable to an international agreement may be most relevant to this study, where foreign aid organisations are able to be recognised as “international organisations” by the UK. The international agreement subcategory applies to those who are coming to the UK ‘under contract to provide a service that is covered under international law’.¹⁵⁷ The term ‘international agreement’ and its scope are not defined. According to the Policy Guidance issued by the UK Border Agency, relevant agreements include the General Agreement on Trade in Services and similar agreements between the UK and another state.¹⁵⁸ The conditions for entry clearance are:

- > the applicant must work for an employer or organisation, of a state that:
 - > is a member of the World Trade Organisation and has signed up to the agreement; or
 - > has a bilateral agreement with the UK or the EU; or
 - > is a member of the EU;
- > the applicant must be engaged in work that meets the terms and conditions of the relevant international agreement; and
- > where relevant, the applicant must work for the employer that was awarded the contract or will provide services to the UK client.¹⁵⁹

This subcategory also covers employees of overseas governments and international organisations.¹⁶⁰ International organisations here refer to international organisations recognised by the UK and the representative offices of those states not recognised by the UK Government.¹⁶¹ Employees of overseas governments and international organisations applying for entry clearance must be under a contract of employment with the overseas government or international organisation and must not take up any job for the sponsor other than that for which the certificate of sponsorship was assigned.

Where an applicant is sponsored in the international agreement subcategory, leave to enter will be granted for (1) a period commencing 14 days before the beginning of the period of engagement and ending 14 days after the end of that period of engagement or (2) two years, whichever is the shorter.¹⁶² Leave granted for migrants in the General Agreement on Trade in Services or other international agreements is up to a maximum of 24 months.¹⁶³ Leave granted for employees of overseas governments and international organisations may be extended¹⁶⁴ up to 72 months.¹⁶⁵

Under section 8(3) of the Immigration Act 1971, members of a diplomatic mission are not subject to immigration control. For the purposes of that section, a member of a mission other than a diplomatic agent is not to count as a member of a mission unless (1) he or she was resident outside the UK, and was not in the UK, when he or she was offered a post as such a member; and (2) he or she has not ceased to be such a member after having taken up the post.¹⁶⁶

Discussions with an official at the UK Border Agency indicated that this is the visa category most likely to be issued to aid personnel in an emergency situation. However, as UK visa officials have not yet had to issue visas in such circumstances, the application of the visa category to aid personnel is untested and how it would apply in practice is unclear. There is consequently no official policy on whether any exceptions would be employed in order to expedite the entry process for international relief workers.

Charity Workers

This subcategory is for those who intend to undertake unpaid voluntary work in line with the aims of their sponsor.¹⁶⁷ According to the Policy Guidance, applicants in this subcategory should only be doing voluntary activities, not paid work, and should intend to carry out fieldwork directly related to the purpose of the sponsoring organisation.¹⁶⁸ Reasonable expenses may be covered¹⁶⁹ although such allowance must not include accommodation expenses.¹⁷⁰

Religious Workers

This subcategory applies to religious workers, visiting religious workers and members of a religious order or religious community involving a permanent commitment.¹⁷¹ Sponsors for an applicant in this subcategory must be a bona fide religious institution which is a registered, excepted or exempt UK charity.¹⁷²

General discretion

It should also be noted that the Secretary of State has a general discretionary power to ‘exempt any person or class of persons, either unconditionally or subject to such conditions as may be imposed by or under the order’ from immigration requirements.¹⁷³ Where the exemption relates to a class of person, it must be done by way of a statutory instrument. The order so made will be legislation which must be laid before Parliament¹⁷⁴ and published.¹⁷⁵ It is possible that this power could be used to exempt international relief workers as a class from immigration requirements. However, the requirement for a parliamentary process may cause delay. This requirement does not appear to apply in relation to individuals; that is, individual relief workers could be exempted from immigration requirements on a case by case basis during an emergency. While the relevant section confers this discretion on the Secretary of State, this discretion could be delegated to and exercised by immigration officials acting on behalf of the Secretary of State.¹⁷⁶ However, it appears that there must still have been an order to that effect issued by the Secretary of State, even in relation to exemptions for individuals.

b. Recognition of Professional Qualifications

IDRL Guidelines

Part V Section 16 of the IDRL Guidelines suggests that Affected States should establish procedures for the temporary recognition of professional qualifications of foreign medical personnel, architects and engineers.

- > The UK has a complex system for the recognition of professional qualifications. Recognition is divided largely according to profession.
- > Some of the legislation includes provision for exceptions in emergency, although this is rare.
- > “Disaster relief personnel” are not regulated as a separate profession, although there are special rules for professional groupings that may be involved in disaster relief, e.g. doctors, nurses and paramedics.
- > Despite the temporary recognition procedure, there will still be a minimum procedure applicable before the regulated worker is allowed to engage in his or her profession in the UK.

i. General system for recognition

Provision of professional services is often regulated through licensing and qualification requirements and procedures and practically restricted to holders of specific qualifications with registration in the UK. Foreign professionals intending to participate in disaster relief activities may be prevented from providing their professional services immediately or otherwise expose themselves to certain legal risks because of such regulations.

Usually, foreign qualifications do not automatically entitle the professional to practise in the UK. In certain circumstances, however, a professional may benefit from the European Communities (Recognition of Professional Qualifications) Regulations 2007 which simplifies the recognition process for many professional qualifications. Different rules apply depending on whether the professional wishes to practise on a temporary and occasional basis or on a permanent basis. The focus here is on the former as disaster relief activities are generally temporary and occasional.

The Regulations apply to professionals with nationality of an EEA State or Switzerland or with Community right to equal treatment and provide for the right to practise a regulated profession with their

foreign qualification, whether or not obtained within an EEA State or Switzerland.

The right to practise is subject to certain conditions. The professional seeking to provide services in the UK must be legally established in his or her home State for the purpose of pursuing the same profession there. Before the professional starts providing services in the UK, he or she must inform the governing body of the profession by way of a declaration. The declaration may be supplied by any means but it must:

- > be in writing, and
- > include details of any insurance cover or other means of personal or collective protection with regard to professional liability.

The declaration must be accompanied by the following documents:

- > proof of nationality of the professional or, where he or she is not a national of an EEA State or Switzerland, proof of the Community right on which he or she relies;
- > an attestation certifying that the applicant is legally established in another EEA State or Switzerland for the purpose of pursuing the activities concerned and that he or she is not prohibited from practising, even temporarily, at the moment of delivering the attestation;
- > evidence of professional qualifications;
- > any means of proof that the professional has pursued the activity concerned for at least two years during the previous ten years (if neither the profession nor the education and training leading to it is regulated in his or her home State); and
- > evidence of no criminal convictions (for professions in the security sector).¹⁷⁷

A renewed declaration in writing is required once a year if the professional intends to provide services in the UK during that year.¹⁷⁸ The documents listed above must also be submitted if a material change has been made in relation to the situation substantiated by the documents accompanying a previous declaration.¹⁷⁹

For professions having public health or safety implications,¹⁸⁰ the right to practise is subject to verification. Checks on the professional's qualifications are carried out by the governing body of the profession before the professional's first provision of services in the UK.¹⁸¹ The outcome of the verification is to be informed within the first month of receipt of the declaration and accompanying documents,¹⁸² but it may take two months if there is a delay.¹⁸³

It should be noted that provisions of the Regulations have limited application to the professions of doctor, nurse responsible for general care and paramedics, which are regulated by separate legislation.¹⁸⁴

ii. Specific professions

Doctors

European qualifications held by an EEA or Swiss national are recognised under the Medical Act 1983.¹⁸⁵ Other overseas qualifications held by an EEA national or a UK or non-EEA/Swiss national with enforceable community rights are also recognised.¹⁸⁶ In other cases, overseas qualifications held by UK nationals or non-EEA/Swiss nationals are recognised if they are currently accepted by the General Medical Council (GMC) as 'acceptable overseas qualifications'.¹⁸⁷ According to the GMC, an overseas qualification is an acceptable overseas qualification if it meets the following five criteria:¹⁸⁸

- > it has been awarded by an institution listed on the Avicenna Directory¹⁸⁹ (or otherwise accepted by the GMC);
- > it has been awarded by an institution that has a physical address included in the Avicenna Directory;
- > it has been awarded after a course of study comprising at least 5,500 hours (or four years full time equivalent study);
- > it has not involved a course of study undertaken wholly or substantially outside the country that awarded the qualification; and
- > it has not involved a course of study undertaken wholly or substantially by correspondence.

Currently, qualifications awarded by most of schools listed in the Avicenna Directory are accepted.¹⁹⁰

The Medical Act 1983 provides for an automatic registration process for doctors from Europe intending to provide medical services on a temporary and occasional basis.¹⁹¹ The provisions are applicable to doctors who are EEA/Swiss nationals or UK or non-EEA/Swiss nationals with an enforceable Community right and are established in medical practice in another EEA State or Switzerland. Such doctors may start providing medical services once they have sent or produced to the registrar of the GMC the following documents:¹⁹²

- > a written declaration that states the doctor's wish to provide medical services on a temporary and occasional basis and contains details of an insurance cover or other means of personal or collective protection with regard to professional liability;
- > proof of nationality or, if the doctor is not a national of an EEA State or Switzerland, proof of a Community right;

- > evidence of medical qualifications; and
- > a certificate or certificates issued by a competent authority in the doctor's home State (an EEA State or Switzerland) confirming that the doctor is lawfully established in medical practice in that State and that the doctor is not prohibited, temporarily or permanently, from practising as a doctor there.¹⁹³

Nurses

A foreign nursing qualification is recognised if it is an approved qualification. Approved qualifications include:

- > a qualification as a nurse responsible for general care obtained in an EEA State or Switzerland held by an EEA/Swiss national, UK national with a Community right or non-EEA national entitled to equal treatment under EU law;¹⁹⁴ and
- > a qualification awarded outside the UK which attests to a standard of proficiency comparable to that attested to by a UK nursing qualification.¹⁹⁵

A nurse who is an EEA/Swiss national, UK national with a Community right or non-EEA national entitled to equal treatment under EU law may come to the UK to provide nursing services on a temporary and occasional basis using a more automatic registration process.¹⁹⁶ Such a nurse must be lawfully established as a nurse in another EEA State or Switzerland¹⁹⁷ and must also provide the registrar of the Nursing and Midwifery Council (NMC) with certain documents (see schedule 2A paragraph 5 of the Nursing and Midwifery Order 2001).¹⁹⁸

Paramedics

All non-UK qualifications are subject to an assessment by the Health Professions Council (HPC)¹⁹⁹ unless the paramedic is an EEA or Swiss national or a UK or non-EEA national with a Community right who, having completed an adaptation period or passed an aptitude test, is entitled to practise as a paramedic in the UK on a permanent basis.²⁰⁰

A paramedic from an EEA State or Switzerland intending to provide services on a temporary and occasional basis can register with the HPC by using the simplified temporary registration process if he or she is an EEA or Swiss national or a UK or non-EEA national with a Community right and is lawfully established as a paramedic in an EEA State or Switzerland.²⁰¹ Before providing services in the UK, such a paramedic must produce to the HPC a written declaration required under the European Communities (Recognition of Professional Qualifications) Regulations 2007²⁰² (see above 3.1.).²⁰³ In addition, since paramedic is a profession having public health or safety implications under the Regulations,²⁰⁴ the HPC's will have to have satisfactorily assessed his or her paramedic qualification.²⁰⁵

Engineers

The Engineering Council is a party to the Washington Accord, the Sydney Accord and the Dublin Accord and engineering qualifications recognised by other parties to the agreements are mutually recognised in the UK. Other parties to the agreements include Engineers Australia, Engineers Canada, Institute of Engineering Education Taiwan, Hong Kong Institution of Engineering, Engineers Ireland, Japan Accreditation Board for Engineering Education, Accreditation Board for Engineering Education of Korea, Board of Engineers Malaysia, Institution of Professional Engineers New Zealand, Institution of Engineers Singapore, Engineering Council of South Africa and Accreditation Board for Engineering and Technology (United States).

The European Communities (Recognition of Professional Qualifications) Regulations 2007 do not apply to engineers intending to provide service on a temporary basis.

iii. Expedited procedures

The Medical Act 1983 and the Nursing and Midwifery Order 2001 contain provisions for emergency situations.

Under section 18A of the Medical Act 1983, the registrar of the GMC may, when an emergency has occurred, is occurring or is about to occur, register persons or a specified group of persons as fully registered doctors if the Secretary of State advises the registrar to consider doing so. When registering persons comprising a specified group, the registrar may register the persons without first identifying each person in the group. Emergency registration will have effect until the relevant emergency no longer exists.

The registrar of the GMC may, by making an annotation in the register, enable a registered nurse or a specified group of registered nurses to order drugs, medicines and appliances which they are otherwise not so qualified if the Secretary of State advises the registrar an actual or imminent occurrence of an emergency and taking of such an action. An annotation so made is removed once the relevant emergency has ceased to exist.

There seems to be a concern regarding the standards of aid assistance that may be received from other States, especially from non-EU countries. This concern was tied to potential liability issues that could arise as a result of poorly-trained aid personnel being permitted to provide assistance in the UK.

c. Customs and Taxation

IDRL Guidelines

Part V Section 17 of the IDRL Guidelines provides for the exemption from customs duties, taxes, tariffs, import restrictions and fees on goods and equipment intended for recovery. Section 18 of the IDRL Guidelines discusses the reduction of barriers to the importation of special goods and equipment.

- > UK legislation exempts certain goods imported from outside the Customs Union of the European Union by charities and other not-for-profit organisations from customs duties and value added tax (VAT).
- > Certain organisations and groups are entitled to VAT exemptions on goods if they fall under one of the categories provided for in the legislation, such as a charity registered by the Charities Commission or an organisation concerned with the relief of distress generally, such as the British Red Cross Society or the Salvation Army.
- > As a Member State of the EU, the UK has implemented EU legislation concerning the Customs Union which provides that relief goods shall be admitted free of import duties in certain circumstances.
- > The temporary admission procedure may also be used for relief items that can be reused in other disasters such as equipment or vehicles.

Article 23 of the Treaty Establishing the European Communities provides for the free circulation for Community goods throughout the European Union. The principle of free circulation applies to goods made in the Community and imported goods that have been released for free circulation after payment of any duties for which they are liable. Release of non-Community goods into free circulation gives the goods the status of Community goods. A customs declaration is the means by which goods are entered into the free circulation procedure. Under EU law the definition of ‘goods’ is broad. The basic understanding of the term is to include “any moveable physical object to which property rights or obligations attach (and which can therefore be valued in monetary terms, whether positive or negative)”.²⁰⁶ This broad definition includes food and equipment. Therefore, rules exempting goods intended for disaster relief from customs duties and VAT will also include customs duties on food and equipment intended for relief.

The rules discussed below relating to VAT and customs relief will be applicable to foreign charities

seeking to bring charitable goods into the UK. There is no requirement that the organisation be registered as a UK charity.

i. Taxation

Exemption from VAT

UK law provides an exemption from VAT for certain goods imported from outside the Customs Union of the European Union by charities and other not-for-profit organisations. This is provided in the Value Added Tax (Imported Goods) Relief Order 1984/746,²⁰⁷ and also the Value Added Tax Act 1994.²⁰⁸

The goods have to be any of the following:

- > basic necessities for the needy and vulnerable;
- > goods to be used or sold at charity events for the benefit of the needy and vulnerable;
- > equipment and office materials to help run an organisation for the benefit of the needy and vulnerable.
- > goods imported by a relevant organisation for distribution or loan, free of charge, to victims of a disaster affecting the territory of one or more member States;
- > goods imported by a relevant organisation for meeting its operating needs in the relief of a disaster affecting the territory of one or more member States;
- > articles donated to and imported by a relevant organisation for supply to blind or other physically or mentally handicapped persons and which are specially designed for the education, employment or social advancement of such persons;
- > spare parts, components or accessories, including tools for the maintenance, checking, calibration or repair of items previously mentioned.²⁰⁹

Organisations can import such goods free of VAT if they are:

- > a charity registered by the Charities Commission, or the Office of the Scottish Charity Regulator; or
- > a state organisation devoted to welfare.

Groups can also qualify to import goods free of VAT if they are one of the following organisations, they are run on a not-for-profit basis, and their objective is the welfare of the needy:

- > hospital;
- > youth organisation;
- > club, home or hostel for the aged;
- > orphanage or children’s home;
- > organisation set up for the relief of distress caused by particular disasters in the Customs Union; or

- > organisation concerned with the relief of distress generally, such as the British Red Cross Society or the Salvation Army.

Goods only attract this relief from VAT if they:

- > have been donated (not purchased); and
- > are imported from outside the Customs Union of the EU (outside the EU, Turkey, San Marino and Andorra).

The goods that can be imported VAT-free are:

- > basic necessities for the needy and vulnerable;
- > goods to be used or sold at charity events for the benefit of the needy and vulnerable; and
- > equipment and office materials to help run an organisation for the benefit of the needy and vulnerable.

The relief from VAT does not apply to materials and equipment intended for rebuilding disaster areas. HM Revenue and Customs may limit the quantities or kinds of goods that can be imported to avoid any abuse or distortion of competition, and there are general restrictions on importing specific types of goods.

ii. Customs

Relief imported into the UK

As a Member State of the EU, the UK must implement the provisions of Regulation 918/83 setting up a Community system of reliefs from customs duties. Article 79 of the Regulation provides that relief goods shall be admitted free of import duties when they are intended:

- (a) for distribution free of charge to victims of disasters affecting the territory of one or more Member States; or
- (b) to be made available free of charge to victims of such disasters, while remaining the property of the organizations in question.

Article 79 also provides that goods imported by relief agencies to meet their needs during their period of activity shall also be granted relief from duties. However, Article 80 states that the relief does not apply to materials and equipment intended for rebuilding disaster areas.

The granting of such relief is subject to a decision by the European Commission awarding disaster relief status, acting upon request from the concerned Member State; however, pending the Commission's decision, the Member State may authorize suspension of all import duties under Article 81.

The UK has established internal guidance dealing with support for the Community Customs Union for use by Revenue and Customs staff, entitled the 'Community System of Duty Reliefs'. It deals with a specific set of relief as listed in paragraph 1.3, including, for the purposes of this study, 'certain goods imported by charities'. Section 3.5 of the guidance mirrors the provisions of the EU Regulation.

HM Revenue and Customs advises that, in practice, more human resources are directed at relief items to ensure their fast delivery. Special Customs Procedure Code 40 00 C26 is applied to shortcut the normal system of controls. Rudimentary checks are employed initially and the customs agent will typically escort the goods to their destination. Occasionally, reassurance checks will be employed to ensure that the items are genuine disaster goods intended for 'real' disasters by following up on declarations at the border and in the paperwork. This occurs despite the formal procedure requiring EU approval of relief status upon request by the affected Member State. However, as Regulation 918/83 states, goods may be granted entry under the Special Code pending Commission approval on the understanding that if relief is subsequently not granted, VAT and duty will become payable by the importing organisation. There seems to be a common apprehension among some of the Member States, including the UK, regarding the lengthy approval process within the European Commission, which seems to prefer that Member States wait for approval before allowing entry, despite the proviso that goods may be admitted pending decision. In one case, it took six months for approval to be issued by the Commission, by which time the disaster at issue (flooding in the upper Rhine Valley) had long subsided.

Where an emergency is designated as a high-level national incident, HM Revenue and Customs would of course act accordingly and adjust operating procedures in order to do what it could to best assist. However, an official at HM Revenue and Customs indicated that there is some concern surrounding lower category events where the national government is less involved and regional commands maintain control of operations for relief in the affected areas. In these circumstances, HM Revenue and Customs would still require notification and authorisation that the regions are in need of assistance and it is unclear whether a regional commander or co-ordinator has sufficient capacity so as to be officially recognised by HM Revenue and Customs in order to relax import controls and provide assistance. It was suggested that in this situation, a simple notification from the national government regarding the regional or local need for assistance be made to HM Revenue and Customs central office in London, so that the notification could be passed down to the relevant actors and shared with colleagues at UK Border Force.

Temporary admission

The temporary admission procedure may be preferable in the context of disaster relief operations.²¹⁰ The temporary admission procedure is based on Regulation 2454/93 on the implementation of the Community Customs Code (Temporary Importation). It is typically used with regard to items that can be reused in other disaster situations such as equipment and transportation vehicles, whereas the customs rules described above apply to consumables and personal items such as food and blankets. This guidance explains that “temporary importation is a trade facilitation regime...designed to allow the importation of goods to the EU for a specified period of time with either total or partial relief from import duties [and] import VAT.” In order to qualify for temporary importation, the goods must be intended for re-export within the specified authorisation period. Furthermore, authorisation procedures range from simplified to full, depending on the good in issue.

The general conditions conditions for temporary admission are set out in section 2.1 of the Notice. The goods must (1) be imported for a specific use; (2) intended for re-export after a specified time; and (3) not be altered or changed. Section 2.2 provides that the temporary admission procedure does not affect the regular importation procedures for goods subject to prohibitions, restrictions or licensing requirements, such as drugs or firearms. In order to claim relief, an authorisation must be obtained.²¹¹ It is permissible to apply for the authorisation at the time of importation of the goods. Relief may also be claimed retrospectively if the goods were declared to another customs procedure in error. Most goods can be used for a maximum of 24 months with certain exceptions outside the scope of this report. Extensions of another 24 months are possible as long as the conditions continue to be met.

Section 4 of the Notice discusses the types of goods that can be entered to temporary admission. Section 4.3 allows the temporary admission of travellers’ personal effects reasonably required for a journey. The traveller must not normally be resident in the EU. However, no declaration is required for effects less than €10,000 in value (with some exceptions). Section 4.6 covers ‘disaster relief material’ and states that its scope covers “goods of any kind entered for the purposes of countering the effects of disasters or similar situations within the Community”. The guidance imposes the following condition for total relief: that the goods are intended for use by state bodies or organizations approved by state bodies. Medical, surgical and lab equipment is included in section 4.7 if it is “loaned at the request of a hospital or other medical institution that is in urgent need of the equipment and where it is intended for diagnostic or therapeutic purposes.” Goods must be entered by a

hospital or medical institution. Section 4.8 discusses animals imported for purposes of rescue operations and police dogs. In order to be granted relief, the animals must be owned by a person established outside of the EU.

The UK ratified the Convention on Temporary Admission (Istanbul Convention) (1990) in 1997. The Convention is a consolidation of several agreements relating to the facilitation of temporary admission formalities. Annex A concerns temporary admission papers and replaces the A.T.A. Convention of 1961. Annex B.2 covers professional equipment, for example, transmission and communication equipment. Annex B.9 allows the free importation of goods imported for humanitarian purposes such as relief consignments and medical equipment, as long as they are intended for re-export. Annex C covers temporary admission of means of transport. Annex D allows for the temporary admission of rescue animals. The Convention entered into force for the UK on 18 September 1997. If the individual importing goods comes from a country that has also ratified these conventions, he or she may be able to use the ATA Carnet procedure which is described in HMRC Notice 104 on ATA and CPD Carnets. An ATA carnet can be used in place of a normal customs document to temporarily import non-EU goods into the UK. An ATA carnet is an international customs document that can be presented to customs authorities each time goods enter or leave a country and exempts its holder from customs duties, excuse duty and VAT. They can be used in connection with the type of goods discussed above under the normal temporary admissions procedure.

Purchases with charity funds

Certain types of equipment can be purchased at a zero VAT rate. The zero rate applies in two circumstances: (1) where the purchasing body is an ‘eligible body’ that is paying with charitable or donated funds, or (2) the goods are bought in order to donate to an eligible body.²¹² An eligible body can be one of four types:²¹³

- > specified health bodies, such as NHS trusts;
- > not-for-profit research institutions;
- > certain charitable institutions, e.g. those approved to provide medical or surgical treatment or institutional care; or
- > charities that provide transport services or rescue/first aid services for humans or animals.

Generally, the following relevant items can be purchased with donated funds at the zero VAT rate:

- > medical, veterinary and scientific equipment;
- > ambulances and parts or accessories for use in or with them;

- > certain goods for use by disabled people;
- > certain other specially-adapted motor vehicles;
- > certain rescue equipment;

Regarding the first category, HMRC defines 'equipment' as "articles designed or used for a specific purpose".²¹⁴ Certain items are not considered equipment and therefore do not qualify for the zero rating. Several of them are relevant in the context of this study:

- > bulk materials, e.g. liquids, powders, sheets;
- > clothing (not including specialist medical clothing);
- > consumables such as fuel, medicines, cleaning and sterilising fluids.

Certain restrictions to funding, purchasing and donating might apply. For example, if the body is considered eligible but is not a charity, it will have to pay VAT on any purchases where the body's own resources have been used. Furthermore, NHS funds are not considered charitable or donated and therefore VAT will apply. In order to obtain the zero-rating, the body must provide its supplier with an eligibility certificate or declaration that confirms the conditions for relief have been met.

The same rules apply where qualifying goods are purchased from outside the EU by an eligible body or where the goods are bought in to the UK order to donate them to an eligible body. Where the purchase comes from within the EU, the same conditions apply except for that a certificate or declaration is not needed. However, evidence that the goods were eligible for the zero rate should be retained.

Goods that are not covered by the zero rate or any other reduced rate will be subject to VAT at a standard rate. This includes tents, blankets, pumps and water treatment plants.

Relief originating from or transiting across the UK toward other countries

Where an organisation in the UK wishes to provide aid for a disaster occurring outside the UK, it can do so with a zero-rate tax.

Where goods are transiting across UK territory to a destination outside the UK, the first port of entry into the EU is obligated to clear the items for onward entry into the EU according to its normal rules and procedures. Therefore, the procedures discussed above in relation to the UK's own system for relief will also apply in these circumstances. It is often the case that the goods will be expedited and escorted to their final destination.

d. Telecommunications

IDRL Guidelines

Part V Section 18 of the IDRL Guidelines discusses reduced barriers to access to telecommunications and information technology.

- > The UK has implemented EU legislation providing a framework for access and authorisation to networks and services. However, this legislation is mostly aimed at increasing competition.
- > UK legislation gives certain bodies the power to set the conditions for access to networks and services. Within this authority is the ability to give directions or make decisions in times of national security risk.
- > The UK has also begun to employ a new satellite-based telecoms system for aid providers, however this system is not available to the private sector.

Both legislation and licensing agreements between service providers enable the exchange and dissemination of information in an emergency situation within the UK. The Communications Act 2003 goes some way to fulfilling the UK's obligations under the Community framework for electronic communications networks and services and its attendant legislation.²¹⁵ It provides in section 132 that the Secretary of State can restrict or suspend a commercial service provider's power to broadcast: "(a) to protect the public from any threat to public safety or public health; or (b) in the interests of national security". Section 5 also allows the Secretary of State to give directions to Ofcom, the UK's independent regulator and competition authority for communications, in similar circumstances. Section 45 enables Ofcom to set conditions of service in their licensing requirements, namely, access-related conditions.

The Telecommunications Act 1984 governs directions in the interest of national security in section 94. It allows the Secretary of State to give directions to relevant actors in the telecommunications sector where national security is at risk, although it does not elaborate as to what sorts of situations may qualify.

In addition to legislation, the BBC has established a network between all BBC local radio stations and emergency planners to maintain communications and disseminate information to the public in the event of an emergency.²¹⁶ Moreover, the BBC can be required to broadcast emergency announcements or refrain from broadcasting, where an emergency has arisen.²¹⁷

The UK is also party to the Tampere Convention on the Provision of Telecommunications Resources for Disaster Mitigation and Relief Operations of 1999. The Convention entered into force for the UK from 8 January 2005.²¹⁸ There is no specific implementing legislation in the UK; however, as a State Party, the UK is bound by its terms.

The UK utilises a new, satellite-based system for telecoms for aid providers. However, this system is not available for use by all aid providers, that is, it is unavailable to the private sector. Those who do wish to take advantage of the system must register with government authorities in advance of any emergency and pay the required user fee. It seems that most international agencies will come in to the affected state with their own communications systems that are often satellite-based, rather than use the affected state's system.

e. Currency

IDRL Guidelines

Part V Section 20(2) of the IDRL Guidelines urges that Assisting States and organisations be granted the right to freely bring the necessary funds and currencies in or out of the affected country and to obtain legal exchange rates in connection with their disaster relief or recovery assistance.

- > The Treaty Establishing the European Communities (TEC) creates an area of economic union with a single currency that contributes to the general policy of free movement of capital between the Member States.
- > UK legislation implemented EU law which limits the amount of cash a natural person can carry into or out of the EU to €10,000 or its equivalent in other currencies.
- > Legislation pertaining to wire transfers and cross-border payments may also affect the ability freely to bring funds into the UK.
- > Special measures do not exist which would allow individuals to bring currency into the UK more easily in the case of an emergency.

EU Regulation 1889/2005/EC²¹ places a control on cash entering or leaving the Community. Article 3 states that a person carrying €10,000 or more (or its equivalent) into or out of the EU territory must declare it to customs officials. The UK has given effect to this provision by The Control of Cash (Penalties) Regulations 2007.²²⁰ The regulations empower HM Revenue and Customs to take measures to pronounce

penalties for failure to adhere to this law. Special measures do not exist which would allow individuals to bring currency into the UK more easily in the case of an emergency. There are no rules regarding access to or preferential exchange rates for humanitarian organisations or their personnel.

The Wire Transfer Regulation²²¹ introduces measures to ensure the traceability of transfers of funds to, from and within the EU. Articles 3 to 7 of the Regulation requires all payment service providers within the EU to collect and verify the payer's identity (i.e., name and address, date and place of birth, customer identification number or national identity number) and account number (or a unique identifier for non-account based transactions) when transferring or receiving funds. When the required payer information is absent, the payee's payment service provider must either reject the transfer or request complete information. The UK has implemented the Wire Transfer Regulation by the Transfer of Funds (Information on the Payer) Regulations 2007. There is no provision in the 2007 Regulations which relaxes the requirements in the case of individuals and humanitarian organisations sending funds to the UK for disaster relief purposes.

Regulation 924/2009/EC²²² aims to ensure that any charges for cross border payments within the EU (up to €50,000) are at the same level as charges for domestic payments in the same currency within a Member State. This covers direct debits, credit transfers and withdrawals at ATMs. The Regulation allows non-euro Member States to opt-in. The UK has implemented the Regulation by the Cross-Border Payments in Euro Regulations 2010 but has not extended the Regulation to cover Sterling payments. There is no provision which would extend the benefit of the Regulation to Sterling payments connected with disaster relief activities.

The Third Money Laundering Directive²²³ obliges those who engage in financial activities and certain other types of businesses to apply detailed customer due diligence. Under Articles 2, 7 and 9 of the Directive, they must ascertain and verify the identity of the customer (and its beneficial owner) and obtain information on the purpose and nature of the transaction before carrying out transactions amounting to €15,000 or more. When, for example, a customer orders a money transfer, a bank cannot perform the order until it satisfies those requirements. The Directive imposes the same obligation on anyone trading in goods where goods sold at €15,000 or more and are to be paid in cash. The due diligence obligations also apply where electronic money of €150 or more on a non-rechargeable device is to be issued or an electronic money holder redeems an amount of €1,000 or more in the same year. The UK

has give effect to these provisions by the Money Laundering Regulations 2007. The Regulations do not provide for measures or special treatment in the case of an emergency or in relation to humanitarian organisations or not-for-profit organisations.

f. Transport

IDRL Guidelines

Part V Section 19 discusses several provisions relating to transport, including speedy passage of land, marine and air vehicles operated by relief organisations. Section 16(c) of the IDRL Guidelines recommends expedited procedures for the recognition of driving licenses.

Road

- > It is the Government's policy that emergency vehicles do not have to pay to use toll roads.
- > Emergency vehicles are exempt from the London congestion charge.
- > UK legislation gives effect to EU law concerning the carriage of goods by road by allowing goods vehicles access to the market in the carriage of goods by road between Member States based on a Community-wide authorisation.
- > Non-EU drivers generally must be in possession of a license granted by the UK. However, UK legislation regarding the temporary use of foreign vehicles in the UK exempts relief vehicles from the licensing requirement, as well as vehicles carrying goods for medical or surgical care in emergency relief and in particular for relief in natural disasters.

Air

- > Flights bearing disaster goods would be considered by the UK Civil Aviation Authority as charter flights which are generally treated liberally.
- > EU operators holding an EU license can operate freely in the UK, whereas non-EU operators would require specific permission to operate in the UK.
- > All aircraft carrying dangerous goods, e.g., narcotic substances, are required to operate in accordance with internationally-recognised standards. However, in the event of a disaster, states have the facility to issue an exemption from certain requirements on a case-by-case basis.

- > State aircraft are not permitted to fly over or land in the UK unless they have the express authorisation of the UK.
- > An authorisation must be given by special agreement or through a bilateral or multilateral agreement, or by special ad hoc permissions.
- > The UK is a State Party to the Convention on International Civil Aviation, which requires the UK to facilitate entry of relief flights.

Rail

- > UK legislation requires most railway operators providing passenger or freight services to obtain a European license.
- > The European license allows the operator to conduct services across the EEA.
- > UK law additionally requires operators to hold a Statement of National Regulatory Provisions which cover certain specific responsibilities linked to services in Great Britain.
- > None of the rail legislation provides for exceptions or expedited procedures in times of emergency.

Maritime

- > The UN Convention on the Law of Sea defines rights of passage of foreign ships into sovereign territorial waters.
- > Foreign ships are further permitted to anchor for specific reasons, including to provide assistance to persons, ships or aircraft in distress.
- > The UK is a State Party to the Convention on the Facilitation of Maritime Traffic which requires State Parties to facilitate the entry and arrival of disaster relief vessels.

i. Road

It is the Government's policy that emergency vehicles do not have to pay to use toll roads, although this depends on the legislation governing the tolled undertaking. For example, tolls have been waived for emergency vehicles in relation to the M6 toll Road. In practical terms, the M6 toll road concessionaire, Midland Expressway Limited (MEL), has primary responsibility for the operation of the M6 toll road during the lifetime of the concession agreement. Therefore, it is for MEL to ensure that adequate procedures are in place so that emergency vehicles are not unduly hindered when using the toll road.

In 2003, a congestion charging zone was introduced to decrease traffic within a defined area of central London between 07:00 and 20:00 hours from Monday to Friday. Vehicle operators are required to pay £8 per day to drive within the zone. There are exceptions to payment of the charge for emergency service vehicles, certain NHS vehicles and transport for the disabled.²²⁴

The Goods Vehicles (Community Authorisations) Regulations 1992 give effect to EU Regulation 881/92/EEC.²²⁵ The EU Regulation establishes a Community-wide authorisation allowing goods vehicles access to the market in the carriage of goods by road between Member States and lays down the conditions for the issue and use of such authorisations. Its Annex provides an exception to the authorisation procedures for “Carriage of medicinal products, appliances, equipment and other articles required for medical care in emergency relief, in particular for natural disaster.” The UK must issue a Community authorisation to any haulier established in the UK who is licensed under domestic law. In England, Wales and Scotland, the relevant licensing system is under section 60 of the Transport Act 1968, and in Northern Ireland, the relevant provision is section 14 of the Transport Act (Northern Ireland) 1967. The UK Regulations primarily serve as an amendment to various applicable domestic transport statutes.

With regard to foreign, i.e., non-EU vehicles, The Goods Vehicles (Licensing of Operators) Act 1995 applies.²²⁶ This Act provides under section 2 that “no person shall use a goods vehicle on a road for the carriage of goods (a) for hire or reward, or (b) for or in connection with any trade or business carried on by him” without a license issued under the Act. The Act does not apply to EU Member States or certain small goods vehicles within the meaning of Schedule 1. Section 4 allows the relevant authorities to temporarily exempt the licensing requirement in event of “an emergency to be dealt with”. The Act has been further implemented by The Goods Vehicles (Licensing of Operators) (Temporary Use in Great Britain) Regulations 1996.²²⁷ The Regulations exempt foreign vehicles used for certain purposes from the operators’ license requirement in Section 2 of the Act. Section 5 exempts relief vehicles from the licensing requirement, as well as goods for medical or surgical care in emergency relief and in particular for relief in natural disasters.²²⁸

The World Health Organisation’s International Health Regulations make provision for the duty to deal appropriately with the transport of materials over territory. The WHO creates an obligation on the recipient state to facilitate in the transport of materials. The United Kingdom became bound by the Regulations on 15 June 2007.

ii. Air

UK registered aircraft

The UK Civil Aviation Act 1982 regulates civil aviation in the UK. Part III contains the general rules applicable to air transport licenses. Article 64 sets out the basic rule that no aircraft shall be used for the commercial carriage of goods or passengers without a license from the Civil Aviation Authority. This applies to any flight in any part of the world by an aircraft that is registered in the UK and any flight beginning or ending in the UK that is registered in a relevant Overseas Territory. Article 65 governs the particulars of obtaining a license.

International flights

(i) Civilian aircraft

The UK is a State Party to the Convention on International Civil Aviation (1947), also known as the Chicago Convention. The Convention provides that all civil aircraft, not engaged in scheduled international air travel, have the right, subject to the observance of the terms of the Convention, to make flights into or in transit non-stop across a State Party’s territory and to make stops for non-traffic purposes without the necessity of obtaining prior permission, and subject to the right of the State flown over to require landing. Such aircraft also have the privilege to take on or disembark passengers or cargo, subject to any regulations or conditions imposed by the territorial State. Annex 9 of the Convention provides Standards and Recommended Practices relating to the facilitation of formalities for clearance of aircraft and commercial traffic through customs, immigration, public health and agriculture authorities in the context of relief operations.

According to an official at the UK Civil Aviation Authority, civil flights bearing disaster goods would generally be considered charter flights (i.e., non-scheduled international travel) and are usually treated liberally in terms of the grant of traffic rights. An EU operator holding an operating license could operate at will from any EU country to the UK without specific permission from the UK Government or the Civil Aviation Authority. Aircraft originating outside the EU would require Department for Transport permission to operate within the UK. Overflights typically do not require specific permission as long as the aircraft meets internationally-recognised standards. Any airport charges are handled by the individual airports. All aircraft would be expected to comply with the relevant UK air safety rules.

There is no specific regime in place to process aircraft carrying disaster relief materials; however, if dangerous goods, such as controlled substances, were on board, special procedures will apply. EU operators carrying dangerous goods that have satisfied EU

Regulation 3922/91/EC concerning administration and safety measures and the subsequent Regulation 1899/2006/EC, Annex III would be allowed to operate in UK airspace under the so-called EU-OPS regime. The same is true for non-EU operators who are participating in the EU-OPS scheme. Otherwise, foreign aircraft would require Dangerous Goods Approval from the UK Civil Aviation Authority. All dangerous goods must be carried in accordance with the International Civil Aviation Organization (ICAO) Technical Instructions. However, in the event of a disaster, states have the facility to issue an exemption from certain requirements in the ICAO Instructions. This is done on a case-by-case basis.

(ii) State aircraft

The Chicago Convention does not apply to state aircraft, which includes aircraft used in military, customs and police services. Thus, state aircraft are not permitted to fly over or land in the UK unless they have the express authorisation of the UK. An authorisation must be given by special agreement “or otherwise”; generally a bilateral or multilateral agreement between the UK and the other State concerned or “ad hoc” permissions obtained and notified to the relevant authorities before the operation of the flight. Such ad hoc authorisations usually contain the name of the foreign air operator, the type of aircraft and its registration and identification, the proposed flight routing (including last point of departure outside the State, the first point of entry, the date and time of arrival, the place of embarkation or disembarkation abroad of passengers or freight), the purpose of the flight (number of passengers and their names). A clearance for the flight by air traffic control does not normally constitute permission for this purpose.

The meaning of ‘state aircraft’ in the Chicago Convention has been the subject of much debate. The inclusion of aircraft used for military, customs and police services is a presumption, and can be rebutted. Moreover, other flights may fall within the notion of a state aircraft. In cases of doubt, the test is generally one of the functions the plane will be performing at the relevant time, as well as the degree of control of the flight by the State concerned. In particular, there is no clear rule in customary international law as to the treatment of disaster relief and humanitarian flights. It is possible that flights that would otherwise be characterised as ‘state’ (i.e. military planes) may be considered as civil for the purposes of the Chicago Convention when carrying aid supplies or personnel.

Emergency powers

Section 30 of the Airports Act 1986 allows the Secretary of State to give directions to airport operators that the Secretary of State deems necessary in ‘the interest of national security’. This term is not defined, nor is the word ‘emergency’ included.

iii. Rail

Directive 95/18/EC establishes the criteria applicable to the licensing of railway undertakings established in the Community. Once issued, a license will be valid across the territory of the EU. The Directive has been amended by Directive 2001/13/EC. In order to operate a railway asset in Great Britain, the operator must hold a license or license exemption under section 6 of the Railways Act 1993,²²⁹ which provides the general framework for the licensing and operation of rail services. In 2005, the Railway (Licensing of Railway Undertakings) Regulations 2005²³⁰ entered into force and implemented the EU legislation. The Regulations require most railway operators providing a passenger or freight service to obtain a European license and give the UK Office of Rail Regulation the authority to issue such a license. A European license allows the operator to conduct its services across the EEA territory. In the UK, an operator holding a European license is also required to hold a Statement of National Regulatory Provisions regarding certain responsibilities for operators providing services within Great Britain. There are no provisions regarding emergencies or any exceptions applicable thereto.

Directive 2007/59/EC lays down conditions and procedures for the certification of train crews operating locomotives and trains.²³¹ The Directive includes mandatory exemptions to the infrastructure certificate requirement, including “when a disturbance of the railway service necessitates the deviation of trains or maintenance of tracks”²³² but does not provide for any exceptions or expedited procedures applicable in the event of a disaster. In the UK, an implementation date of 4 December 2009 was set, but it appears that the deadline has not yet been met.

Travel on the Channel Tunnel between England and France was first established by the Treaty of Canterbury on 12 February 1986. Its operation was provided for in the Channel Tunnel Act 1987 which has been amended several times. The most recent amendment is related to new EU legislation providing for the development of the Community’s railways and opening of access to all international operators.²³³ The Channel Tunnel (International Arrangements) (Amendment) Order 2009²³⁴ implements the recent EU framework. From 1 January 2010, all EU Member States are required to extend existing right of access for international passenger services to any licensed railway undertaking. As a result, from that date, all railway undertakings, whether part of an international grouping or not, will have access to the Channel Tunnel. The legislation does not contain any provisions relating to emergency access that are relevant to this study.

iv. Maritime

The UK territorial sea is defined by the Territorial Sea Act 1987²³⁵ as extending 12 nautical miles from its base. Within that area, the UK has jurisdiction over the sea, the seabed, and the air above. The territorial sea of the United Kingdom does not adjoin any other state except for in the English Channel where the Territorial Sea (Limits) Order 1989²³⁶ sets out the limits of the territorial sea in the Straits of Dover. The maritime boundary between the UK and the Republic of Ireland is not established through legislation such as the above. Rather, arrangements have been put in place based on the Belfast Agreement of 1998, for the joint management of the Loughs that form the border between the two states.²³⁷

The United Kingdom acceded to the UN Convention on the Law of the Sea (1982) on 25 July 1997.²³⁸ The Convention attempts to settle all issues relating to the law of the sea, including rights of passage and the right of a coastal state to protect itself. The UK's Territorial Sea Act 1987 provides for the extent of the territorial sea adjacent to the British Islands as 12 nautical miles. Article 18 of the UN Convention defines 'passage' as "navigation through the territorial sea for the purpose of: (a) traversing that sea without entering internal waters or calling at a roadstead or port facility outside internal waters; or (b) proceeding to or from internal waters or a call at such roadstead or port facility." Passage is considered to be continuous and expeditious and extends to stopping and anchoring insofar as necessary to ordinary navigation or due to reasons of *force majeure*, distress or to render assistance to persons, ships or aircraft in danger or distress. 'Innocent passage' is passage that is "not prejudicial to the peace, good order or security of the coastal State."²³⁹ Moreover, the coastal State is permitted to take steps to protect itself against rights of passage that are not innocent, including the temporary suspension of passage by foreign ships into areas of its territorial sea.²⁴⁰ An official from the UK Maritime and Coastguard Agency indicated that a ship bound for a UK port to offload aid would fall under the definition of innocent passage. However, when the ship actually starts unloading the goods, UK Border Force and HMRC will be responsible for customs formalities (see above). The official noted that the UK has not yet had to consider this situation in the context of a UK disaster. All ships entering UK harbours to unload cargo for disaster assistance would need to comply with port rules and regulations.

The UK is a State Party to the Convention on the Facilitation of Maritime Traffic (1965). The Convention aims at simplifying and reducing formalities, documentary requirements and procedures associated with international voyages. The Annex to the Convention was amended in 1977 and 1987 to provide in Section 5F for the facilitation of the arrival

and departure of ships engaged in disaster relief work, including the facilitation of the entry and clearance of persons, cargo, material and equipment required to deal with disaster situations. Article II(3) provides that the Convention does not apply to warships, and Article V(2) specifies that the Convention can be overridden in order to preserve order and security. There is no specific implementing legislation; the provisions of the Convention are given effect in numerous legal instruments and practices.

g. Motor Vehicle Insurance, Registration and Temporary Importation

IDRL Guidelines

Part V Section 19 of the IDRL Guidelines requires Affected States to grant, without undue delay, permission for the speedy passage of vehicles operated by Assisting States and humanitarian organisations.

- > Vehicles registered in other EU Member States will be exempt from UK registration and licensing requirements.
- > There are no exemptions from insurance requirements.

i. Insurance

The EU has enacted a series of directives in the area of insurance. The first of these directives, Directive 72/166/EC²⁴¹ Article 3 requires that each Member State must take measures to ensure that civil liability regarding the use of vehicles normally based in its territory is covered by insurance. Drivers travelling across the EU must be able to produce evidence of insurance cover, such as a Green Card under a voluntary system in effect inside and outside of the EU. The Green Card is treated as the equivalent of national Motor Insurance Certificates issued in most countries. Member States are also prohibited from making checks on the insurance coverage of foreign vehicles under Article 2. The UK requires under Part IV of the Road Traffic Act 1988 that drivers in its territory have third party insurance cover.²⁴² It is also an offence under Section 22 of the Road Safety Act 2006 to be the registered owner of a vehicle which does not meet the statutory insurance requirements.

European legislation exempts vehicles registered in other EU Member States that are temporarily brought into the UK by overseas residents from UK registration and licensing requirements. Directive 83/182/EEC limits such visits to six months in a 12 month period.²⁴³ These vehicles are also exempt from tax and

excise duties under the Directive. To satisfy the temporary importation requirements of the Directive for private use, the individual importing the vehicle must (1) have his or her normal residence outside the UK; (2) use the vehicle for private use; and (3) not dispose of, hire out or rent the vehicle to a resident of the UK.²⁴⁴ A private vehicle imported for business use must be (1) imported by an individual who is not a UK resident and (2) who does not use the vehicle in the UK in order to carry passengers for hire or reward or for the industrial and/or commercial transport of goods, whether or not for a reward. Furthermore, the vehicle must not be disposed of, hired out or rented in the UK, and it must have been acquired in accordance with the taxation conditions imposed in the state of normal residence. ‘Normal residence’ is defined under Article 7 as the place where a person normally resides for at least 185 days per year because of personal and occupational ties, or if there are no occupational ties, because of close links between the person and the place.

Non-EU drivers of vehicles must demonstrate to HM Revenue and Customs that they are allowed to use the vehicle in the UK on a temporary basis. If they are able to do so, they will be issued a Notice 3, which is stamped with the date of required exit. HM Revenue and Customs may, after six months, decide whether an extension may be granted. A vehicle that is used in the UK for more than six months must follow the normal registration requirements in the UK, i.e., registration with the Driver and Vehicle Licensing Agency.

ii. Licensing and registration

The Road Traffic Act 1988 makes it an offence for a person to drive a motor vehicle on the roads if the individual does not have a license authorising him to do so. Licenses may only be granted after a test of competence to drive. The UK Motor Vehicles (Driving Licenses) Regulations 1996²⁴⁵ implements this legislation by providing for the procedures governing the issuance of licenses for various types of motor vehicles. These Regulations and their amendments were revoked with the enactment of the Motor Vehicles (Driving Licenses) Regulations 1999.²⁴⁶ The 1999 Regulations retain much of the 1996 provisions and consolidate the amending legislation. The Regulations also give effect to EU Directive 91/439/EC which harmonizes the conditions applicable to the issuance and recognition of driving licenses between Member States.

Vehicles circulating within the UK must be registered according to the Vehicle Excise and Registration Act 1994. The vehicles must also bear a registration mark indicating the registered number of the vehicle.²⁴⁷ EU Regulation 2411/98/EC covers the recognition in intra-Community traffic of the distinguishing sign of the Member State in which motor vehicles and their trailers are registered. This Regulation applies to

vehicles registered and driven within the Community. The Regulation creates a uniform distinguishing sign for vehicle registration plates that must be recognised as equivalent to any other distinguishing sign that a Member State may recognise in order to identify the State of registration. Regulation 16 of The Road Vehicles (Display of Registration Marks) Regulations 2001²⁴⁸ implements the EU Regulation by making provision for the display of the distinguishing sign of the UK, the registration mark in accordance with the Regulation and the recognition of EU-registered motor vehicles.

iii. Temporary importation

European legislation exempts vehicles registered in other EU Member States that are temporarily brought into the UK by overseas residents from UK registration and licensing requirements. Directive 83/182/EEC limits such visits to six months in a 12 month period. A vehicle that is used in the UK for more than six months must follow the normal registration requirements in the UK, i.e., registration with the Driver and Vehicle Licensing Agency. These vehicles are also exempt from tax and excise duties under the Directive. To satisfy the temporary importation requirements of the Directive for private use, the individual importing the vehicle must (1) have his or her normal residence outside the UK; (2) use the vehicle for private use; and (3) not dispose of, hire out or rent the vehicle to a resident of the UK.²⁴⁹ A private vehicle imported for business use must be (1) imported by an individual who is not a UK resident and (2) who does not use the vehicle in the UK in order to carry passengers for hire or reward or for the industrial and/or commercial transport of goods, whether or not for a reward. Furthermore, the vehicle must not be disposed of, hired out or rented in the UK, and it must have been acquired in accordance with the taxation conditions imposed in the state of normal residence. ‘Normal residence’ is defined under Article 7 as the place where a person normally resides for at least 185 days per year because of personal and occupational ties, or if there are no occupational ties, because of close links between the person and the place. This legislation has been enacted in the UK with the Customs and Excise Duties (Personal Reliefs for Goods Temporarily Imported) Order 1983²⁵⁰ and its 1991 amendment²⁵¹.

Based on the above legislation, the Community Customs Code and its implementing legislation,²⁵² as well as Community VAT provisions²⁵³ special provisions apply to non-EU drivers wishing to temporarily use their vehicle within the EU Member States. Non-EU drivers of vehicles must demonstrate to HM Revenue and Customs that they are allowed to use the vehicle in the UK on a temporary basis. This is done so by satisfying the requirements of HM Revenue and Customs Notice 308, Section 2. To claim

the relief: (1) the vehicle must be registered outside the customs territory of the EU in the name of a person established outside the EU as well; (2) the vehicle must be clearly identifiable; (3) if used privately, it must be used exclusively for that purposes, but may include company transport for a business trip; (4) if used commercially, the relief will apply if the driver is transporting persons for payment, or goods whether or not for payment. If those requirements are satisfied, no formal application for authorisation or customs declaration is necessary. However, the driver may complete a C110 notification form either before or after arrival in the UK, as it will aid in claims for relief. If the vehicle must be cleared from a port or airport inventory system, a C21 customs clearance request form must be completed. Similar procedures apply for civil aircraft.²⁵⁴

The UK is also a State Party to the Customs Convention on the Temporary Importation of Private Road Vehicles (1954) and the Customs Convention on the Temporary Importation of Commercial Road Vehicles (1956).²⁵⁵ These conventions require contracting parties to grant temporary admission without payment of import duties, taxes, prohibitions and restrictions to vehicles registered in the territory of any other contracting party. The Private Vehicles Convention entered into force on 15 December 1997 and has 80 parties, including the European Community. The Commercial Vehicles Convention entered into force on 8 April 1959 and has 41 parties, including the European Community.

h Rescue Animals

IDRL Guidelines

Section 18 of the IDRL Guidelines discusses the exemption of special goods and equipment from legal and administrative barriers to exportation, transit, importation and re-exportation or provisions providing for the reduction of such barriers. Sniffer dogs may be considered within the scope of this provision.

- > UK legislation provides that pet animals must enter the UK through channels approved by the Secretary of State.
- > The legislation allows dogs and other animals to enter the UK with a passport and for third country animals to enter with a third country certificate
- > UK legislation concerning entry into the territory does not provide for exceptions in relation to animals required for relief assistance. However, rules on temporary admission may be applicable.

Rescue operations in the UK may involve the use of specially-trained dogs. The Non-Commercial Movement of Pet Animals (England) Regulations 2004²⁵⁶ give effect to Regulation 998/2003 on the non-commercial movement of pet animals.²⁵⁷ The Regulation establishes health requirements for pet animals travelling between Member States or into the Community from third countries. Its provisions allow the UK to retain extra precautions for dogs and cats from certain countries, specifically in relation to rabies, echinococcosis and tick borne diseases.²⁵⁸ Under the UK Regulations, dogs and cats and ferrets must enter the UK through channels approved by the Secretary of State. The Regulations allow dogs and other animals to enter the EU with a passport and for third country animals to enter with a third country certificate.²⁵⁹ According to an official at the European Commission in the DG for Health and Consumers, it is likely that rescue dogs would be considered a ‘pet animal’ and be allowed entry if they satisfy the definition of ‘pet animal’ under Article 3 of the Regulation which is: “animals of the species listed in Annex I which are accompanying their owners or a natural person responsible for such animals on behalf of the owner during their movement and not intended to be sold or transferred to another owner”.²⁶⁰ There is no specific regime applicable to rescue dogs; nor are there exceptions for rescue animals or any reference thereto.

While UK legislation concerning border policy does not provide for any specific exemptions in relation to animals required for relief assistance, the temporary admission procedure discussed above in subsection (c) might be applicable so as to facilitate their entry in relation to customs procedures.

i. Food

IDRL Guidelines

Part V Section 17 of the IDRL Guidelines contemplates the exemption or simplification of procedures relating to customs and taxes for goods and equipment exported by, or on behalf of, assisting States and humanitarian organisations.

- > Law relating food standards and hygiene in the UK is derived from statutes and directly from EU Regulations.
- > Legislation lists several key definitions and places general obligations on food business operators relating to food safety, labelling and presentation, traceability of food and procedures for withdrawal from the market in the event the food is unsafe.

- > The term ‘sale’ in the context of the manufacture and distribution of food is defined as including the supply of food, other than on sale, in the course of business. This could be interpreted to include the distribution of food as aid.
- > Food entering the UK as aid will still have to comply with quality and other standards, which may cause delay in their delivery.

Law regulating food standards and hygiene in the UK is derived from statutes and directly from EU Regulations. It may be the case that food assistance is refused because of non-compliance with national standards. It is therefore important that relief agencies are aware of the applicable food regulations.

The Food Safety Act 1990 is the framework for all food legislation in Great Britain.²⁶¹ The Act defines food under Article 1 as including “(a) drink; (2) articles and substances of no nutritional value which are used for human consumption; (c) chewing gum and other products of a like nature and use; and (d) articles and substances used as ingredients in the preparation of food or anything falling within the subsection.” Section 2 explains the meaning of ‘sale’ as including “the supply of food, otherwise than on sale, in the course of a business”. This could be interpreted to include the distribution of food as aid. Section 7 makes it an offence to cause food to be injurious to health. The General Food Law Regulation 178/2002/EC provides a framework for specific legislation relating to food hygiene, food standards and animal feed and is directly applicable in the UK. The Regulation lists several key definitions (above) and places general obligations on food business operators relating to food safety, labelling and presentation, traceability of food and procedures for withdrawal from the market in the event the food is unsafe. It applies to all stages of production, processing and distribution of food and places legal responsibility for ensuring safety on food business operators. Article 14 prohibits the sale of unsafe food, that is, food that is injurious to human health or unfit for human consumption. Where an operator has reason to believe that food which has been imported, produced, processed, manufactured or distributed is not in compliance with food law requirements, the operator must initiate procedures to withdraw the food from the market and alert the competent authorities. A ‘Food business operator’, is defined under Article 3(3) of the Regulation as: “the natural or legal persons responsible for ensuring that the requirements of food law are met within the food business under their control”. This would appear to encompass individuals or organisations importing or distributing aid.

The General Food Regulations 2004²⁶² provides for the enforcement of Regulation 178/2002 and also amends the Food Safety Act 1990 to comply with the EU Regulation’s provisions.

EU law on food hygiene has been applicable in the UK since 1 January 2006. Regulation 852/2004/EC is the general legislation and is applicable to all food business operators, including third country business operators. It does not apply to the production of food primarily for domestic use. The Regulation provides for: (1) operator monitoring of the food safety of products and processes; (2) hygiene during and after primary production; (3) microbiological requirements; (4) special hazard management procedures; and (4) registration of establishments. It also provides for specific requirements such as those relating to: (1) food premises; (2) conveyances and containers for food; (3) waste; (4) water supply; and (5) personal hygiene. Businesses established in the EU and handling products of animal origin will also have to comply with the requirements of Regulation 853/2004/EC. This Regulation mainly requires that such businesses gain prior approval from the relevant food authority before they are permitted to trade in that Member State. Other legislation includes Regulation 854/2004/EC, which lays down specific rules for the control of products of animal origin, such as inspections, certifications, audits and food sampling.

National legislation is required to give effect to these EU Regulations. Standards for food hygiene are governed separately in England, Wales, Scotland and Northern Ireland under the Food Hygiene Regulations 2006.²⁶³

Law relating to food may also be found under the Food Labelling Regulations 1996,²⁶⁴ Animal Health Act 1981, the Consumer Protection Act 1987 and the Trade Descriptions Act 1968.

j. Medicines

IDRL Guidelines

Part V Section 18 of the IDRL Guidelines discusses special goods and equipment, specifically regarding the reduction of legal and administrative barriers to the exportation, transit importation and re-exportation of medications by assisting States.

- > UK law provides for a system of licensing for the manufacture, sale, supply and importation of medicinal products into the UK.

- > EU legislation on pharmaceuticals is mainly restricted to good manufacturing practice and procedures for the authorisation of certain medical products for human and veterinary use, with the ultimate aim of safe marketing of the product. There is no relevant legislation concerning the import or export of such products. However, medicinal products are considered a ‘good’ under Community law and would therefore receive exemptions from otherwise applicable duties.
- > The UK is party to the UN Single Convention on Narcotic Drugs (1961) and the UN Convention on Psychotropic Substances (1971) which limit the possession, use, trade in, distribution, import, export, manufacture and production of drugs exclusively to medical and scientific purposes.
- > Medicinal products entering the UK as aid will still have to comply with quality and other standards, which may cause delay in their delivery.

i. Pharmaceuticals

As is the case with food, aid in the form of medicines should comply with national standards for production and quality.

The quality and safety of medicines has been the subject of UK regulation since the Medicines Act 1968. The Act was replaced by the Medicines Act 1971, which provided for a system of licensing for the manufacture, sale, supply and importation of medicinal products into the UK. EU regulation in this area takes precedence over the Medicines Act 1971 which is still in force, but is simply updated to accommodate new EU requirements. The most relevant legislation is Directive 2001/83/EC relating to medicinal products for human use intended to be placed on the market. The Directive does not provide a definition for the phrase ‘intended to be placed on the market’, but as in the context of food, it may also include medicine distributed without charge. Products both manufactured within the EU and outside of it must comply with the Directive’s standards. The Directive lays down a procedure for a national marketing authorisation and the mutual recognition of such an authorisation throughout the EU. Member States have 90 days to recognize the marketing authorisation (unless public health grounds apply). Article 51 states that the quality of medicinal products originating from a third country must also satisfy the requirements of a marketing authorisation. Whether

an authorisation is granted is dependent upon the submission of documentation attesting to considerations such as the product’s quality of manufacture, content and testing results.

Experts in the Medicines and Healthcare Products Regulatory Agency (MHRA), which is part of the Department of Health, are responsible for evaluating all applications for new medicines against the standards in the EU legislation. It is the MHRA that will issue the marketing authorisation. The evaluation is done electronically, but its length depends on the type of medicine at issue.

None of this legislation considers exceptional measures or special procedures that would apply in disaster situations and there is no procedure for expediting necessary approvals.

ii. Controlled substances

It may often be the case that relief organisations need to import controlled substances for medical purposes. Drugs such as methadone, morphine, opium, codeine and tranquilisers are often necessary for legitimate medical treatment. Relief organisations may run the risk of contravening relevant national legislation if they are not aware of the types and amounts of controlled substances that can be brought into the UK.

The UK ratified the UN Single Convention on Narcotic Drugs 1961 in 1964 and amended The Medicines Act 1968 in order to give effect to its obligations under the Convention.²⁶⁵ The Convention limits the possession, use, trade in, distribution, import, export, manufacture and production of drugs exclusively to medical and scientific purposes.²⁶⁶ The Medicines Act 1968 also gives effect to the UN Convention on Psychotropic Substances (1971)²⁶⁷ which establishes an international control system for psychotropic drugs such as amphetamines and barbiturates with an exception for medical and scientific use.

k. Extended hours

IDRL Guidelines

Part V Section 23 of the IDRL Guidelines provides that Affected States should ensure that state-operated offices and services essential to the timely delivery of international disaster relief operate outside normal business hours in the event of a disaster.

- > UK legislation imposes maximum working days and weeks on adult workers, including government employees.

- > The legislation allows for exceptions in situations where characteristics peculiar to certain specific services such as the armed forces or the police, or to certain specific activities in the civil protection services, inevitably conflict with the legislation.
- > There are also exceptions related to the continuity of essential services.
- > There is no requirement that government officers or people with key decision-making power be exempted from the maximum periods in any circumstances.

The Working Time Regulations 1998²⁶⁸ implement the EU Working Time Directive 2003/88/EC. They impose maximum periods of daily and weekly working time and provides for periods of annual rest. The Directive allows for a number of discretionary derogations from the basic principles due to the “specific characteristics of the activity concerned”. The UK Regulations apply to adult workers (those who are at least 18 years of age) including government employees. Regulation number 18 governs exclusions from provisions on the basic principles of the legislation. Subparagraph (c) applies the exclusions “where characteristics peculiar to certain specific services such as the armed forces or the police, or to certain specific activities in the civil protection services, inevitably conflict with” the Regulations. Regulation 21(c) applies where there is a need for continuity of service or production and excludes services such as hospital care, work at docks or airports, telecommunications, civil protection, and gas, water and electricity production. There is no specific mention of immigration or customs inspection employees. Nor is there a specific requirement to keep government offices open for extended hours during an emergency. However, civil contingency planning is based on the expectation that government and local offices responsible for coordination of relief efforts, including the receipt of international assistance, would open and remain open during any emergency situation. Moreover, many of the government offices that would be involved in clearing goods and people necessary for the response to a UK-based emergency situation (in particular the UK Border Agency) already operate a 24 hour, 7 days a week, service and additional personnel would be made available to staff such centres as required.

I. Public Procurement Rules

The UK Public Contracts Regulations 2006 and The Utilities Contracts Regulations 2006 implement EU legislation on public procurement contracts relating to works, supply and services contracts, and also contracts specifically relating to utilities. Specific rules

relating to the postal services sector have been enacted into UK law with The Public Contracts and Utilities Contracts (Postal Services Amendments) Regulations 2008. The EU legislation and UK implementing legislation is applicable only to the public sector, which is labelled as the ‘contracting authority’ in the legislation. The UK has implemented the Directives without any change and has chosen to enact several optional provisions concerning particular procedures and electronic procurement systems. Under the EU definition, ‘contracting authority’ means “state, regional or local authorities, bodies governed by public law, associations formed by one or several of such authorities or bodies governed by public law.” The UK Regulations expand on that definition in Regulation 3 to include local authorities, fire authorities and police, among others.

The UK Regulations reflect the procedures provided for in the EU legislation: (1) open procedures, in which any interested economic operator may submit a tender; (2) restricted procedures, whereby any economic operator may request to participate, but only those invited by the contracting authority may submit a tender; and (3) negotiated procedures, where the contracting authorities engage economic operators of their choice and negotiate the terms of contract with such operator. It is preferred under the Directive that procedures (a) and (b) are used. However, in exceptional cases, a contracting authority may be permitted to award contracts by negotiated procedure, without the publication of a tender notice. That exception is found under Article 31 of Directive 2004/18/EC. The exception in Article 31 of the Directive is found under Regulation 14(1)(a)(iv) of the UK Public Contracts Regulations, which provides:

- A contracting authority may use the negotiated procedure without the prior publication of a contract notice in accordance with regulation 17(3) in the following circumstances –
- (a) in the case of a public contract –
 - ...
 - (iv) when (but only if it is strictly necessary) for reasons of extreme urgency brought about by events unforeseeable by, and not attributable to, the contracting authority, the time limits specified in –
 - (aa) regulation 15 for the open procedure;
 - (bb) regulation 16 for the restricted procedure; or
 - (cc) regulation 17 for the negotiated procedure;
 cannot be met.

EU guidance on public procurements indicates that such situations are those that “overwhelmingly transcend the normal bounds of economic and social life (for example, an earthquake or flooding”. The guidance makes clear that this exception is only to be used in the immediate aftermath of an emergency. Therefore, a contracting authority can only rely on this provision to cope with the event immediately after it occurs, which, according to the guidance, should equal a period of approximately one month. Any products, supplies or services needed subsequently must be tendered for according to the normal procedures in the Directive.

This issue was briefly touched upon in Advocate General Jacob’s Opinion in the case *Commission v Italy* which involved Italy’s acquisition of fire-fighting aircraft to deal with seasonal forest fires. The case was declared inadmissible by the ECJ, but AG Jacobs took the view that the derogation could not be applied where equipment or services were sought for recurring events.

EU public procurement rules may therefore interfere with a Member State’s ability to receive the assistance of its choice, certainly in the long term after the immediate aftermath has subsided, but also possibly in relation to ongoing or recurring emergencies. However, a Member State’s ability to negotiate specific contracts in the immediate aftermath of a disaster would not appear to be affected by the rules.

IX. Issues Pertaining to International Disaster Relief Organizations

a. Domestic Legal Status

UK law, including the CCA, does not make provision for special procedures for the registration of not-for-profit organisations in case of emergency. As discussed above in Part IV, the CCA allows the Government to make emergency regulations to prevent, control and mitigate an aspect or effect of an emergency. Such registration system may be established within the framework of an emergency regulation.

UK law recognises as legal persons corporations established by foreign law. The law of the place of incorporation determines the capacity of a foreign corporation and the internal management of the corporation such as the functions and powers of its organs or officers, who is entitled to act on behalf of the corporation and the extent of an individual member's liability for the corporation's debts. The same principle applies to institutions which have legal personality under the law of a foreign country but which would not have had legal personality if they had been created under English law. Accordingly, if a foreign humanitarian organisation has legal personality under the law of the home State, UK law will also recognise it as a legal entity. Such an organisation may sue or be sued and also enter into a transaction (if it has power to do so both under its constitution and under the law governing the transaction).

b. Privileges and immunities

i. Civil protection officials

As a general rule immunity under UK law would not extend to foreign civil protection personnel. However, there is a possibility that privileges and immunities may extend to State officials on civil protection missions. This would depend on the context in which they were engaged, for example, whether they were on a special civil protection mission, or whether any ad hoc arrangements have been entered into that provide for such immunities.

ii. Diplomatic and consular officials

Recognition of privileges and immunities

The UK is a State Party to the Vienna Convention on Consular Relations and the Vienna Convention on Diplomatic Relations. Provisions of the Conventions have been given effect in UK law by virtue of the Diplomatic Privileges Act 1964 and the Consular Relations Act 1968. The UK has also signed, but not ratified, the Convention on Special Missions 1969. UK courts will, however, extend privileges and immunities to staff on special missions.

The privileges and immunities extended to diplomatic and consular personnel extended under these acts are generally consistent with the Vienna Conventions. The Diplomatic Privileges Act 1964 applies to all diplomatic missions whether or not the sending state is a party to the Convention on Diplomatic Relations. Under the 1964 Act, privileges and immunities are accorded to a diplomatic agent, the mission's administrative and technical staff and service staff and their private servants, as well as family members of a diplomatic agent.

Similarly, the Consular Relations Act 1968 applies to every consular post in the UK, whether or not the sending state is a party to the Convention on Consular Relations. Under the 1968 Act, consular officers and consular employees enjoy certain privileges and immunities. Members of the service staff, family members of consular officers, consular employees and service staff, members of the private staff and honorary consulate officers also enjoy privileges and immunities to a lesser extent.

Under these Acts, there is no specific procedure for recognising the international privileges and immunities of diplomatic and consular officials. A person entitled to privileges and immunities under the Acts enjoy such privileges and immunities from the moment he or she enters the UK to take up post or, if already in the UK, from the moment when the appointment is notified to

the UK Government or when he or she begins duties with a consular post.

Neither the Diplomatic Privileges Act 1964 nor the Consular Relations Act 1968 apply to international organisations or persons connected with them.

iii. International and regional organisations

Recognition of privileges and immunities

International organisations are as a general rule not entitled to sovereign or diplomatic immunity in the UK. International organisations may, however, enjoy privileges and immunities where such privileges and immunities are conferred on the organisation by legislative instrument, but ‘only to the extent of such grant’. The International Organisations Act 1968 is the primary legislation that governs the grant of privileges and immunities to international organisations.

In respect of an international organisation of which the UK is a member, certain privileges and immunities may be granted by Order in Council to the organisation, its officers, representatives and servants, members of its subordinate bodies, experts employed by or serving under the organisation and persons engaged on missions for the organisation. Organisations of which the UK is not a member may only be granted exemption or relief from taxes on income and capital gains. A list of organisations that have been recognised as international organisations in the UK is in Annex II. No international relief agencies are presently recognised under this framework. The privileges and immunities which may be granted are set out in schedule 1 of the International Organisations Act 1968. They resemble those privileges and immunities accorded to a diplomatic mission. The terms of privileges and immunities are specified in each case and vary from one case to another.

As part of its membership in the EU, the UK is required to grant privileges and immunities to bodies established under the Treaty on European Union, their officers, other persons connected with the body and their family members. Under Article 343 of the Treaty on the Functioning of the European Union (Lisbon) (ex Article 291 TEC), the Community “shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of its tasks”. A protocol was drafted and attached to the Treaty which presents the conditions of such privileges and immunities (Protocol (No 36) on the privileges and immunities of the European Communities (1965). The UK has implemented its responsibilities under the Treaty and the Protocol with several pieces of legislation, for example, the European Communities (Immunities and Privileges of the European Police Office) Order 1997.²⁶⁹

United Nations and its agencies

The UK acceded to the UN Convention on the Privileges and Immunities of the UN (1946) in 1946. It also acceded to the Convention on the Privileges and Immunities of the Specialized Agencies (1947) in 1949, including a reservation regarding Article 11 on equal treatment as regards priorities, rates and taxes on telecommunications. The two Conventions expand on Articles 104 and 105 of the Charter of the UN that clarify the legal status, rights and privileges and immunities of UN personnel and specialized agencies. The Conventions are given effect in the United Kingdom by the United Nations and International Court of Justice (Immunities and Privileges) Order 1974 and the Specialized Agencies of the United Nations (Immunities and Privileges) Order 1974, both of which are made pursuant to the International Organisations Act 1968.

iv. Liability protections

UK law does not specifically provide liability protections for foreign governmental relief personnel in disaster relief. Such personnel may be protected by immunity against any liability claims if their activities are carried out in their capacity as diplomatic agents or consular officers or employees. Otherwise, such personnel will have no automatic protection against any liability arising out of their relief activities unless there is specific legislation to that effect.

v. The Tampere Convention

It should be noted that Article 5 of the Tampere Convention (discussed above in Part VIII.d) provides that the Affected State must afford privileges and immunities to persons and organisations headquartered or domiciled outside the territory of the Affected State that are providing telecommunications assistance during a disaster. As noted above, there is no specific implementing legislation in the UK regarding the Tampere Convention, so it is unclear whether this provision has been given effect in UK law.

c. Private sector and individual assistance from abroad

i. Charitable funds

If a local authority or other body decides that it is necessary to set up an appeal fund to respond to the needs of disaster victims, it must follow specific procedures. The two basic options are to set up either a charitable trust or a non-charitable discretionary trust. Depending on the type of fund that is set up, differing levels of tax treatment will apply. Moreover, funds held by a charitable trust must only be used for a charitable purpose and be for the public benefit.

If the local authority or other organisation does not wish to go through what might be quite a lengthy process, it may elect for the British Red Cross to set up and manage the relief fund.²⁷⁰

It is likely that, rather than set up a trust in the UK, a foreign organisation will be more interested in making a donation to a UK fund. Depending on the type of fund, the donor may derive certain tax benefits from its donation. For example, capital gains tax charges do not apply to the donation of assets and companies can claim a tax deduction on donations made to a charitable trust; whereas, regarding a non-charitable discretionary trust, capital gains tax does not apply to donations of money, but the donor will normally have to pay such tax on the donation of any other asset at the asset's market value.

d. Accountability of Affected State Government

There is no specific legislation pertaining to the accountability of the UK government for the activities of foreign relief personnel. However, accountability may be derived from several other sources.

i. Civil liability

Crown liability

Under the Crown Proceedings Act 1947, the Crown (i.e., Government departments) may be held liable by courts in the law of contract or tort and may award the claimant monetary damages. Although it is not possible to obtain an order for execution of judgment against the Crown, the court will issue a certificate of any order that it makes to the relevant government department for payment to the claimant. In addition, the Crown is immune from injunctions and an order of specific performance, but courts may grant a declaration against the Crown. However, any restrictions on remedies must be viewed in light of the UK's responsibility under EU law, which requires that member states must give effective protection to Community rights.

Section 1 of the Crown Proceedings provides for liability against the crown for breach of contract. Although the entering into of contracts by the Crown is largely considered a legitimate exercise of discretion, the Crown "may not contract in such a way as to fetter the exercise of its public powers or the discharge of its public duties."

Section 2 provides for the tortious liability of the Crown. Subsection (1) provides liability on three grounds:

> in respect of torts committed by its servants or agents;

- > in respect of any breach of those duties which a person owes to his or her servants or agents at common law by reason of being their employer; and
- > in respect of any breach of the duties attaching at common law to the ownership, occupation, possession or control of property.

The Crown may also be liable under subsection (2) for breach of statutory duty as long as that duty "is binding also upon persons other than the Crown and its officers". Furthermore, the Crown may be vicariously liable for torts of its "servants or agents" as defined by the courts under common law.²⁷¹ The police are not considered "servants or agents" in this regard.²⁷²

Liability of public authorities

Other public authorities, that is, those that are not government departments or Crown servants, may also be liable under contract or tort law. The meaning of "public authority" has been elaborated upon by the courts specifically in the context of the Human Rights Act 1998.²⁷³ The definition includes so-called "core" public authorities, for example, ministers, government departments, local authorities, the police, prison and immigration officers and the security services. It also includes "hybrid/functional" public authorities, or those bodies exercising functions of a public nature. The determination of whether an authority is hybrid in nature rests on a number of factors including: (1) whether the activity is amenable to judicial review; (2) the degree to which a function is publicly funded; (3) whether a core public authority could have undertaken the activity; (4) the relationship between the body and central government; and (5) whether the body is providing a public service, such as housing.

The Local Government Act 1972 and the Local Government (Contracts Act) 1997 provides the power for local authorities to enter into contractual arrangements. An authority may not enter into a contractual arrangement exceeding its authority.

It may also be possible for a claimant to file a successful claim against public authorities in tort. The standard to which the authority will be held, specifically with regard to a negligence claim, depends on whether the authority was exercising a statutory duty or a statutory power.

Judicial review

Judicial review is the method by which the Administrative Court reviews the legality of decisions made by public bodies and delegated legislation. Thus, the Civil Contingencies Act as primary legislation is not itself subject to judicial review. The Administrative Court may also act if an authority fails to come to a decision.²⁷⁴ As above, "public bodies" includes Ministers, Government Departments, local authorities,

immigration authorities and regulatory bodies, but not Parliament. Judicial review is not concerned with the merits of the decision, but rather with whether the public body has acted unlawfully. The three grounds for judicial review are: (1) illegality; (2) irrationality/unreasonableness;²⁷⁵ and (3) procedural impropriety.²⁷⁶

In addition to the three grounds for judicial review above, it may be possible to use the judicial review process to challenge the act of a public body as a contravention of the claimant's rights under the HRA. Accountability with regard to the HRA will be discussed more in the following section. Depending on whether the HRA is employed, different tests for standing will apply. Where the HRA is not relied on, the person will have to show "sufficient interest".²⁷⁷ If the HRA forms the basis of the claim, a more restrictive "victim test" is applied under section 7(1) of the HRA.²⁷⁸

Applications for judicial review may be made on an urgent basis, and can be resolved quickly.

UK human rights framework

> The Human Rights Act 1998

As discussed above, the HRA operates to ensure that public bodies act in line with provisions of the ECHR. The HRA clarifies that it is an unlawful act for an authority to act in a manner contrary to ECHR norms.²⁷⁹ Court proceedings may be brought by those who are victims of such unlawful conduct by the authority.²⁸⁰ The HRA framework also provides for the concrete enforceability of minimum standards as espoused by the ECHR. Where statutory provisions have been introduced they will be interpreted by the court in a manner affording effectiveness to ECHR rights. If such interpretation is not practically possible, the provision itself may be challenged by English courts through a declaration of incompatibility. As has been discussed above, the ECHR and the HRA recognises the right of the UK to derogate from certain provisions of the ECHR in times of public emergency.

> The Equality and Human Rights Commission

The UK Equality Act 2006 established the Equality and Human Rights Commission (EHRC) which operates to ensure that discrimination is curtailed so that government policies, and the agencies which implement them, are mindful of the potential for discrimination. The EHRC also has investigative powers, as well as the statutory authority to apply to the courts for an injunction where an unlawful act is anticipated,²⁸¹ and the power to institute judicial review proceedings, as a party to the given action.²⁸²

The EHRC recognises two forms of duties which are relevant to non-discrimination in the field of emergency relief:

- (1) **Service Provider Duties:** This category is broad and encompasses emergency services, hospitals and clinics, housing associations, charities and voluntary organisations. Breaches are defined as acts discriminating unlawfully when providing a service. This could include refusing to provide a service; providing a lower standard of service; offering a service on different terms than you would to other people. It seems as though there exists only a 'soft' power of enforcement, such as public exposure by the EHRC of the violation.
- (2) **Public Sector Duties:** These duties are legally enforceable. All public bodies are obliged to pay 'due regard' to race, disability and gender equality. Should a breach of these duties occur, the EHRC is able to act according to the powers provided by the Equality Act.

ii. Criminal liability

Corruption, misappropriation and bribery

The Prevention of Corruption Act 1906 prohibits the corrupt acceptance by an agent of any gift or consideration as an inducement. Those employed by the Crown are considered 'agents' for the purposes of this Act. It is also prohibited to give, or offer to give, such a gift or consideration. In both occasions, one convicted of such an offence may be fined, subject to imprisonment for up to seven years, or both.

The Anti-Terrorism, Crime and Security Act 2001 operates to extend common law and the 1906 Act and ensure that foreign actors are encompassed by the prohibition of bribery and corruption. The resultant framework provides that the common law offences outlined above will apply to those individuals holding public office outside the UK.²⁸³ It also extends the 1906 Act to cover bribery and corruption of UK nationals or bodies incorporated under UK law overseas, as well as in the UK.²⁸⁴

The UK MoJ has produced a draft Bribery Bill which seeks to codify and rationalise existing corruption law and to make compliance with international obligations clearer.²⁸⁵ The Bill creates two general offences of bribery that are applicable to all those performing functions of a public nature, as well as in a business, professional or employment context.²⁸⁶ According to House of Lords debates, this would include Parliament.²⁸⁷ In addition, it creates a third offence regarding bribery of a foreign public official,²⁸⁸ and a fourth offence of failure of a corporation to prevent

bribery.²⁸⁹ The corporate offence is applicable to “relevant commercial organisations”, which include: (1) bodies incorporated under UK law and carrying on a business; (2) other corporate bodies, wherever incorporated, carrying on business in the UK; (3) and partnerships of both types.²⁹⁰ Section 15 makes the Bribery Bill applicable to individuals in the service of the Crown in the same manner as it applies to other individuals. The legislation therefore not only applies to the state, but also to private corporate bodies and partnerships.

The UK is a State Party or signatory to most major international instruments in the field of anti-corruption. It is a State Party to the UN Convention Against Corruption (2000) which entered into force on 14 December 2005.²⁹¹ The Convention emphasises prevention and requires the parties to criminalize a wide range of acts of corruption, if they are not already criminalised by domestic law. The UK ratified the Convention on 9 February 2006. The Convention has 143 parties. It was given effect in the UK with the Serious Organised Crime and Police Act 2005.²⁹²

The UK is a State Party to the Organisation for Economic Co-operation and Development (OECD) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (1998) which entered into force on 15 February 1999. The 30 OECD states plus eight non-OECD members are party to the Convention. The Convention requires that states parties criminalize the bribery of foreign public officials in international business transactions. The UK ratified the Convention on 14 December 1998 and its implementing legislation, the Anti-Terrorism, Crime and Security Act 2001, entered into force on 14 February 2002.

The UK is also a State Party to the Council of Europe’s Criminal Law Convention on Corruption (1999),²⁹³ which entered into force in the UK on 1 April 2004 and has 42 states parties. The Convention is aimed at the co-ordination of criminalization of many corrupt practices and provides for supporting criminal law measures and improved international co-operation in the prosecution of these crimes. The UK did not need to draft new legislation to meet its obligations under the Convention.²⁹⁴ The UK is also a signatory to the Civil Law Convention on Corruption (1999).

Fraud

The Fraud Act 2006 provides for a general criminal offence of fraud perpetrated in three ways: (1) false representation; (2) failure to disclose information; and (3) abuse of position.²⁹⁵ It also creates new offences of obtaining services dishonestly and of possessing, making and supplying articles for use in frauds. These offences are punishable by a range of sentences from summary conviction to imprisonment of one year, or a

fine.²⁹⁶ Although ‘person’ is not defined in the Act, the Interpretation Act 1978 defines the term as including a body of persons corporate or unincorporated, as well as individual persons.²⁹⁷ There are no provisions excluding its application to the state.

e. Accountability of Assisting Actors

i. Corruption

In addition to the charitable legal framework, anti-corruption rules may be applicable. As discussed above, UK anti-corruption laws are found in both common law and statutory sources.

The Prevention of Corruption Act 1906 punishes “corrupt transactions with agents”.²⁹⁸ ‘Agents’ is defined in the Act under section 1 as “any person employed by or acting for another”. The Act is therefore applicable not only against the state, but also between private individuals in such a relationship. Furthermore, the Bribery Bill discussed above also includes scope to extend its provisions include bodies incorporated under UK law, which encompasses those UK charities which have been incorporated as a company.²⁹⁹

The Bribery Bill discussed above will also apply to any activity (1) connected with a business; (2) performed in the course of a person’s employment; and (3) performed by or on behalf of a body of persons, whether or not corporate in nature.³⁰⁰

ii. Fraud

The Fraud Act 2006, discussed above, is also applicable in relation to assisting actors. Its scope is not limited to fraud perpetrated by government officials, but applies generally to persons, which, as discussed above, includes a body of persons corporate or unincorporated, as well as individual persons.³⁰¹

iii. Civil liability in tort

Unlike other jurisdictions, English law does not recognise a duty to rescue in the absence of special circumstances. The rule applies even to the emergency services. There are limited scenarios in which the English courts would impose an exceptional affirmative duty to act to make things better, for example, where the defendant has contributed to the creation of the danger (even without fault); where he or she has assumed responsibility for the victims’ welfare; and where he or she occupies an office or position of responsibility (e.g., an employer or owner of land). It is difficult to see that any of these scenarios would apply to emergency disaster relief bodies. There is no express grant of immunity from a civil suit for failure to rescue, or recognition that such a claim may arise.

If an individual was to take steps to rescue victims, the individual will incur a duty of care. However, the duty is only to take reasonable care so as not to make the situation any worse. That is, a rescuer will only be held liable where he or she has tried to assist, has done so incompetently and has made the situation worse than had they not intervened at all.³⁰² A person affected could bring a civil claim for damages in such circumstances, as there is no general immunity from suit for ‘good samaritans’.

In relation to cases concerning emergency personnel, the courts have indicated that they are aware of the difficult circumstances in which assistance may be offered, often under great pressure and without access to full information. This would influence the court’s assessment of what ‘reasonable care’ is in a given situation. Recognition is given to the need to balance priorities and resources in emergency situations.

The situation is the same in Wales and Northern Ireland. In Scotland, some lower courts have departed from the general rule above, but not so as to challenge the general no duty rule.

iv. Statutory liability

As aid organisations are not included as either Category 1 or 2 Responders in the CCA, there is therefore no duty on such organisations to respond in an emergency arising from this legislation. While not strictly a statutory liability, some UK aid organisations, such as the British Red Cross, may consider themselves as having an obligation to respond, for example on the basis of their Royal Charter and/or other instruments.

v. Employment Law and Occupational Health and Safety

There is some question as to who would have responsibility for the health and safety of foreign aid personnel working in the UK. UK statutory employment law is complex and includes many pieces of legislation aimed at specific issues, such as safety and biocidal products, agricultural safety, chemical safety and safety in mining.³⁰³ The Health and Safety at Work (etc.) Act 1974 provides for general rules regarding employers’ responsibility for health and safety. Sections 2 and 3 come under the heading of general duties. Section 2(1) provides for an employer’s duty to ensure “so far as is reasonably practical, the health, safety and welfare at work of all his employees.” The employer is also under a duty in Section 2(3) to make information about health and safety policy to his or her employees. Section 3 discusses general duties to persons other than employees. Subsection (1) states that “[i]t shall be the duty of every employer to conduct his undertaking in

such a way as to ensure, so far as is reasonably practicable, that persons not in his employment who may be affected thereby are not thereby exposed to risks to their health or safety.” While it does not explicitly refer to foreign workers, it could be applicable in such a way. Furthermore, government policy documents indicate that all responding agencies will be responsible for the health of safety of their own staff.³⁰⁴

There is some indication that, in practice, it is the foreign employer’s responsibility to ensure the health and safety of his or her employees. However, external aid providers would be expected to comply with UK health and safety law.

f. Liability and Payment

The CCA and associated instruments do not discuss the issues of liability and payment. There is a potential conflict regarding responders in relation to who bears financial responsibility for resources and staffing devoted to assistance operations and any liability incurred. This issue consists of two separate sub-issues: (1) the internal aspect, i.e., local government versus national government responsibility and liability; and (2) UK versus international assisting actor responsibility and liability. Where the UK formally requests assistance, the national government is likely to be responsible for liability and payment issues. However, this issue is unclear and there are no formal steps put in place to determine who should be responsible for costs and liable for any associated claims. It is likely that the issue will continue to be handled on a case-by-case basis.

g. Security

Most emergencies will be handled by category 1 and 2 responders. The police, as category 1 responders, have primary responsibility to ensure security and to co-ordinate the activities of response teams in land-based emergencies.³⁰⁵ They are responsible for ensuring not only the protection of life, but also for securing the scene, including the establishment and maintenance of cordoned areas where necessary to facilitate the work of emergency services and other responders. The police are also responsible for locating and removing fatalities, and for processing data related to casualties. Rescuers are expected to comply with directions from security personnel. However, the police do not assume specific obligations to ensure the safety of rescue personnel. In serious conditions, military assistance may be provided to the police (as discussed above).

The UK is a State Party to the Convention on the Safety of United Nations and Associated Personnel (1994). The Convention applies to UN operations “(i) where the operation is for the purpose of maintaining

or restoring international peace and security; or (ii) where the Security Council or the General Assembly has declared, for purposes of the Convention, that there exists an exceptional risk to the safety of the personnel participating in the operation”.³⁰⁶ The Convention is narrowly focused and does not apply to other peacekeeping missions. It is only relevant where a UN mission has been dispatched, an unlikely scenario in relation to foreseeable disasters occurring within the UK, and one which would only occur with the consent of the UK government. The UK ratified the Convention in 1998 and enacted the United Nations Personnel Act 1997. The UK recently enacted the Geneva Conventions and United Nations Personnel (Protocols) Act 2009, which in part enabled the UK to ratify the 2005 Optional Protocol to the 1994 Convention. The 2005 Protocol extends protection to personnel in humanitarian assistance operations and operations aimed at delivering emergency humanitarian assistance. This means therefore that, once section 2 of the UK Act is in force, any foreign UN personnel engaged in these types of operations within the UK would be protected. Section 1 of the Act entered into force on 5 April 2010.³⁰⁷

h. Access to Disaster-Affected Persons

UK law and policy does not explicitly provide that approved international disaster relief providers will have freedom of access to disaster-affected persons. Nor are there any rules that explicitly impede humanitarian organisations from distributing their own relief according to humanitarian principles (for example, impartiality). However, there is some legislation that might affect the ability of aid providers to assist certain affected groups.

i. Immigration law

Under section 25B(3) of the Immigration Act 1971, as amended, it is an offence to assist the entry or remaining of an excluded person in the UK. This provision applies where a person:

1. does an act which assists the individual to arrive in, enter or remain in the UK;
2. knows or has reasonable cause for believing that the act assists the individual to arrive in, enter or remain in the UK, and
3. knows or has reasonable cause for believing that the Secretary of State has personally directed that the individual's exclusion from the UK is conducive to the public good.

Under section 25B(4), the offence applies to any action done (1) in the UK; (2) outside the UK by an individual to whom section 25(5) applies; or (3)

outside the UK by a body incorporated under the law of part of the UK. The maximum sentence on indictment is 14 years imprisonment, a fine or both. Section 25 of the Immigration Act 1971 may also apply. This makes it an offence to assist unlawful immigration to the UK where a person:

1. does an act which facilitates the commission of a breach of immigration law by an individual who is not a citizen of the European Union;
2. knows or has reasonable cause for believing that the act facilitates the commission of a breach of immigration law by the individual, and
3. knows or has reasonable cause for believing that the individual is not a citizen of the European Union.

‘Immigration law’ in this context is defined as “a law which has effect in a member State and which controls, in respect of some or all persons who are not nationals of the State, entitlement to: (a) enter the State; (b) transit across the State; or (c) be in the State.” Again, this offence applies to any action done (1) in the UK; (2) outside the UK by an individual to whom section 25(5) applies; or (3) outside the UK by a body incorporated under the law of part of the UK. A person found guilty of this offence may be subject to imprisonment up to 14 years, a fine, or both, or, where a summary conviction has occurred, to imprisonment for no more than six months, a fine, or both.

A disaster occurring in the UK and affecting major cities will affect illegal immigrants as much as people with the legal right to be present in the UK. If people are injured, they will require medical help and sometimes shelter that can be lengthy in duration. There is no law specifically preventing aid personnel from providing relief to such persons. The general terms of the legislation above could give rise to the possibility of disaster relief personnel being viewed as assisting illegal immigrants to unlawfully remain in the UK, depending upon the type of assistance given. However, in practice this would seem unlikely, in particular for assistance given in the immediate aftermath of a disaster.

ii. Children and vulnerable adults

The Children Acts 1989 and 2004 are aimed at safeguarding children and promoting co-operation to improve the well-being of children and young people.³⁰⁸ The 2004 Act amends the 1989 Act and is specifically targeted at professionals who have particular responsibilities in this context, such as: (1) organisations that commission or provide services to children, young people and adults who are parents or carers, and (2) those with responsibility for safeguarding the welfare of children. Section 10 of the 2004 Act creates a framework for co-operation

between local authorities, relevant partners and other relevant bodies, including the voluntary sector. The local authorities are under a duty to promote co-operation between those actors in the exercise of their normal functions or when they are engaged in activities relating to children in the area of the local authority. Section 11 requires certain specified agencies to ensure that their duties are discharged with regard to the need to safeguard and promote the welfare of children in the exercise of their normal functions. Subsection (1) specifies the following relevant agencies: (1) children's services authorities; (2) district councils; (3) NHS bodies; (4) police; and (5) British Transport Police. The duty also applies where the agency contracts out services. The obligations in the Act are to be implemented through the establishment of Local Safeguarding Children Boards, under section 13.

The Safeguarding Vulnerable Groups Act 2006 establishes a new scheme for vetting people who work with children and vulnerable adults.³⁰⁹ The purpose of the scheme is to minimise the risk of harm to children and vulnerable adults by those who work with them. It applies to certain 'regulated' activity as defined in the Act. Anyone who works closely or is applying to work closely with children or vulnerable adults must make an application to the Secretary of State to be "subject to monitoring" by the newly created Independent Barring Board which maintains two barred lists: one pertaining to children, and one pertaining to vulnerable adults. The Independent Safeguarding Authority will also aid in the maintenance of this new vetting scheme.³¹⁰ Regulated activity is considered as work that is either paid or unpaid involving certain close contact with children or vulnerable adults. The regulated activity is defined in Schedule 4 and relates mainly to close contact activity carried out on a frequent basis such as teaching, supervising, advising or caring for children or vulnerable adults, or activities which give a person the opportunity to come into contact with children or vulnerable adults on a regular basis, such as being a school nurse or secretary. All persons engaged in such activity must be monitored. Any person who is barred by the Independent Barring Board is not permitted to engage further in such activity. There are additional safeguarding duties placed on regulated activity providers under section 6. Failure of a regulated activity provider to check whether an individual is subject to monitoring is an offence under section 11. Schedule 5 provides steps to follow in verifying whether a person is subject to monitoring. Section 16 provides for certain exceptions from the requirement to make a monitoring check in relation to vulnerable adults. None of the exceptions are relevant in the context of this study.

The Act also gives the Secretary of State the power to make regulations concerning 'controlled' activity. Controlled activity is defined as any activity in the further education and health sectors that is carried out frequently and involves opportunity for contact with children or vulnerable adults or access to their medical records. Examples here are cleaning or administrative work in settings where children or vulnerable adults are present. There is as yet no rule prohibiting a barred person from engaging in controlled activity.

As part of the new vetting scheme under the Act, the Independent Safeguarding Authority (ISA) was set up as a registration body for those individuals who carry out regulated activity with children or vulnerable adults on a frequent or intensive basis. According to an official at the ISA, 'frequent' is defined as once a week or more, and 'intensive' as four or more days in a 30 day period or overnight'.

The above legislation focuses primarily on regulated activities where the main aspect of the job puts one in contact with children, e.g. teachers, doctors, and organisations which have specific programmes for children, such as the British Red Cross. It is not intended to apply to organisations that have incidental contact with children and vulnerable groups, although it may apply, for instance, to disaster assistance organisations that provide emergency assistance or shelter to children. However, it is not clear to what extent overseas aid personnel would be expected to apply for clearance (whether before or during the provision of assistance), or whether assistance personnel coming from abroad that comply with similar rules in their country of residence would be accepted. Leading UK and other charities operating in the UK have policies and guidance in place to ensure staff are vetted before working with children. For example, according to an official at The Safe Network, UK charities such as Save the Children and the British Red Cross require all workers that are in regular contact with children to have an enhanced criminal records background check and appropriate references before an offer of employment is made.

i. Distribution of Relief

There is no official document setting forth basic policies regarding the distribution of aid or any priorities thereto. It appears that aid is primarily distributed on a needs-basis as assessed by the coordinators of the relief. As mentioned in the above section, there are no rules that explicitly impede humanitarian organisations from distributing their own relief according to humanitarian principles. However, the Emergency Workers (Obstruction) Act 2006³¹¹ makes it an offence to obstruct or hinder persons in a certain capacity who provide emergency services and who are responding to emergency

circumstances, without reasonable excuse.³¹² The capacity referred to includes: (1) fire and rescue services; (2) NHS ambulance services; (3) organ, blood or equipment transport services; (4) members of the Coastguard; and (5) persons operating a vessel for the purpose of providing rescue service, such as the Royal National Lifeboat Institution. It is also a criminal offence to obstruct or hinder persons assisting emergency workers in the same way described above.³¹³ Section 1(4) of the Act defines ‘emergency’ circumstances as being present or imminent and likely to cause a person’s death, as well as likely to cause or are causing:

- (i) serious injury to or the serious illness (including mental illness) of a person;
- (ii) serious harm to the environment (including the life and health of plants and animals);
- (iii) serious harm to any building or other property; or
- (iv) a worsening of any such injury, illness or harm.

The offence is punishable by summary conviction or a fine.

The applicability of the Human Rights Act 1998 is worth mentioning at this stage. Section 1(1)(a) of the HRA protects the rights enshrined in Articles 2-12 and 14 of the ECHR. Article 14 is the right not to be discriminated against in the enjoyment of the rights and freedoms of the Convention. The ECHR does not prohibit discrimination *per se*; in order for Article 14 to apply, a violation of another Convention right would have to be established. It should be considered whether the UK would need to derogate from the Convention based on Section 14(1)(b) HRA or Article 15 ECHR (discussed above) in order to implement a distribution policy that might be viewed as discriminatory, for example, one that favours children over adults, or one that gives preference to a certain category of prisoner over another. It seems that there are specific rules in place for determining priority among prisoners. Any distribution policy would have to satisfy the HRA unless it is possible to derogate. Such derogation would depend on whether there is an emergency threatening the life of the nation under Article 15 ECHR, as discussed above.

j. Legal Facilities for Aid Providers

National laws, policies or plans do not specifically provide for free or reduced price facilities for relief providers, such as in-country transport (including by national airlines), use of building and land, use of cargo equipment and loading/unloading support. All such decisions are made on an ad hoc basis. Nor does it provide for any criteria for eligibility for such facilities.

Moreover, there is no national law providing for the limitation of legal facilities on the grounds of national security, health or public morals.

X. Conclusions and Recommendations

a. General Remarks

As experience has shown, the UK is in general well-equipped to respond to disasters that may occur within its territory. The likelihood of a large-scale disaster occurring within the UK that supersedes its domestic capacity would appear to be low. Perhaps as a result, the UK has not had to consider law or policy that would facilitate the receipt of assistance from abroad, and the adequacy of the current legal framework in this regard has not had to be substantially tested.

It follows that the UK does not have a set of operational rules for incoming international assistance that can be activated in times of emergency. Rather, it appears that any such relevant decisions would be made on an ad hoc basis, should international assistance be required.

In several instances, the membership of the UK in the EU has enhanced the ability for individuals and relief items from other EU Member States to enter the UK without being subject to the constraints that apply to third country nationals (those who come from outside the EU). For example, where assistance originates from another EU Member State, the framework by which such assistance may enter the UK is, to an extent already in place, based on the European principle of free movement. Alternatively, in the event that assistance is offered by, or required from a non-EU state, the system would arguably be less able to facilitate its entry into the UK.

In general, there appears to be a lack of exceptions or expedited procedures in place that would adequately allow for the speedy and efficient delivery of assistance from abroad, whether it be from another EU Member State or not.

In other instances, the UK's membership in the EU may also limit its ability to legislate with respect to the substance of the IDRL Guidelines. For example, where the EU has exclusive or shared competence to legislate

in a given area, the UK may be constrained in seeking to develop its own legal framework in that regard.

b. The UK legal framework and the IDRL Guidelines

This report has demonstrated the ways in which UK law and policy relates to the subject matter of the IDRL Guidelines.

In a number of areas, UK law corresponds, at least partially, to the proposed principles in the Guidelines:

- > The CCA and the network of national actors and responders provide a framework for co-operation in disaster prevention and response that correspond to section 8 of the IDRL Guidelines, which suggests that states should adopt comprehensive **legal, policy and institutional frameworks and planning** for disaster prevention, mitigation, preparedness, relief and recovery (Parts IV-VI).
- > Section 16 of the IDRL Guidelines recommends that States should adopt mechanisms for expedited or free **visa and work permit** procedures. As a Member State of the EU, the UK allows freedom of entry to other EU citizens. However, with regard to third country citizens, it appears that aid providers would have to apply for a visa (most likely under the Tier 5 Temporary Worker Scheme). There is no provision for expediting this process in an emergency (Part VIII.a).
- > Section 16(c) of the IDRL Guidelines is aimed at measures promoting expedited procedures for the temporary recognition of **professional qualifications**. As part of its commitment to membership in the EU, the UK has adopted legislation that facilitates such recognition. However, in many cases, the procedures are lengthy and therefore not feasible in the emergency context (Part VIII.b).
- > Sections 17, 18 and 21 of the IDRL Guidelines relate to exemptions from **customs duties and VAT** on goods coming from both within and outside the

EU that are intended for relief and to meet the needs of disaster relief agencies during their activity in the Affected State. The Member States of the EU form a customs union and therefore goods can freely circulate between them. Regarding non-EU goods, the UK has implemented EU legislation which exempts disaster relief goods from import duties. Additionally, the temporary admission procedure may be used for relief items such as equipment or vehicles that can be reused in other disasters (Part VIII.c).

- > The IDRL Guidelines, in Section 18, discuss reduced barriers to access to **telecommunications** and information technology. The UK has implemented EU legislation providing a framework for access and authorisation to networks and services. However, this legislation is mostly aimed at increasing competition. UK legislation gives certain bodies the power to set the conditions for access to networks and services. Within this authority is the ability to give directions or make decisions in times of national security risk. The UK has also begun to employ a new satellite-based telecoms system for aid providers, although this is not presently available to the private sector (see below) (Part VIII.d).
- > Section 20(2) of the IDRL Guidelines urges that Assisting States and organisations be granted the right to bring freely the necessary **funds and currencies** in or out of the Affected State, and to obtain legal exchange rates in connection with their disaster relief of recovery assistance. The UK has given effect to EU rules requiring a declaration where a person is carrying €10,000 or more into or out of EU territory, and rules ensuring uniformity of charges for cross-border payments within the EU of up to €50,000. However, the law does not provide for measures or special treatment in case of an emergency or in relation to humanitarian or non-profit organisations (Part VIII.e).
- > Efficiency in **transport** procedures is the subject of Section 19 of the IDRL Guidelines. UK law implements EU rules allowing such vehicles access to EU territory based on principles of mutual recognition and non-discrimination. Some of this legislation explicitly discusses exemptions for non-EU vehicles from licensing requirements in times of emergency or when a vehicle is carrying disaster relief items (Part VIII.f).
- > Section 18 of the IDRL Guidelines discusses the exemption of special goods and equipment from legal and administrative barriers to importation and transit. While there is UK legislation that allows **animals**, such as rescue dogs, to enter the territory with a passport or certificate in the case of third country animals, the legislation does not provide for exception in relation to emergency situations (Part VIII.g). In the area of customs law, UK legislation allows for the temporary admission of animals imported for purposes of rescue operations and police dogs. However, these rules do not provide for expedited procedures in case of emergency (Part VIII.c.ii).
- > Section 17 of the IDRL Guidelines may also apply in relation to the importation of **food**. UK customs rules are also applicable to food imported as disaster aid. Any food imported into the UK must comply with food standards law as derived from EU and UK legislation (Part VIII.h).
- > Section 17 also applies to the importation of certain controlled substances to aid in disaster relief. **Pharmaceuticals** must comply with EU and UK legislation on quality standards. Furthermore, importers must have regard to applicable prohibitions relating to narcotic substances. The UK is party to two international conventions which limit the possession, use, trade in, distribution, import, export, manufacture and production of drugs exclusively for medical and scientific purposes (Part VIII.h).
- > Section 23 of the IDRL Guidelines provides that Affected States should ensure that state-operated offices and services essential to timely delivery of disaster relief operate outside normal business **hours** in the event of a disaster. UK legislation imposing a maximum working week on adult workers includes exceptions for the continuity of essential services. However, it does not require the exemption of government officers or people with key decision-making power from the maximum periods in any circumstance. However, UK civil contingency planning is based on the expectation that government and local offices responsible for the coordination of relief efforts would open and remain open during any emergency situation. This would include government offices involved in clearing goods and people necessary for response, which typically already operate a 24 hour service (Part VIII.j).
- > Also with regard to Section 19, UK legislation enacts the EU framework for **vehicle insurance, licensing and registration**. Vehicles registered in other EU Member States will be exempt from UK registration and licensing requirements. There are no exemptions from insurance requirements (Part VIII.k.ii).
- > Section 20 of the IDRL Guidelines suggests that Affected States should grant Assisting States and organisations **temporary domestic legal status** to operate on their territory upon entry or as soon as possible thereafter. UK law recognises as legal persons corporations established by foreign law. Accordingly, if a foreign humanitarian organisation has legal personality under the law of the home State, UK law will also recognise it as a legal entity. However, UK law does not provide for any expedited or emergency registration procedures in

this regard, as envisaged under the IDRL Guidelines (Part IX.a).

- > There is a framework in place for the establishment and management of **disaster funds**. There is a framework in place for setting up and managing such funds. However, the procedure associated with setting up such a fund can be quite lengthy and therefore inapt in the context of a disaster. It seems therefore that the most efficient solution is to elect a body that already conforms to the criteria, such as the British Red Cross, to set up and manage the fund (Part IX.c).
- > Sections 3, 4, 5 and 6 of the IDRL Guidelines discuss the various responsibilities of Affected States and Assisting Actors. The UK has in place a framework for **accountability** in the context of civil and criminal liability that would be applicable to these actors in the event of wrongdoing in the context of the delivery of assistance. (Part IX.d and e).
- > Section 22 of the IDRL Guidelines urges Affected States to take appropriate measures to address the safety and **security** of disaster relief and initial recovery personnel of Assisting States and humanitarian organisations. Under the UK framework, the police have primary responsibility for the protection of aid personnel, who are expected to follow the lead of the police. The police are also responsible for securing the scene of the disaster. However, there is no detail regarding the securing of means of transport, equipment or goods used in connection with disaster relief (Part IX.g).

There are also some instances where the principles of the IDRL Guidelines are not fully addressed by UK law and policy:

- > Section 10 of the IDRL Guidelines discusses the **form and content of requests** for international assistance and stresses the need for specificity. There is currently no standard form or content for requests of assistance by the UK, although it is the practice of the CCS to coordinate specific requests, where necessary (Part VII.b).
- > As discussed above in relation to **telecommunications** and section 18 of the IDRL Guidelines, the UK does have a system in place for the grant of access to telecommunications networks and services, as well as a satellite-based system of access. However, the satellite system is not available to private actors and so humanitarian organisations would not benefit from its use. Furthermore, even where the system can be used, those who wish to do so must pre-register with the government authorities in advance of any emergency and must pay a required user fee (Part VIII.d).
- > **Public procurement** rules applicable within the UK may interfere with its ability to receive assistance

from other states or organisations. This might affect several areas under the IDRL Guidelines (Part VIII.l).

- > As noted above, sections 3, 4, 5 and 6 of the IDRL Guidelines discuss the various responsibilities of Affected States and Assisting Actors. There are no clear rules or procedures in place in relation to who bears **financial responsibility** for resources and staffing devoted to assistance operations and any **liability** incurred. This is an issue that has relevance in the context of internal assistance (as between local and national government) and with regard to international assistance (as between the UK and the Assisting State or organisation). While it seems that where the UK formally requests assistance, liability and payment would rest with the national government, such a rule has not been clearly established (Part IX.f).
- > The IDRL Guidelines generally envision that humanitarian personnel should be granted rapid **access to disaster affected victims** in order to provide them with relief. There is UK law in place that might hinder access, specifically relating to a procedure for registration and background checking where the aid provider will be working closely with children or vulnerable groups. Organisations that have not registered with the relevant authority may not be granted access to these groups (Part IX.h).
- > Section 4 of the IDRL Guidelines seeks to ensure that relief is **distributed** according to the principles of humanity, neutrality and impartiality and in particular, on the basis of need alone and without adverse discrimination or bias. There is no official document setting forth a specific policy for aid distribution within the UK. Nor are there any rules that explicitly impede humanitarian organisations from distributing their own relief according to humanitarian principles. It seems that in practice, aid is distributed primarily according to need (Part IX.i).
- > Section 14 of the IDRL Guidelines recommends that States establish criteria for assisting humanitarian organisations seeking **eligibility for legal facilities**. UK national laws, policies and plans do not specifically provide for criteria or for free or reduced price facilities for such organisations. Rather, these decisions are made on an ad hoc basis at the time of the incident (Part IX.j).

c. Recommendations

In the light of the above findings, and in particular taking into account the UK's long-established self-sufficiency in relation to disasters within its own territory, this Report makes the following recommendations:

1. The UK Government may wish to consider the potential role of Part I of the CCA in the context of international assistance, including whether future guidance issued under the CCA should refer to the potential contribution of international responders. This exercise could form part of the CCA Enhancement Programme.
2. The UK Government may wish to consider the areas in which UK law does not correspond to the IDRL Guidelines, either partially or at all, and determine if further measures – whether legislative or policy – are necessary or appropriate, in order to facilitate further potential international assistance, having regard to relevant EU provisions and competences.
3. The UK Government may wish to consider whether any potential shortcomings in the UK legal framework in relation to the receipt of international assistance could, and should, be addressed by the use of emergency powers, both under the CCA and under other, sector-specific legislation, having regard to the applicable pre-conditions and safeguards for the use of emergency regulations, and the intention that such measures should only be adopted as a last resort.
4. The CCS may wish to consider developing a specific policy on requesting and accepting offers of assistance from abroad on behalf of the UK. For instance, this could specify clearly that it is the CCS that is to coordinate and approve all such requests for and offers of international assistance, and not for individual responders or departments. This policy could then be distributed to all government departments and emergency responders, and to all UK embassies, missions and consulates.
5. Any policy developed may also address issues of liability and payment for services requested and accepted by the CCS on behalf of the UK, for instance by identifying the appropriate unit or department responsible for payment and liability.
6. The CCS may wish to consider developing a standard format for the request of international assistance, so as to avoid problems of uninvited assistance (where appropriate). The form used by the MIC could serve as a guide in this respect. Any standard form may also include a provision requiring the offering state or organisation to wait for confirmation of acceptance before dispatching assistance.
7. The FCO may wish to consider whether it currently has sufficient resilience and resource to fulfil its functions in relation to emergencies occurring within the UK, which may be of an intense and / or protracted nature. In particular, the FCO may wish to consider nominating an FCO contact point or policy team to assist with enquiries concerning offers of international assistance to the UK. The FCO contact point would co-ordinate offers of assistance received through the UK diplomatic service and from outside the CPM and EARDCC mechanisms and liaise with the CCS as to how to respond to such offers. If appropriate, this supporting role of the FCO could be incorporated into any potential policy to be distributed to UK embassies, missions and consulates, as per point 4 above.
8. The UK Government, in particular the CCS, should continue its involvement and close relationship with the NATO EADRCC and the MIC.
9. The UK Government, in particular the CCS, should continue to develop close relationships with potential emergency providers from the voluntary and private sectors, including the British Red Cross, who, as a recognised humanitarian auxiliary to the public authorities, is well placed to support UK disaster preparedness plans, and to continue to contribute to response and recovery efforts.
10. The UK Government, in particular the Ministry of Justice (MoJ) and the CSS, should continue to support the Crown Dependencies in further enhancing their civil protection arrangements, including the legal, policy and institutional framework for the receipt of international assistance, as appropriate. This may include informing the governments of the Crown Dependencies of the IDRL Guidelines and encouraging the use of the IDRL Guidelines to strengthen such frameworks within their territory, as well as informing the development of bilateral and regional disaster assistance agreements, as appropriate.
11. The UK Government, in particular the FCO and the CCS, should continue to support the Overseas Territories in further enhancing their civil protection arrangements, including the legal, policy and institutional framework for the receipt of international assistance, as appropriate. This may include informing the governments of the Overseas Territories of the IDRL Guidelines and encouraging the use of the IDRL Guidelines to strengthen such frameworks within the Territory, as well as informing the development of bilateral and regional disaster assistance agreements, as appropriate.

12. The UK Government, in particular the CCS and the FCO, may wish to consider the negotiation of bilateral and regional disaster assistance agreements, as appropriate. Depending on the content of such agreements, the IDRL Guidelines could be used to inform their development.

Annex I: British Overseas Territories

- > Anguilla
- > Bermuda
- > British Antarctic Territory
- > British Indian Ocean Territory
- > British Virgin Islands
- > Cayman Islands
- > Falkland Islands
- > Gibraltar
- > Montserrat
- > Pitcairn Island
- > St Helena, Ascension and Tristan da Cunha
- > South Georgia and the South Sandwich Islands
- > Sovereign Base Areas of Akrotiri and Dhekelia
- > Turks & Caicos Islands

Annex II: Legal Entities in the UK

- > Advisory Centre on WTO Law (Advisory Centre on WTO Law (Immunities and Privileges) Order 2001)
- > African Development Bank (African Development Bank (Immunities and Privileges) Order 1983)
- > African Development Fund (African Development Fund (Immunities and Privileges) Order 1973)
- > Agency for International Trade Information and Co-operation (Agency for International Trade Information and Co-operation (Legal Capacities) Order 2004)
- > Asian Development Bank (Asian Development Bank (Immunities and Privileges) Order 1974)
- > Caribbean Development Bank (Caribbean Development Bank (Immunities and Privileges) Order 1972)
- > Central Treaty Organization (Central Treaty Organization (Immunities and Privileges) Order 1974)
- > Commission established by the Convention for the Protection of the Marine Environment in the North-East Atlantic 1992 (OSPAR Commission (Immunities and Privileges) Order 1997)
- > Commission for Technical Co-operation in Africa South of the Sahara (International Organisations (Immunities and Privileges of the Commission for Technical Co-operation in Africa South of the Sahara) Order, 1955)
- > Commission for the Conservation of Antarctic Marine Living Resources (Commission for the Conservation of Antarctic Marine Living Resources (Immunities and Privileges) Order 1981)
- > Common Fund for Commodities (Common Fund for Commodities (Immunities and Privileges) Order 1981)
- > Commonwealth Agricultural Bureaux (Commonwealth Agricultural Bureaux (Immunities and Privileges) Order 1982)
- > Commonwealth Foundation (Commonwealth Foundation (Immunities and Privileges) Order 1983)
- > Commonwealth Secretariat (Commonwealth Secretariat Act 1966)
- > Commonwealth Secretariat Arbitral Tribunal (Commonwealth Secretariat Act 1966)
- > Commonwealth Telecommunications Bureau (Commonwealth Telecommunications Act 1968)
- > Commonwealth Telecommunications Organisation (Commonwealth Telecommunications Organisation (Immunities and Privileges) Order 1983)
- > Council of Europe (Council of Europe (Immunities and Privileges) Order 1960)
- > Customs Co-operation Council (Customs Co-operation Council (Immunities and Privileges) Order 1974)
- > European Bank for Reconstruction and Development (European Bank for Reconstruction and Development (Immunities and Privileges) Order 1991)
- > European Centre for Medium-Range Weather Forecasts (European Centre for Medium-range Weather Forecasts (Immunities and Privileges) Order 1975)
- > European Centre for Medium-range Weather Forecasts (Immunities and Privileges) Order 1975 (SI 1975/158) European Centre for Medium-range Weather Forecasts (Immunities and Privileges) Order 1975
- > European Commission of Human Rights (European Commission and Court of Human Rights (Immunities and Privileges) Order 1970)
- > European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (Immunities and Privileges) Order 1988)

- > European Court of Human Rights (International Organisations Act 2005; European Commission and Court of Human Rights (Immunities and Privileges) Order 1970; European Court of Human Rights (Immunities and Privileges) Order 2000)
- > European Forest Institute (European Forest Institute (Legal Capacities) Order 2005)
- > European Molecular Biology Laboratory (European Molecular Biology Laboratory (Immunities and Privileges) Order 1994)
- > European Organisation for Nuclear Research (European Organisation for Nuclear Research (Immunities and Privileges) Order 1972)
- > European Organisation for the Exploitation of Meteorological Satellites (EUMETSAT (Immunities and Privileges) Order 1988)
- > European Organisation for the Safety of Air Navigation (Eurocontrol (Immunities and Privileges) Order 1970)
- > European Organization for Astronomical Research in the Southern Hemisphere (European Organization for Astronomical Research in the Southern Hemisphere (Immunities and Privileges) Order 2009)
- > European Organization for Nuclear Research (European Organization for Nuclear Research (Privileges and Immunities) Order 2006)
- > European Patent Organisation (European Patent Organisation (Immunities and Privileges) Order 1978)
- > European Police College (European Police College (Immunities and Privileges) Order 2004)
- > European Police Office (European Police Office (Legal Capacities) Order 1996)
- > European School (European Communities (Privileges of the European School) Order 2001)
- > European Space Agency (European Space Agency (Immunities and Privileges) Order 1978)
- > European Telecommunications Satellite Organisation (EUTELSAT (Immunities and Privileges) Order 1988)
- > Financial Support Fund of the Organisation for Economic Co-operation and Development (OECD Financial Support Fund (Immunities and Privileges) Order 1976)
- > Food and Agriculture Organisation (Specialized Agencies of the United Nations (Immunities and Privileges) Order 1974)
- > Independent Commission for the Location of Victims' Remains (Northern Ireland (Location of Victims' Remains) Act 1999; Northern Ireland (Location of Victims' Remains) Act 1999 (Immunities and Privileges) Order 1999)
- > Independent International Commission on Decommissioning (Northern Ireland Arms Decommissioning Act 1997; Northern Ireland Arms Decommissioning Act 1997 (Immunities and Privileges) Order 1997)
- > Inter-American Development Bank (Inter-American Development Bank (Immunities and Privileges) Order 1976)
- > Interim Commission for the International Trade Organisation (Interim Commission for the International Trade Organisation (Immunities and Privileges) Order 1972)
- > International Atomic Energy Agency (International Atomic Energy Agency (Immunities and Privileges) Order 1974)
- > International Bank for Reconstruction and Development (International Development Act 2002)
- > International Civil Aviation Organisation (Specialized Agencies of the United Nations (Immunities and Privileges) Order 1974)
- > International Cocoa Organisation (International Cocoa Organisation (Immunities and Privileges) Order 1975)
- > International Coffee Organisation (International Coffee Organisation (Immunities and Privileges) Order 1969)
- > International Copper Study Group (International Copper Study Group (Legal Capacities) Order 1999)
- > International Court of Justice (United Nations and International Court of Justice (Immunities and Privileges) Order 1974)
- > International Criminal Court (International Criminal Court Act 2001)
- > International Development Association (International Development Act 2002)
- > International Finance Corporation (International Development Act 2002)
- > International Fund for Agricultural Development (International Fund for Agricultural Development (Immunities and Privileges) Order 1977)
- > International Fund for Ireland (International Fund for Ireland (Immunities and Privileges) Order 1986)
- > International Hydrographic Organisation (International Hydrographic Organisation (Immunities and Privileges) Order 1972)
- > International Institute for the Management of Technology (International Institute for the Management of Technology (Immunities and Privileges) Order 1972)
- > International Jute Organisation (International Jute Organisation (Immunities and Privileges) Order 1983)

- > International Labour Organisation (Specialized Agencies of the United Nations (Immunities and Privileges) Order 1974)
- > International Lead and Zinc Study Group (International Lead and Zinc Study Group (Immunities and Privileges) Order 1978)
- > International Maritime Organisation (International Maritime Organisation (Immunities and Privileges) Order 2002)
- > International Mobile Satellite Organisation (International Mobile Satellite Organisation (Immunities and Privileges) Order 1999)
- > International Monetary Fund (International Monetary Fund Act 1979; International Monetary Fund (Immunities and Privileges) Order 1977)
- > International Natural Rubber Organization (International Natural Rubber Organization (Immunities and Privileges) Order 1981)
- > International Oil Pollution Compensation Fund (International Oil Pollution Compensation Fund (Immunities and Privileges) Order 1979)
- > International Oil Pollution Compensation Fund 1992 (International Oil Pollution Compensation Fund 1992 (Immunities and Privileges) Order 1996)
- > International Organization for Migration (International Organization for Migration (Immunities and Privileges) Order 2008)
- > International Rubber Study Group (International Rubber Study Group (Immunities and Privileges) Order 1978)
- > International Seabed Authority (International Seabed Authority (Immunities and Privileges) Order 2000)
- > International Sugar Organisation (International Sugar Organisation (Immunities and Privileges) Order 1969)
- > International Telecommunications Satellite Organization (INTELSAT (Immunities and Privileges) Order 1979)
- > International Telecommunication Union (Specialized Agencies of the United Nations (Immunities and Privileges) Order 1974)
- > International Tin Council (International Tin Council (Immunities and Privileges) Order 1972)
- > International Tribunal for the Law of the Sea (International Organisations Act 2005; International Tribunal for the Law of the Sea (Immunities and Privileges) Order 2005)
- > International Tropical Timber Organization (International Tropical Timber Organization (Legal Capacities) Order 1984)
- > International Trust Fund for Tuvalu (International Trust Fund for Tuvalu (Immunities and Privileges) Order 1988)
- > International Union for the Protection of New Varieties of Plants (International Union for the Protection of New Varieties of Plants (Legal Capacities) Order 1985)
- > International Whaling Commission (International Whaling Commission (Immunities and Privileges) Order 1975)
- > International Wheat Council (International Wheat Council (Immunities and Privileges) Order 1968)
- > Joint European Torus (European Communities (Privileges of the Joint European Torus) Order 1978)
- > Multilateral Investment Guarantee Agency (Multilateral Investment Guarantee Agency Act 1988; Multilateral Investment Guarantee Agency (Overseas Territories) Order 1988)
- > Military Staff of the European Union (European Union Military Staff (Immunities and Privileges) Order 2009)
- > North Atlantic Salmon Conservation Organisation (European Communities (Immunities and Privileges of the North Atlantic Salmon Conservation Organization) Order 1985)
- > North Atlantic Treaty Organisation (North Atlantic Treaty Organisation (Immunities and Privileges) Order 1974)
- > North-East Atlantic Fisheries Commission (European Communities (Immunities and Privileges of the North-East Atlantic Fisheries Commission) Order 1999)
- > Organisation for Economic Co-operation and Development (Organisation for Economic Co-operation and Development (Immunities and Privileges) Order 1974)
- > Organisation for Joint Armament Cooperation (Organisation for Joint Armament Cooperation (Immunities and Privileges) Order 2000)
- > Organisation for the Prohibition of Chemical Weapons (Organisation for the Prohibition of Chemical Weapons (Immunities and Privileges) Order 2001)
- > Organization for Security and Co-operation in Europe (International Organisations Act 2005)
- > Oslo Commission established by the Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft (Oslo and Paris Commissions (Immunities and Privileges) Order 1979)
- > Paris Commission established by the Convention for the Prevention of Marine Pollution from Land-Based Sources (Oslo and Paris Commissions (Immunities and Privileges) Order 1979)

- > Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization (Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization (Immunities and Privileges) Order 2004)
- > South-East Asia Treaty Organisation (South-East Asia Treaty Organisation (Immunities and Privileges) Order 1974)
- > United Nations (United Nations and International Court of Justice (Immunities and Privileges) Order 1974)
- > United Nations Educational, Scientific and Cultural Organisation (Specialized Agencies of the United Nations (Immunities and Privileges) Order 1974; Specialized Agencies of the United Nations (Immunities and Privileges of UNESCO) Order 2001)
- > United Nations Industrial Development Organisation (United Nations Industrial Development Organisation (Immunities and Privileges) Order 1982)
- > Universal Postal Union (Specialized Agencies of the United Nations (Immunities and Privileges) Order 1974)
- > Western European Union (Western European Union (Immunities and Privileges) Order 1960)
- > World Health Organization (Specialized Agencies of the United Nations (Immunities and Privileges) Order 1974)
- > World Intellectual Property Organization (Specialized Agencies of the United Nations (Immunities and Privileges) Order 1974)
- > World Meteorological Organization (Specialized Agencies of the United Nations (Immunities and Privileges) Order 1974)
- > World Trade Organisation (World Trade Organisation (Immunities and Privileges) Order 1995)

Annex III: Lead Government Departments and their Responsibilities

Where a disaster is too large to be handled by a single department or where the lead is unclear, the following departments will take the immediate lead role until further arrangements can be made, or may retain the role:

UK: Civil Contingencies Secretariat

Scotland: Scottish Executive Justice Department and the Scottish Executive Emergency Action Team

Wales: Human Resources (Facilities and Emergencies) Division of the Welsh Assembly Government

Northern Ireland: Central Emergency Planning Unit (CEPU) of the Office of the First Minister and Deputy First Minister

All other emergencies are accorded lead government departments according to the type of issue involved:

1. Civil defence

Cabinet Office, CCS working closely with the Overseas Defence Secretariat

2. Flooding (coastal or riverine)

England: Defra

Scotland: Scottish Executive Environment and Rural Affairs Department (SEERAD)

Wales: Department for Environment, Planning and Countryside of the Welsh Assembly Government (DEPC)

Northern Ireland: Department of Agriculture and Rural Development

3. Pollution to groundwaters and surface waters, marine and coastal waters (oil, chemical or gas) & marine salvage

A) Pollution from vessels and offshore installations:

UK: Counter Pollution Branch of Department of Transport's (DfT) Maritime & Coastguard Agency (MCA).

Scotland: As for UK but with SEERAD involvement

B) Pollution to ground waters and surface waters, including to marine waters (up to 3 miles out) arising from major pollution from land based sources

England: Defra working with the Environment Agency (EA). For marine water pollution the EA will work in association with DfT's MCA.

Scotland: SEERAD. For marine water pollution SEERAD will work in association with the MCA.

Wales: Department for Environment, Planning and Countryside (DEPC) of the WAG working with Defra and the Environment Agency. For marine water pollution DEPC will work in association with the MCA.

Northern Ireland: Department of the Environment. For marine water pollution, in association with the MCA

C) Control of maritime salvage operations

UK: Department for Transport's Maritime and Coastguard Agency

4. Radiation Hazards

UK: The UK's Radioactive Incident Monitoring Network (RIMNET); operated and managed by The Department of Energy and Climate Change (DECC), supports all UK radiological emergencies.

A) If incident is initiated or threatened by terrorism:

GB: Home Office Office for Security and Counter-Terrorism (OSCT). If matters move to the stage of managing the consequences of

an incident, the lead will transfer as indicated in b), c) and d) below.

Northern Ireland: Northern Ireland Office. If matters move to the stage of managing the consequences of an incident, the lead will transfer as indicated in b), c) and d) below.

B) Civil nuclear installations

England: The Department of Energy and Climate Change (DECC)

Wales: DECC, but consequence management for devolved functions would fall to the Department for Environment, Planning and Countryside of the Welsh Assembly Government.

Scotland: Consequence management for devolved functions would fall to Scottish Executive Transport, Enterprise & Lifelong Learning Department (SEETLLD)

Northern Ireland: Consequence management for devolved functions would fall to NI Department of the Environment

C) Defence nuclear installations and defence nuclear material in transit

UK: Ministry of Defence (MOD)

Scotland: As for the UK but consequence management for devolved functions would fall to the Scottish Executive Emergency Action Team. For materials in transit by land, SEETLLD Transport Group would lead.

Wales: As for UK but HR (Facilities and Emergencies Division) would co-ordinate consequence management issues within the WAG.

Northern Ireland: As for the UK, but lead for consequence management would be Department of the Environment

D) Accidental release of radiation from civil nuclear material in transit

England: Department for Transport

Scotland: As for England and Wales, in liaison with SEETLLD Transport Group.

Wales: DfT, but HR (Facilities and Emergencies) Division would co-ordinate consequence management issues within the WAG

Northern Ireland: Department of the Environment

5. Hazardous Materials – chemical, biological, radiological and nuclear incidents arising from non-terrorist causes

England: CCS would ensure that, dependent on the cause of the incident, a lead department was identified for the emergency phase. If matters moved to the stage of managing the consequences, the lead would pass to Defra.

Scotland: Consequence management for devolved functions would fall to the Scottish Executive Emergency Action Team.

Wales: HR (Facilities and Emergencies) Division would co-ordinate consequence management issues within the WAG.

Northern Ireland: The appropriate lead NI department for the outcome of the event would lead on consequence management.

6. Radiation Hazards (arising outside the United Kingdom)

UK: DECC

A) Where hazard arises as a result of terrorist action overseas

UK: Home Office OSCT to lead in considering potential threat to UK of a co-ordinated attack against UK targets.

B) As a result of accidents

UK: DECC lead role is to co-ordinate the UK response for consequence management.

Wales: Department for Environment, Planning and Countryside, working with the Environment Agency.

Scotland: SEERAD EPU and Scottish Environment Protection Agency (SEPA)

Northern Ireland: Department of the Environment

7. Satellite incidents

UK: The CCS is responsible for ensuring a lead department takes responsibility for managing consequences once these become clear.

8. Disasters Overseas in which UK assistance is sought

UK: DfID

9. Mass influx of people from abroad (e.g. in the event of a humanitarian crisis or disaster)

England, Wales and Northern Ireland: Home Office

Scotland: Scottish Executive Emergency Action Team

10. Search and Rescue**A) Civil maritime and coastal rescue**

UK: DfT's MCA

B) Military shipping and aircraft, civil aircraft at sea and civil aircraft on land when the location is not known

UK: Ministry of Defence

11. Severe Storms and Weather

England: CCS is responsible for ensuring which department takes the lead in good time to support the response to severe storms and weather.

A) If the primary impact is on the transport infrastructure

England: DfT for UK air, rail network in GB, and roads and ports in England

Scotland: SEETLLD Transport Group for roads and ports

Wales: Department for Economic Development and Transport of the WAG, for roads and ports.

Northern Ireland: Department for Regional Development, for roads, ports and rail

B) If the primary impact is on the power system

England and Wales: DECC

Scotland: DECC for restoring services, SEETLLD for devolved aspects of consequence management

Northern Ireland: Department of Enterprise, Trade and Investment

C) If the severe weather's primary effect is flooding

England: Defra

Scotland: SEERAD

Wales: Department for Environment, Planning and Countryside of the WAG

Northern Ireland: Department of Agriculture and Rural Development, or Department for Regional Development, depending on the source of flooding

D) If the primary impact is on the built environment

England: Department for Communities and Local Government (DCLG)

Scotland: Consequence management for devolved functions would fall to the Scottish Executive Emergency Action Team

Wales: Department for Environment, Planning and Countryside of the WAG

Northern Ireland: The appropriate lead NI Department for the outcome would lead on consequence management.

12. Transport Accidents (including those overseas involving UK registered ships and aircraft)**A) Shipping and other transport accidents at sea**

UK: DfT (MCA)

B) Land transport

England: DfT

Scotland: SEETLLD (Transport Group)

Wales: Department for Economic Development and Transport of the WAG

Northern Ireland: Department for Regional Development.

13. Disasters in Sports Grounds (whether or not sporting events)

England: Department for Culture, Media and Sport (DCMS)

Scotland: Scottish Executive Justice Department (SEJD)

Wales: The Local Government and Culture Department of the WAG

Northern Ireland: Department of Culture, Arts and Leisure

14. Dam Failures

England: Defra

Scotland: SEERAD

Wales: Department for Environment, Planning and Countryside of the WAG

Northern Ireland: Department for Regional Development

15. Earthquakes

England: DCLG

Wales: Department for the Environment, Planning and Countryside

Scotland: SEJD Lead, Consequence management would fall to the Scottish Executive Emergency Action Team

Northern Ireland: Department of Enterprise, Trade and Investment

16. Major Structural Failures in Buildings (other than those caused by external impact, gas explosion, fire or industrial process)

England: DCLG. If the focus is on the wider commercial or economic impacts – BERR. Where failure resulted in major transport disruption – DfT.

Scotland: Consequence management would fall to the Scottish Executive Emergency Action Team

Wales: Lead WAG department would depend on the outcome of the event.

Northern Ireland: Lead NI department would depend on the outcome of the event.

17. Serious Industrial Accidents

England: The Cabinet Office (CCS) is responsible for confirming the Lead Government Department in good time to support the response to an industrial accident.

Scotland: SEJD. Consequence management for devolved functions would fall to the Scottish Executive Emergency Action Team.

Wales: The HR (Facilities and Emergencies) Division of the WAG will determine the lead if the main focus of attention is a devolved matter.

Northern Ireland: Lead NI department would depend on the nature and outcome of the event.

A) If the main focus of attention relates to the operations of the hse

England and Wales: Department for Work and Pensions (DWP) working with Health and Safety Executive (HSE).

Scotland: SEETLLD

Northern Ireland: Department of Enterprise, Trade and Investment, working with HSE, NI.

B) If the main focus of attention relates to the wider economic and commercial impacts

England: DECC

Scotland: SEETLLD consequence management would fall to the Scottish Executive Emergency Action Team

Wales: Welsh Assembly Government

Northern Ireland: Department of Enterprise, Trade and Investment.

C) Pollution arising

England: Defra (see also Radiation Hazards)

Scotland: SEERAD

Wales: Department for Environment,

Planning and Countryside of the WAG
Northern Ireland: Department of the Environment

18. Unexploded Wartime Ordnance

A) Disposal

UK: Police calling on MOD support

B) Information on whereabouts of unexploded bombs

UK: DCLG

19. Major Software Failures (analogous to Y2K)

UK: CCS in consultation with the e-Government unit

Scotland: Scottish Executive Offices of the Permanent Secretary (Communications and Information Services Division) SE-OPS (CISD)

Wales: HR (Facilities and Emergencies) Division of the WAG will co-ordinate activity in their areas in support of the UK effort where there is a Welsh dimension.

Northern Ireland: Department of Finance and Personnel

20. Electronic Attack

UK: Home Office/ Centre for the Protection of National Infrastructure (CPNI)

Scotland: SE-OPS (CISD) will co-ordinate activity in their areas in support of the UK effort where there is a Scottish dimension.

Wales: HR(Facilities and Emergencies) Division of the WAG will co-ordinate activity in their areas in support of the UK effort where there is a Welsh dimension.

Northern Ireland: Department of Finance and Personnel will co-ordinate activity in their areas in support of the UK effort where there is a Northern Ireland dimension.

21. Disruption of Supply Chains

UK:

> Department of Health – medical

> Defra – food, water, waste

> Department for Business, Innovation and Skills (ex Department for Business, Enterprise and Regulatory Reform) – telecommunications, postal services, strategic chemicals and manufacturing industry

> DECC – upstream and downstream oil, gas, electricity

> DfT – transport network

> Her Majesty's Treasury (HMT) – finance

Scotland: The appropriate SE department depending on the outcome of the disruption:

- > SEHD (Scottish Executive Health Department) – medical
- > SEERAD (Scottish Executive Environment and Rural Affairs Department) – food, water, waste
- > SEETLLD (Scottish Executive Transport, Enterprise and Lifelong Learning Department) – manufacturing, oil, gas, electricity and land transport.

Wales:

- > NHS (Wales) – health
- > Department of Environment, Planning and Countryside – food, water and waste

Northern Ireland: The appropriate NI department depending on the outcome of the disruption.

Wales: Office of the Chief Medical Officer (CMO) with the assistance of the Public Health Laboratories Service.

Northern Ireland: Department of Health, Social Services and Public Safety

26. Plant Diseases

England: Defra working with the Forestry Commission

Scotland: SEERAD working with the Forestry Commission

Wales: Department of Environment, Planning and Countryside of the WAG, working with the Forestry Commission.

Northern Ireland: Department of Agriculture and Rural Development working with the Forestry Commission.

22. Animal Disease and Welfare

UK: (EU & international aspects)

GB: Co-ordinates disease control policy and veterinary advice

Domestic policy and operational:

England: Defra (with Department of Health/Food Standards Agency if threat to human health (zoonosis))

Scotland: SEERAD in association with Defra/State Veterinary Service.

Wales: Department of Environment, Planning and Countryside of the WAG in association with DEFRA/State Veterinary Services.

Northern Ireland: Department for Agriculture and Rural Development

23. Food Contamination

England: the Food Standards Agency (FSA)

Scotland: FSA in Scotland

Wales: FSA in Wales

Northern Ireland: FSA in Northern Ireland

24. Drinking Water Contamination

England: Defra

Scotland: SEERAD

Wales: Department of Environment, Planning and Countryside of the WAG

Northern Ireland: Department for Regional Development

25. Infectious Diseases

England: Department of Health with assistance from the Health Protection Agency.

Scotland: SEERAD

Annex IV: Table of Extracted National Legislation

Title	Number
Airports Act 1986	c. 31
Anti-Terrorism, Crime and Security Act 2001	c. 24
Anti-Terrorism, Crime and Security Act 2001	c. 24
Architects Act 1997	c. 22
Asylum and Immigration Act 1996	c. 49
Asylum and Immigration Appeals Act 1993	c. 23
Atomic Energy Act 1989	c. 7
Borders, Citizenship and Immigration Act 2009	c. 11
Bribery Bill	[HL] 2009-10
British Overseas Territories Act 2002	c. 8
Channel Tunnel (International Arrangements) (Amendment) Order 2009	SI No 2009/2081
Channel Tunnel Act 1987	c. 53
Civil Aviation Act 1982	c. 16
Civil Contingencies Act 2004	c. 36
Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005	Guidance
Civil Defence Act 1948	c. 36
Communications Act 2003	c. 21
Companies Act 1985	c. 6
Companies Act 2006	c. 46
Consular Relations Act 1968	c. 18
Control of Cash (Penalties) Regulations 2007	SI No 2007/1509
Control of Major Accident Hazards (Amendment) Regulations 2005	SI No 2005/1088
Control of Major Accident Hazards (Northern Ireland) (Amendment) Regulations 2005	SR No 2005/305
Control of Major Accident Hazards (Northern Ireland) Regulations 2000 (COMAH)	SR No 2000/93
Control of Major Accident Hazards (Scotland) Regulations 1999 (COMAH)	SSI No 2000/179
Control of Major Accident Hazards Regulations 1999 (COMAH)	SI No 1999/743
Crown Proceedings Act 1947	c. 44
Customs and Excise Duties (Personal Reliefs for Goods Temporarily Imported) Order 1983	SI No 1983/1829
Customs and Excise Duties (Personal Reliefs for Goods Temporarily Imported) (Amendment) Order 1991	SI No 1991/1293
Diplomatic Privileges Act 1964	c. 81
Draft Charitable Incorporated Organisations (General) Regulations	N/A
Electricity Act 1989	c. 29

Emergency Powers Act 1920	c. 55
Emergency Powers Act 1964	c. 38
Emergency Workers (Obstruction) Act 2006	c. 39
Energy Act 1976	c. 76
Equality Act 2006	c. 3
European Communities (Recognition of Professional Qualifications) Regulations 2007	SI No 2007/2781
European Communities Act 1972	c. 68
European Nursing and Midwifery Qualifications Designation Order of Council 2004	SI No 2004/1766
European Union (Amendment) Act 2008	c. 7
Food and Environment Protection Act 1985	c. 48
Food Safety Act 1990	c. 16
Fraud Act 2006	c. 35
General Food Regulations 2004	SI No 2004/3279
Geneva Conventions and United Nations Personnel (Protocols) Act 2009	c. 6
Goods Vehicles (Community Authorisations) Regulations 1992	SI No 1992/3077
Goods Vehicles (Licensing of Operators) (Temporary Use in Great Britain) Regulations 1996	SI No 1996/2186
Goods Vehicles (Licensing of Operators) Act 1995	c. 23
Government of Wales Act 2006	c. 32
Government Wales Act 1998	c. 38
Hazardous Waste (England and Wales) Regulations 2005	S.I. 2005/894
Health and Safety at Work (etc.) Act 1974	c. 37
Health Professions Order 2001	SI No 2001/254
Health Protection Agency (Amendment) Regulations 2007	SI No 2007/1624
Health Protection Agency (Scottish Health Functions) Amendment Order 2007	SI No 2007/316
Health Protection Agency Order (Northern Ireland) 2007	SI No 2007/331
Human Rights Act 1998	c. 42
Immigration Act 1971	c. 77
Immigration Act 1988	c. 14
Immigration and Asylum Act 1999	c. 33
International Organisations Act 1068	c. 48
Interpretation Act 1978	c. 30
Local Government Act 1972	c. 70
Marine and Coastal Access Act 2009	c. 23
Medical Act 1983	c. 54
Medicines Act 1968	c. 67
Medicines Act 1968 (Amendment) (No. 2) Regulations 1994	SI No 1994/276
Medicines Act 1971	c. 69
Nationality, Immigration and Asylum Act 2002	c. 41
Non-Commercial Movement of Pet Animals (England) Regulations 2004	SI No 2004/2363
Northern Ireland Act 1998	c. 47
Nuclear Installations Act 1965	c. 57
Nuclear Installations Act 1969	c. 18
Nuclear Installations (Dangerous Occurrences) Regulations 1965	SI No 1965/1824
Nursing and Midwifery Order 2001	SI No 2001/253
Prevention of Corruption Act 1906	c. 34
Public Contracts (Scotland) Regulations 2006	SSI No 2006/1
Public Contracts Regulations 2006	SI No 2006/5

Radiation (Emergency Preparedness and Public Information) Regulation 2001	SI No 2001/2975
Railway (Licensing of Railway Undertakings) Regulations 2005	SI No 2005/3050.
Railways Act 1993	c. 43
Railways Act 1993	c. 43
Road Traffic Act 1988	c. 52
Road Vehicles (Display of Registration Marks) Regulations 2001	SI No 2001/561
Royal Charter of the British Red Cross Society 1997; with effect 1 January 1998 and revised in 2003	Approved 22 July
Scotland Act 1998	c. 46
Special Immigration Appeals Commission Act 1997	c. 68
Supply Powers Act 1975	c. 9
Telecommunications Act 1984	c. 12
Territorial Sea (Limits) Order 1989	SI No 1989/482
Territorial Sea Act 1987	c. 49
Terrorism Act 2000	c. 11
Terrorism Act 2006	c. 11
Transport Act (Northern Ireland) 1967	c. 37
Transport Act 1968	c. 73
UK Borders Act 2007	c. 30
United Nations Personnel Act 1997	c. 13
Utilities Contracts (Scotland) Regulations 2006	SSI No 2006/2
Utilities Contracts Regulations 2006	SI No 2006/6
Value Added Tax (Imported Goods) Relief Order 1984 amended by SI No 1987/155	SI No 1984/746, as
Value Added Tax Act 1994	c. 23
Vehicles Excise and Registration Act 1994	c. 22
Water Resources Act 1991	c. 57
Working Time Regulations 1998	SI No 1998/1833

Annex V: Table of International Agreements

Treaty	Signature	Ratification or Accession	UK Legislation
UN Convention on the Privileges and Immunities of the UN (1946)		Accession: 17/9/1946	
Convention on the Privileges and Immunities of the Specialized Agencies (1947)		Accession: 16/8/1949	The Specialized Agencies of the United Nations (Immunities and Privileges of UNESCO) Order 2001
Convention on the Safety of United Nations and Associated Personnel (1994)	19/12/1995	Ratified: 6/5/1998	United Nations Personnel Act 1997
Optional Protocol to the 1994 Convention on the Safety of United Nations and Associated Personnel (2005)		Effective Date: November 2009	Geneva Conventions and United Nations Personnel (Protocols) Act 2009
Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation Relief (1999)	Definitive Signature: 18th June 2003	Effective Date: 8/1/2005	
Convention on Temporary Admission (Istanbul Convention) (1990)		Accession: 18/6/1997	
Convention on Early Notification of a Nuclear Accident	26/9/1986	Ratified: 9/2/1990	
Convention on Assistance in the Case of Nuclear Accident or Radiological Emergency	26/9/1986	Ratified: 9/2/1990	Atomic Energy Act 1989

Convention on the Transboundary Effects of Industrial Accidents	1992	5 August 2002	Control of Major Accidents Hazards (COMAH) Regulations 1999 and 2005
Single Convention on Narcotic Drugs (1961)	30/3/1961	Ratified: 2/9/1964	The Medicines Act 1968 (Amendment) (No. 2) Regulations 1992
Convention on Psychotropic Substances (1971)	21/02/1971	Ratified: 24/3/1986	
European Convention on Human Rights and Fundamental Freedoms		Ratified: 1951	
Treaty of Lisbon		Ratified: 16/7/2008	The European Union (Amendment) Act 2008
North Atlantic Treaty Organisation	4/4/1949		
Convention on the Law of the Sea		Accession: 25/7/1997	Territorial Sea Act 1987
Convention on the Facilitation of International Maritime Traffic (1965)	9/4/1965		
Customs Convention on the Temporary Importation of Private Road Vehicles (1954)	4/6/1954	27/2/1956	
Customs Convention on the Temporary Importation of Commercial Road Vehicles (1956)		18/5/1956	30/7/1959
Convention on International Civil Aviation ("Chicago Convention")		1 March 1947	Civil Aviation Act 1982
Vienna Convention on Consular Relations (1964)	27/3/1964	9/5/1972	Consular Relations Act 1968
Vienna Convention on Diplomatic Relations (1961)	11/12/1961	1/9/1964	Diplomatic Privileges Act 1964

Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (1998)		Accession: 14/12/1998	Anti-Terrorism, Crime and Security Act 2001
Criminal Law Convention on Corruption (1999)	27/1/1999	9/12/2003	No new implementing legislation; the Prevention of Corruption Act 1906 largely satisfied the Convention's obligations.
Civil Law Convention on Corruption (1999)	8/6/2000		Ibid
Safety of United Nations and Associated Personnel Optional Protocol (2005)		Accession: 2009	UN Personnel (Protocols) Act 2009

Relevant Reservations

Convention on the Privileges and Immunities of the Specialized Agencies (1947)

4 November 1959

“Her Majesty’s Government observe [in connection with its notification of application to the International Maritime Organisation] that it would be impracticable for any Government fully to comply with Section 11 of the Convention which requires that the Specialized Agencies shall enjoy, in the territory of each State Party to the Convention, for their official communications, treatment not less favourable than that accorded by the Government of such State to any other Government in the matter of priorities, rates and taxes on telecommunications, until such time as all the other Governments have decided to co-operate in granting this treatment to the agencies in question. This matter is under consideration by the United Nations and the International Telecommunication Union.”

Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations (1999)

“To the extent to which certain provisions of the Tampere Convention on the Provisions of Telecommunications Resources for Disaster Mitigation and Relief Operations (“the Convention”) fall within the area of responsibility of the European Community, the full implementation of the Convention by the United Kingdom has to be done in accordance with the procedures of this international organisation.”

Convention on Early Notification of a Nuclear Accident

“The United Kingdom Government affirms that, having regard to Article 3 of the Convention, and as stated by the United Kingdom Secretary of State for Energy in his address to the Special Session of the General Conference on 24 September 1986, the United Kingdom would in practice notify the IAEA and affected states in the event of an accident to military facilities or equipment which, although not of the type specified in Article 1 of the Convention, had or might have the consequences specified in that Article.”

Convention on Assistance in the Case of Nuclear Accident or Radiological Emergency

9 February 1990

“In pursuance of paragraph 9 of Article 8 of the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency, the United Kingdom hereby declares that it considers itself bound by paragraphs 2 and 3 of the said Article 8 to the following extent:

1. in cases where assistance is provided by the International Atomic Energy Agency, to the extent to which the privileges and immunities provided for in those paragraphs are accorded in the Agreement on the Privileges and Immunities of the International Atomic Energy Agency, approved by the Board of Governors on 1 July 1959;
2. in cases where assistance is provided by any other international intergovernmental organisation, to the extent to which the United Kingdom has agreed to accord the privileges and immunities provided for in those paragraphs;
3. in cases where assistance is provided by a State Party to the Convention, to the following extent:
 - (a) in relation to the State Party providing assistance to the extent that that State Party is itself bound by those paragraphs in relation to the United Kingdom;
 - (b) the United Kingdom shall only be bound to apply paragraph 2(b) in cases where the State Party is providing assistance without cost to the United Kingdom; and
 - (b) the exemption from taxation provided for in paragraph 2(b) shall only extend to an exemption from income tax on the salaries and emoluments of personnel which are paid from the State Party providing assistance and the United Kingdom reserves the right to take those salaries and emoluments into account for the purpose of assessing the amount of taxation to be applied to income from other sources”.

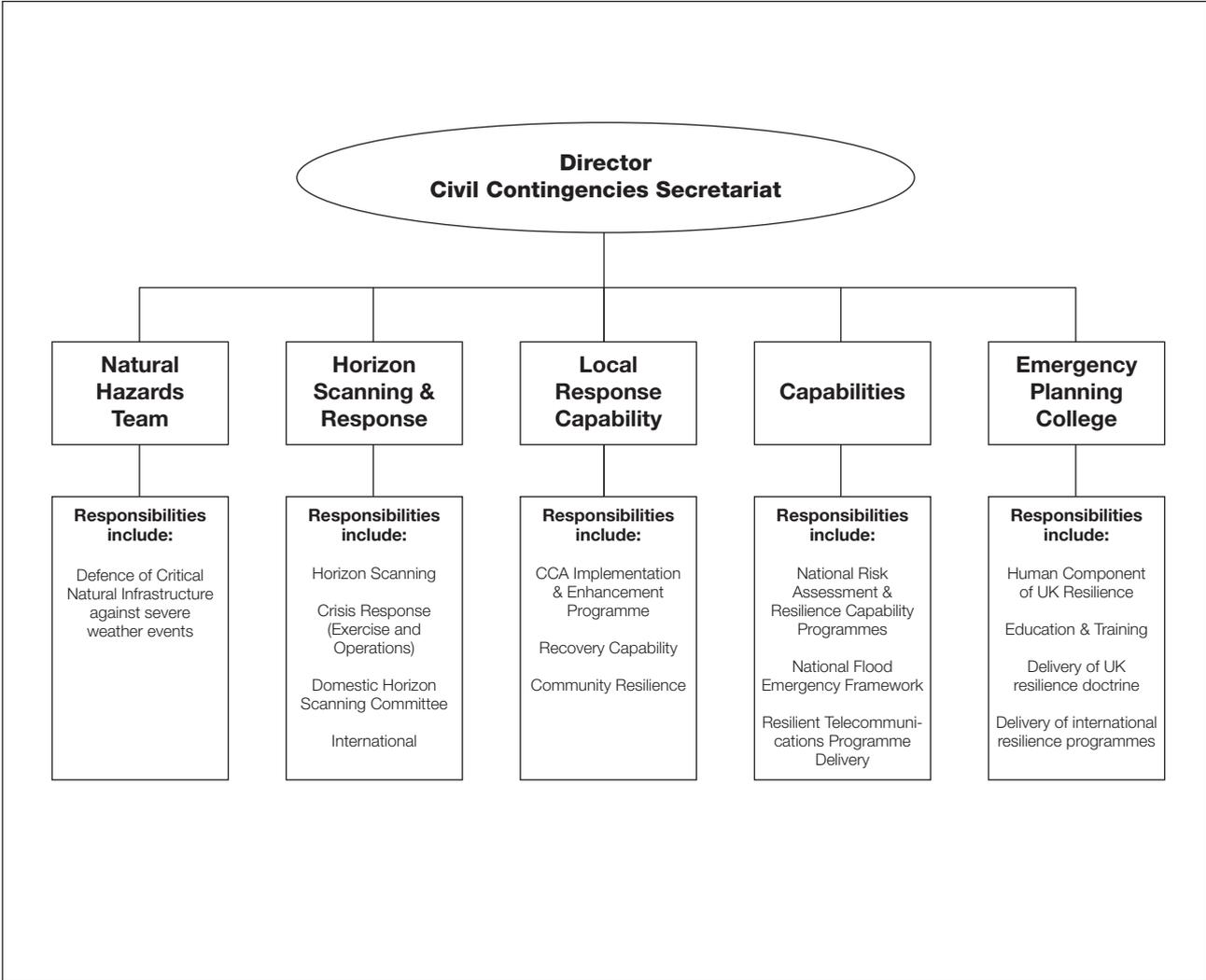
Convention on the Physical Protection of Nuclear Materials

11 December 1991

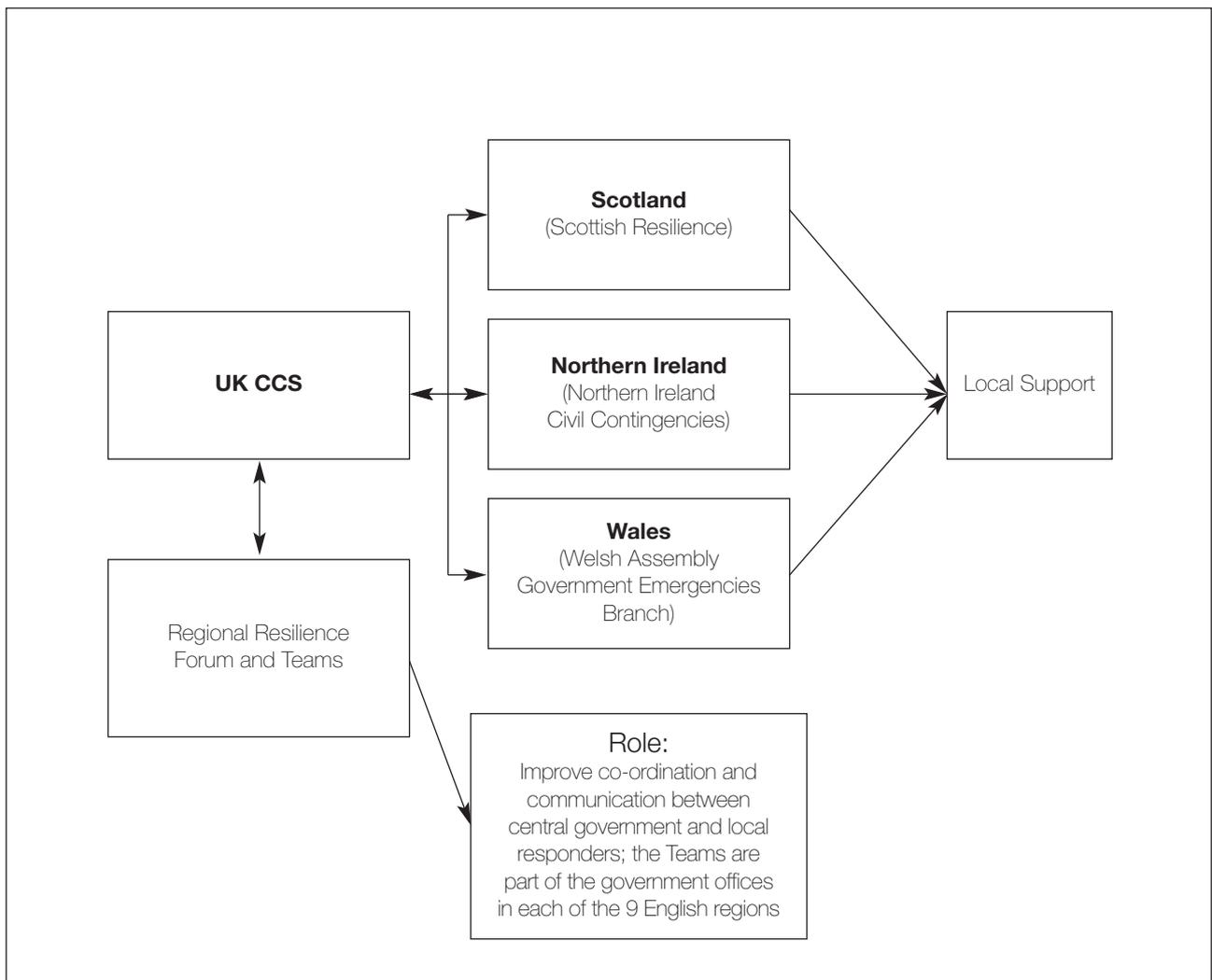
“...the Convention was extended to cover the Bailiwicks of Jersey and Guernsey and the Isle of Man with effect from 6 October 1991. The United Kingdom’s Instrument of Ratification should accordingly be construed to extend to them.”

Annex VI: Organograms

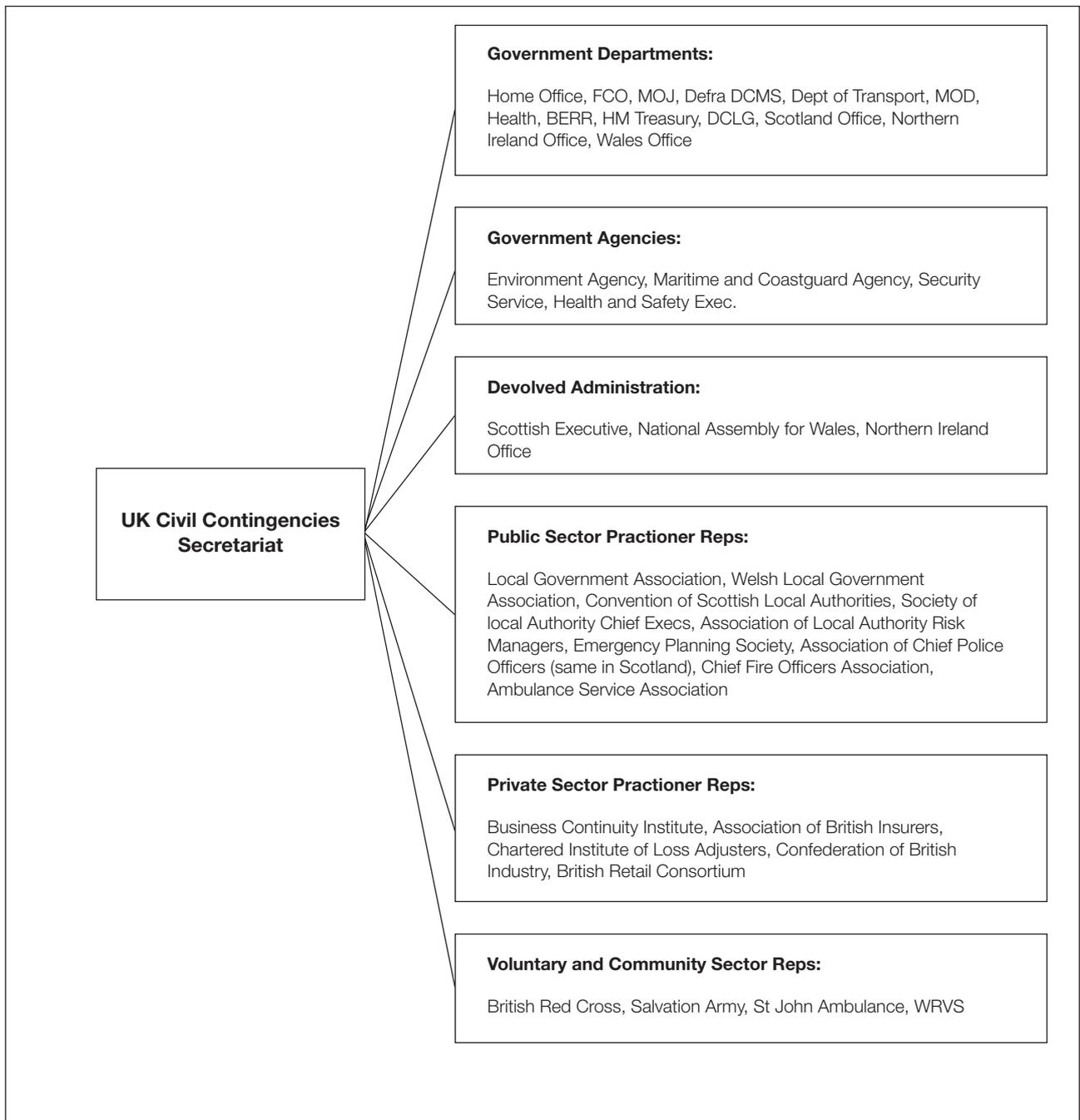
Organogram 1 – CCS Teams



Organogram 2 – Local and Regional Resilience Forums



Organogram 3 – Partners



Annex VII: IDRL Guidelines

Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance

Introduction

1. Purpose and Scope

1. These Guidelines are non-binding. While it is hoped that States will make use of them to strengthen their laws, policies and/or procedures related to international disaster response, as appropriate, the Guidelines do not have a direct effect on any existing rights or obligations under domestic law.
2. They draw from many existing international instruments, including United Nations General Assembly Resolutions 46/182 of 1991 and 57/150 of 2002, the Measures to Expedite International Relief of 1977 and the Hyogo Framework for Action of 2005.
3. Their purpose is to contribute to national legal preparedness by providing guidance to States interested in improving their domestic legal, policy and institutional frameworks concerning international disaster relief and initial recovery assistance. While affirming the principal role of domestic authorities and actors, they recommend minimum legal facilities to be provided to assisting States and to assisting humanitarian organizations that are willing and able to comply with minimum standards of coordination, quality and accountability. It is hoped that the use of these Guidelines will enhance the quality and efficiency of international disaster relief and initial recovery assistance in order to better serve disaster-affected communities.

4. These Guidelines are not intended to apply to situations of armed conflict or disasters that occur during armed conflicts, or to imply changes in any rules governing relief in those contexts. They are also not intended to recommend any changes to, or affect the meaning or implementation of, any existing international law or agreements, including but not limited to:
 - (a) International humanitarian, human rights and refugee law;
 - (b) The legal personality and status of States, inter-governmental organizations, the International Federation of Red Cross and Red Crescent Societies and the International Committee of the Red Cross;
 - (c) International law related to privileges and immunities;
 - (d) The Statutes and regulations of the International Red Cross and Red Crescent Movement and existing legal arrangements between the individual components of the Movement and States; and
 - (e) Existing agreements between States or between States and assisting actors.

2. Definitions

For the purposes of these Guidelines,

1. “**Disaster**” means a serious disruption of the functioning of society, which poses a significant, widespread threat to human life, health, property or the environment, whether arising from accident, nature or human activity, whether developing suddenly or as the result of long-term processes, but excluding armed conflict.
2. “**Disaster relief**” means goods and services provided to meet the immediate needs of disaster-affected communities.

3. **“Initial recovery assistance”** means goods and services intended to restore or improve the pre-disaster living conditions of disaster-affected communities, including initiatives to increase resilience and reduce risk, provided for an initial period of time, as determined by the affected State, after the immediate needs of disaster-affected communities have been met.
4. **“Goods”** means the supplies intended to be provided to disaster-affected communities for their relief or initial recovery.
5. **“Services”** means activities (such as rescue and medical care) undertaken by disaster relief and initial recovery personnel to assist disaster-affected communities.
6. **“Equipment”** means physical items, other than goods, that are necessary for disaster relief or initial recovery assistance, such as vehicles and radios.
7. **“Personnel”** means the staff and volunteers providing disaster relief or initial recovery assistance.
8. **“Affected State”** means the State upon whose territory persons or property are affected by a disaster.
9. **“Assisting State”** means a State providing disaster relief or initial recovery assistance, whether through civil or military components.
10. **“Originating State”** means the State from which disaster relief and initial recovery personnel, goods and equipment begin travel to the affected State.
11. **“Transit State”** means the State through whose territorial jurisdiction disaster relief or initial recovery assistance has received permission to pass on its way to or from the affected State in connection with disaster relief or initial recovery assistance.
12. **“Assisting humanitarian organization”** means a foreign, regional, inter-governmental or international non-profit entity whose mandate and activities are primarily focused on humanitarian relief, recovery or development.
13. **“Eligible assisting humanitarian organization”** means an assisting humanitarian organization determined to be eligible to receive legal facilities pursuant to Part V by the originating, transit or affected State, as applicable.
14. **“Assisting actor”** means any assisting humanitarian organization, assisting State, foreign individual, foreign private company providing charitable relief or other foreign entity responding to a disaster on the territory of the affected State or sending in-kind or cash donations.

Part I: Core Responsibilities

3. Responsibilities of Affected States

1. Affected States have the primary responsibility to ensure disaster risk reduction, relief and recovery assistance in their territory. National Red Cross and Red Crescent Societies, as auxiliaries to the public authorities in the humanitarian field, and domestic civil society actors play a key supporting role at the domestic level.
2. If an affected State determines that a disaster situation exceeds national coping capacities, it should seek international and/or regional assistance to address the needs of affected persons.
3. Affected States have the sovereign right to coordinate, regulate and monitor, disaster relief and recovery assistance provided by assisting actors on their territory, consistent with international law.

4. Responsibilities of Assisting Actors

1. Assisting actors and their personnel should abide by the laws of the affected State and applicable international law, coordinate with domestic authorities, and respect the human dignity of disaster-affected persons at all times.
2. Assisting actors should ensure that their disaster relief and initial recovery assistance is provided in accordance with the principles of humanity, neutrality and impartiality, and in particular:
 - (a) Aid priorities are calculated on the basis of need alone;
 - (b) Provided without any adverse distinction (such as in regards to nationality, race, ethnicity, religious beliefs, class, gender, disability, age and political opinions) to disaster-affected persons;
 - (c) Provided without seeking to further a particular political or religious standpoint, intervene in the internal affairs of the affected State, or obtain commercial gain from charitable assistance;

- (d) Not used as a means to gather sensitive information of a political, economic or military nature that is irrelevant to disaster relief or initial recovery assistance
3. To the greatest extent practicable, their disaster relief and initial recovery assistance should also be:
- (a) Responsive to the special needs, if any, of women and particularly vulnerable groups, which may include children, displaced persons, the elderly, persons with disabilities, and persons living with HIV and other debilitating illnesses;
- (b) Adequate for the needs of affected persons and consistent with any applicable international standards of quality;
- (c) Coordinated with other relevant domestic and assisting actors;
- (d) Provided and conducted in a manner that is sensitive to cultural, social and religious customs and traditions;
- (e) Carried out with adequate involvement of affected persons, including women, youth and the elderly, in their design, implementation, monitoring and evaluation;
- (f) Provided by competent and adequately trained personnel;
- (g) Commensurate with their organisational capacities;
- (h) Building upon and conducted in a manner that strengthens local disaster risk reduction, relief and recovery capacities and reduces future vulnerabilities to disasters;
- (i) Carried out so as to minimize negative impacts on the local community, economy, job markets, development objectives and the environment; and
- (j) Provided in a transparent manner, sharing appropriate information on activities and funding.

5. Additional Responsibilities of All States

1. States providing funding to other assisting actors should encourage them to act in a manner consistent with the provisions of paragraph 4.
2. All States should actively encourage members of the public interested in contributing to international disaster relief or initial recovery to make financial donations where possible or otherwise donate only those types of relief goods expressly requested by the affected State.

6. Responsibilities Concerning Diversion and the Intended Use of Resources

1. States and assisting humanitarian organizations should cooperate to prevent unlawful diversion, misappropriation, or fraud concerning disaster relief or initial recovery goods, equipment or resources and initiate proceedings as appropriate.
2. Affected States should use funds and relief goods donated to them, and which they have accepted in relation to a disaster, in a manner consistent with the expressed intent with which they were given.

Part II: Early Warning and Preparedness

7. Early Warning

In order to minimize transboundary impacts and maximize the effectiveness of any international assistance that might be required, all States should have procedures in place to facilitate the expeditious sharing of information about disasters, including emerging hazards that are likely to cause disasters, with other States and assisting humanitarian organizations as appropriate, including the United Nations' Emergency Relief Coordinator.

8. Legal, Policy and Institutional Frameworks

1. As an essential element of a larger disaster risk reduction programme, States should adopt comprehensive legal, policy, and institutional frameworks and planning for disaster prevention, mitigation, preparedness, relief and recovery which take full account of the auxiliary role of their National Red Cross or Red Crescent Society, are inclusive of domestic civil society, and empower communities to enhance their own safety and resilience. States, with the support, as appropriate, of relevant regional and international organizations, should devote adequate resources to ensure the effectiveness of these frameworks.
2. These frameworks should also adequately address the initiation, facilitation, transit and regulation of international disaster relief and initial recovery assistance consistent with these Guidelines. They should allow for effective coordination of international disaster relief and initial recovery assistance, taking into account the role of the United Nations Emergency Relief Coordinator as central focal point with States and assisting

humanitarian organizations concerning United Nations emergency relief operations. They should also clearly designate domestic governmental entities with responsibility and authority in these areas. Consideration should be given to establishing a national focal point to liaise between international and government actors at all levels.

3. Where necessary and appropriate, national governments should encourage other domestic actors with authority over areas of law or policy pertinent to international disaster relief or initial recovery assistance, such as provincial or local governments and private regulatory bodies, to take the necessary steps at their level to implement the Guidelines.

9. Regional and International Support for Domestic Capacity

1. With a view to increasing resilience and reducing the need for international disaster relief and initial recovery assistance, the international community, including donors, regional and other relevant actors, should support developing States, domestic civil society actors and National Red Cross and Red Crescent Societies to build their capacities to prevent, mitigate, prepare for and respond to disasters domestically.
2. The international community should also support developing States to build the capacity to adequately implement legal, policy and institutional frameworks to facilitate international relief and initial recovery assistance. This support should be provided to States in a coordinated manner among the relevant actors.

Part III: Initiation and Termination of International Disaster Relief and Initial Recovery Assistance

10. Initiation

1. Disaster relief or initial recovery assistance should be initiated only with the consent of the affected State and in principle, on the basis of an appeal. The affected State should decide in a timely manner whether or not to request disaster relief or initial recovery assistance and communicate its decision promptly. In order to make this decision, the affected State should promptly assess needs. Consideration should be given to undertaking joint needs assessments with the United Nations and other assisting humanitarian organisations.

2. Requests and offers for assistance should be as specific as possible as to the types and amounts of goods as well as the services and expertise available or required, respectively. Affected States may also wish to indicate particular types of goods and services likely to be offered that are not needed.
3. Affected States should make available to assisting actors adequate information about domestic laws and regulations of particular relevance to the entry and operation of disaster relief or initial recovery assistance.

11. Initiation of Military Relief

Military assets should be deployed for disaster relief or initial recovery assistance only at the request or with the express consent of the affected State, after having considered comparable civilian alternatives. Prior to any such deployment, terms and conditions (including such issues as the duration of deployment, whether they must be unarmed or may be armed the use of their national uniforms, and mechanisms for cooperation with civilian actors) are to be agreed by the affected and assisting States.

12. Termination

When an affected State or an assisting actor wishes to terminate disaster relief or initial recovery assistance, it should provide appropriate notification. Upon such notification, the affected State and the assisting actor should consult with each other, bearing in mind the impact of such termination on disaster-affected communities.

Part IV: Eligibility for Legal Facilities

13. Facilities for Assisting States

It is recommended that transit and affected States grant, at a minimum, the legal facilities described in Part V to assisting States with respect to their disaster relief or initial recovery assistance.

14. Facilities for Assisting Humanitarian Organizations

1. Subject to existing international law, it is the prerogative of originating, transit and affected States to determine which assisting humanitarian organizations will be eligible to receive the legal facilities described in Part V with respect to their disaster relief or initial recovery assistance.

2. It is recommended that States establish criteria for assisting humanitarian organizations seeking eligibility for legal facilities. These criteria should include a showing by the organization of its willingness and capacity to act in accordance with the responsibilities described in paragraph 4 of these Guidelines.
3. Any additional requirements imposed on assisting humanitarian organizations should not unduly burden the provision of appropriate disaster relief and initial recovery assistance.
4. Determination of eligibility by the State granting the facilities should be possible in advance of a disaster, or as soon as possible after its onset. Applicable procedures and mechanisms should be as simple and expeditious as possible. They should be clearly described and information about them should be made freely available. They might include the use of a national roster, bilateral agreements or reliance upon international or regional systems of accreditation, if available.
5. Retention of the legal facilities in Part V should be made dependent on ongoing compliance with the provisions of subsection 2 of this paragraph. However, entitlement to legal facilities should not be changed arbitrarily, retroactively or without notice appropriate to the circumstances.

15. Facilities for Other Assisting Actors

Affected States may also wish to extend, upon request, some of the legal facilities in Part V to assisting actors other than those covered by paragraphs 13 and 14, such as private companies providing charitable relief, provided this does not negatively affect operations of assisting humanitarian organizations or assisting States. Any actor receiving such facilities should be required to abide, at a minimum, by the same conditions described in paragraph 14.

Part V: Legal Facilities for Entry and Operations

It is recommended that States provide the legal facilities described in paragraphs 16-24 to assisting States and eligible assisting humanitarian organizations. It is understood that the granting of these facilities will be subject to the interests of national security, public order, public and environmental health, and public morals of the concerned affected, originating and transit States. Measures to protect such interests should be tailored

to the exigencies of the specific disaster and consistent with the humanitarian imperative of addressing the needs of affected communities.

Where specific facilities recommended here are within the competence of authorities other than the national government, the national government should, where possible and appropriate, encourage those authorities to provide the relevant facilities to assisting States and eligible assisting humanitarian organizations.

16. Personnel

1. With regard to disaster relief and initial recovery personnel of assisting States and eligible assisting humanitarian organizations, affected States should:
 - (a) Grant visas and any necessary work permits, ideally without cost, renewable within their territory, for the time necessary to carry out disaster relief or initial recovery activities;
 - (b) In disaster relief operations, waive or significantly expedite the provision of such visas and work permits;
 - (c) Establish expedited procedures for temporary recognition of professional qualifications of foreign medical personnel, architects, and engineers, drivers licences and other types of licenses and certificates that are necessary for the performance of disaster relief or initial recovery functions and that have been certified as genuine by the concerned assisting State or eligible assisting humanitarian organization, for the time necessary to carry out disaster relief or initial recovery activities;
 - (d) Facilitate freedom of access to and freedom of movement in and from the disaster-affected area, bearing in mind the safety of disaster relief and initial recovery personnel.
2. Upon request, originating and transit States should likewise waive or promptly issue, ideally without cost, exit or transit visas, as appropriate, for the disaster relief and initial recovery personnel of eligible assisting humanitarian organizations.
3. Assisting States and eligible assisting humanitarian organizations should consider to what degree disaster relief and initial recovery objectives can be met through hiring local staff.

17. Goods and Equipment

1. With regard to disaster relief and initial recovery goods and equipment exported or imported by, or on behalf of, assisting States and eligible assisting humanitarian organizations, originating, transit and affected States should:
 - (a) Exempt them from all customs duties, taxes, tariffs or governmental fees;
 - (b) Exempt them from all export, transit, and import restrictions;
 - (c) Simplify and minimize documentation requirements for export, transit and import;
 - (d) Permit re-exportation of any equipment or unused goods which the assisting State or assisting humanitarian organization owns and wishes to retain.
2. With regard to disaster relief goods and equipment only, originating, transit and affected States should additionally:
 - (a) Waive or reduce inspection requirements. Where waiver is not possible, clear relief goods and equipment rapidly and as a matter of priority, through a “pre-clearance” process where feasible; and
 - (b) Arrange for inspection and release outside business hours and/or at a place other than a customs office as necessary to minimize delay, in accordance with the safety regulations of the affected State. Assisting States and eligible assisting humanitarian organizations should respect any routes and delivery points prescribed by the affected State.
3. In order to benefit from the facilities above, assisting States and assisting humanitarian organizations should, in accordance with agreed international standards, appropriately pack, classify and mark disaster relief and initial recovery goods and equipment, and include detailed manifests with each shipment. They should additionally inspect all such goods and equipment to ensure their quality, appropriateness for the needs in the affected State, and conformity with the national law of the affected State and international standards.
4. Assisting States and eligible assisting humanitarian organizations should assume responsibility for removing or disposing of any unwanted and unused relief and initial recovery goods, particularly if they may pose a threat to human health or safety, or the environment.

18. Special Goods and Equipment

In addition to the facilities described in paragraph 17:

1. Affected States should grant temporary recognition to foreign registration and plates with regard to vehicles imported by assisting States and eligible assisting humanitarian organizations or on their behalf in disaster relief and initial recovery assistance.
2. Affected States should waive or expedite the granting of any applicable licenses and reduce any other barriers to the use, import or export of telecommunications and information technology equipment by assisting States and assisting humanitarian organizations or on their behalf in disaster relief and initial recovery assistance. Without discrimination against or negative impact to domestic relief actors, affected States should also grant (or where, appropriate, encourage other domestic actors to grant) assisting States and eligible assisting humanitarian organizations priority access to bandwidth, frequencies and satellite use for telecommunications and data transfer associated with disaster relief operations.
3. Originating, transit and affected States should reduce legal and administrative barriers to the exportation, transit, importation and re-exportation of medications and medical equipment by assisting States and eligible assisting humanitarian organizations or on their behalf in disaster relief and initial recovery assistance, to the extent consistent with public safety and international law. Assisting States and eligible assisting humanitarian organizations should take all reasonable steps to ensure the quality, appropriateness and safety of any such medications and equipment and in particular:
 - (a) Any medications they import should be approved for use in the originating and affected State;
 - (b) Medications they use in their own operations should be:
 - (i) transported and maintained in appropriate conditions to ensure their quality and;
 - (ii) guarded against misappropriation and abuse.
 - (c) Any medications they donate for use by others in the affected State should be:
 - (i) at least twelve months from their expiration date upon arrival, unless otherwise agreed by receiving authorities;

- (ii) transported and maintained in appropriate conditions to ensure their quality until they reach the affected State; and
 - (iii) appropriately labelled in a language understood in the affected State with the International Nonproprietary Name or generic name, batch number, dosage form, strength, name of manufacturer, quantity in the container, storage conditions and expiry date.
3. Originating, transit and affected States should consider whether normal requirements regarding fumigation and prohibitions and restrictions on food imports and exports by assisting States and eligible assisting humanitarian organizations in disaster relief operations can be modified or reduced.

19. Transport

1. Originating, transit and affected States should grant, without undue delay, permission for the speedy passage of land, marine and air vehicles operated by an assisting State or eligible assisting humanitarian organization or on its behalf, for the purpose of transporting disaster relief or initial recovery assistance and, ideally, waive applicable fees.
2. In particular, permission should be granted for overflight, landing and departure of aircraft. Such aircraft should also be authorized to operate within the territory of the affected State as required for the delivery of assistance.
3. Any applicable exit, transit and entry visas for the operating personnel of such transport vehicles should be promptly issued.

20. Temporary Domestic Legal Status

1. Affected States should grant relevant entities of assisting States and eligible assisting humanitarian organizations, upon entry or as soon as possible thereafter, at least a temporary authorization to legally operate on their territory so as to enjoy the rights, *inter alia*, to open bank accounts, enter into contracts and leases, acquire and dispose of property and instigate legal proceedings, for the purpose of providing disaster relief and initial recovery assistance.

2. Assisting States and eligible assisting humanitarian organizations should also be granted the right to freely bring the necessary funds and currencies in or out of the country through legal means and to obtain legal exchange rates in connection with their disaster relief or initial recovery assistance.
3. Affected States should allow assisting States and eligible assisting humanitarian organizations to legally hire and terminate the contracts of local personnel.

21. Taxation

Affected States should provide exemptions to assisting States and eligible assisting humanitarian organizations from value-added and other taxes or duties directly associated with disaster relief and initial recovery assistance.

22. Security

Affected States should take appropriate measures to address the safety and security of disaster relief and initial recovery personnel of assisting States and eligible assisting humanitarian organizations and of the premises, facilities, means of transport, equipment and goods used in connection with their disaster relief or initial recovery assistance. Assisting States and assisting humanitarian organizations should also take appropriate steps in their own planning and operations to mitigate security risks.

23. Extended Hours

Affected States should endeavour to ensure, when necessary, that State-operated offices and services essential to the timely delivery of international disaster relief function outside of normal business hours.

24. Costs

1. The costs of providing international disaster relief or initial recovery assistance pursuant to these Guidelines should normally be borne by the assisting State or assisting humanitarian organization. However, assisting States may agree in advance with the affected State for the reimbursement of certain costs and fees, or for the temporary loan of equipment.

2. Affected States should consider, when it is in their power and to the extent possible under the circumstances, providing certain services at reduced or no cost to assisting States and eligible assisting humanitarian organizations, which may include:
 - (a) In-country transport, including by national airlines;
 - (b) Use of buildings and land for office and warehouse space; and
 - (c) Use of cargo handling equipment and logistic support.

Endnotes

- ¹ See Annex VIII for a copy of the IDRL Guidelines.
- ² The Workshop took place under the Chatham House Rule whereby neither the identities nor affiliations of the participants may be revealed.
- ³ Comprising the Treaty on European Union (Treaty of Maastricht) and the Treaty Establishing the European Communities (Rome Treaty).
- ⁴ Source:
http://www.olceurope.com/CPV/life_in_the_uk.html.
- ⁵ Territorial Sea Act 1987.
- ⁶ Marine and Coastal Access Act 2009 s 41. Section 41 establishes the Exclusive Economic Zone for the UK and Section 43 establishes a similar zone for the coastal area off of Wales.
- ⁷ UK Office for National Statistics, 'Population Estimates', available at:
<http://www.statistics.gov.uk/cci/nugget.asp?ID=6>.
- ⁸ Diplock LJ in *BBC v Johns* [1965] Ch 32, 72.
- ⁹ C Turpin and A Tomkins, *British Government and the Constitution*, (6th ed Cambridge University Press, Cambridge, 2007) Chapter 4. Much of the discussion in this Section was prepared by reference to this work.
- ¹⁰ Para 13, *Memorandum of Understanding* Cm 5240/2001.
- ¹¹ *Scotland Office Departmental Report*, Cm 5120/2001.
- ¹² The Regional Development Agencies Act 1998 provided for England's division into nine regions, including London.
- ¹³ Schedule 5 of the Scotland Act.
- ¹⁴ Schedule 2 to the Wales Act.
- ¹⁵ Elected on 25 June 1998 after the approval of the Belfast Agreement.
- ¹⁶ The term 'British Overseas Territory' was introduced by the British Overseas Territories Act 2002. Previously, the territories had been known as a British-dependent territory and, prior to that, a crown colony or colonies.
- ¹⁷ Note that on 16 March 2009, the British Parliament voted to implement Crown-colony governance in the Turks and Caicos Islands. The Court of Appeal confirmed the legality of the process, and on 14 August 2009, the United Kingdom imposed direct rule, suspending the local administration for up to two years.
- ¹⁸ Cabinet Office, 'Central government arrangements for responding to an emergency: concept of operations' (CONOPS), Annex E, available at:
<http://www.cabinetoffice.gov.uk/media/349120/conops-2010.pdf>.
- ¹⁹ English law applies in England and Wales, Scottish law in Scotland, and Northern Ireland law in Northern Ireland.
- ²⁰ The High Court of Justice is the highest authority for criminal cases in Scotland.
- ²¹ This process is currently under review so as to confer a statutory basis for the Ponsonby rule and to allow greater parliamentary scrutiny of treaties: see the Constitutional Reform and Governance Bill 2008, currently before the House of Commons.
- ²² Specific statutory duty to implement also applies to the Welsh Assembly (s 59 Government of Wales Act 2006) and the Scottish Ministers (s 53 of the Scotland Act 1998).
- ²³ s 59 Government of Wales Act 2006; s 53 of the Scotland Act 1998.
- ²⁴ Except those provisions relating to the Common Foreign and Security Policy.
- ²⁵ European Union (Amendment) Order 2008, Explanatory Notes para 14.

- ²⁶ s 22, HRA.
- ²⁷ Isle of Man: Human Rights Act 2001, entry into force 1 November 2006; Guernsey: The Human Rights (Bailiwick of Guernsey) Law 2000, entry into force 1 September 2006 by virtue of the 2006 Commencement Ordinance; Jersey: Human Rights (Jersey) Law 2000, entry into force 10 December 2006.
- ²⁸ Available at: <http://www.cabinetoffice.gov.uk/media/348986/nationalriskregister-2010.pdf>. Any risks that may have an impact national security have been excluded from the NRR.
- ²⁹ Community Risk Registers can be found at: http://www.direct.gov.uk/en/Governmentcitizensandrights/Dealingwithemergencies/Preparingforemergencies/DG_176587.
- ³⁰ NRR (n 28) para 1.2.
- ³¹ Based on availability, the authors of the report considered the following CRRs: Herefordshire, Central London, West Yorkshire, Fife (Scotland) and Dyfed-Powys (Wales).
- ³² See Endnotes for correlating sources.
- ³³ ‘Hurricane Ivan strikes Caribbean’, Relief Web (14 Sept 2004), available at: <http://www.reliefweb.int/rwarchive/rwb.nsf/db900sid/HMYT-64TR9C>.
- ³⁴ Hansard HC vol 425 cols 390W-391W (15 October 2004), available at <http://www.publications.parliament.uk/pa/cm200304/cmhansrd/vo041015/text/41015w01.htm>.
- ³⁵ Hansard HC vol 425 col 56W (11 October 2004), available at <http://www.publications.parliament.uk/pa/cm200304/cmhansrd/vo041011/text/41011w15.htm>; for the details of contribution, see also Department for International Development, ‘Hurricane Ivan: What the UK is doing to help’ (17 September 2004), at <http://www.reliefweb.int/rwarchive/rwb.nsf/db900sid/EVIU-64ZHLC>.
- ³⁶ Hansard HC vol 425 col 57W (11 October 2004), available at <http://www.publications.parliament.uk/pa/cm200304/cmhansrd/vo041011/text/41011w15.htm>.
- ³⁷ See Government of the Cayman Islands, ‘Cayman Islands: Helping hands to the rescue’ (6 October 2004), available at: <http://www.reliefweb.int/rwarchive/rwb.nsf/db900sid/EVIU-65PEXE?OpenDocument>.
- ³⁸ ‘A Successful Future’ – Triesman Speech, Turks and Caicos Islands (02/05/2006) (presented on 23 April 2006, Turks and Caicos Islands), available at: <http://www.fco.gov.uk/en/news/latest-news/?view=Speech&cid=1893557>.
- ³⁹ The United Kingdom received \$US 3,297 million pursuant to the Marshall Plan, officially known as the European Recovery Programme.
- ⁴⁰ ‘The Big Freeze triggers salt shortage’, The Independent, 4 Feb 2009, available at: <http://www.independent.co.uk/news/uk/home-news/the-big-freeze-triggers-salt-shortage-1545967.html>. Monetary aid was given by Italy and the United States after the terrorist incident of 2005, but this is not strictly within the scope of this Report.
- ⁴¹ International Federation of Red Cross and Red Crescent Societies, ‘Analysis of Law in the European Union pertaining to Cross-Border Disaster Relief’, available at: <http://www.ifrc.org/Docs/pubs/idrl/193300-Analysis-of-law-in-EU-EN.pdf>.
- ⁴² In contrast with the EU’s Humanitarian Aid Office (ECHO) which provides assistance externally.
- ⁴³ Surprisingly, the UK declined offers of assistance when Hurricane Ivan struck the Caribbean Islands, after the 2005 London bombings and the 2007 floods.
- ⁴⁴ The Committee provides the forum to discuss civil emergencies and disaster response.
- ⁴⁵ The North Atlantic Treaty was adopted in 1949 and created the North Atlantic Treaty Organisation (NATO) which currently consists of 28 member countries, including 21 EU Member States.
- ⁴⁶ NATO, ‘What is NATO?’, available at: http://www.nato.int/cps/en/natolive/what_is_nato.htm. More information is also available in ‘Analysis of Law in the European Union pertaining to Cross-Border Disaster Relief’ (n 41).
- ⁴⁷ Ministry of Defence, ‘The Strategic Defence Review: A New Chapter’, July 2002, available at: <http://www.fco.gov.uk/resources/en/pdf/pdf21/NATOstrategicdefencereview>.
- ⁴⁸ The Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005 SI No 2042.
- ⁴⁹ Civil Contingencies Secretariat, Cabinet Office, ‘*Civil Contingencies Act 2004 : a short guide (revised)*’ (2004).
- ⁵⁰ HC Debs vol 416 col 1105, 19 January 2004, Douglas Alexander, Minister of State for the Cabinet Office.

- ⁵¹ Civil Contingencies Act Enhancement Programme – End of Phase 1 Report, available at: <http://www.cabinetoffice.gov.uk/media/310797/phase1-closure-report.pdf>.
- ⁵² A summary of Phase 2 is available at: <http://www.cabinetoffice.gov.uk/media/310794/phase2-projects-summary.pdf>.
- ⁵³ See ‘Civil Contingencies Act Enhancement Programme (CCAEP) Programme Initiation Document, available at: <http://www.cabinetoffice.gov.uk/media/310800/enhancement-programme-pid.pdf>.
- ⁵⁴ Cabinet Office, ‘Emergency Powers’, available at: <http://www.cabinetoffice.gov.uk/ukresilience/response/emergencypowers.aspx>. Much legislation already contains provision relating to emergency powers, for example, the Energy Act 1976 allows the regulation or prohibition of the production, supply, acquisition or use of fuel during an emergency affecting fuel supplies.
- ⁵⁵ CCA Section 19(1).
- ⁵⁶ CCA Section 21. Section 23 includes further limitations on the creation of emergency regulations. Emergency regulations are also subject to Parliamentary scrutiny under Section 27 and have an initial duration of 30 days under Section 26. Finally, under Section 29, emergency regulations relating wholly or partly to the devolved administrations cannot be made without consulting the relevant authorities.
- ⁵⁷ *ibid* s 22.
- ⁵⁸ *ibid* s 22(2).
- ⁵⁹ Indeed, the Cabinet Office recognized the list as such in its *Explanatory Notes to the Civil Contingencies Act 2004*, available at: http://www.opsi.gov.uk/acts/acts2004/en/ukpgaen_20040036_en_1.
- ⁶⁰ CCA Section 21(5) and (6).
- ⁶¹ *ibid* s 20(1) and (2).
- ⁶² *ibid* s 20(5).
- ⁶³ *ibid* s 29(1)
- ⁶⁴ *ibid* s 27.
- ⁶⁵ ‘Emergency Response and Recovery: Non-statutory guidance accompanying the Civil Contingencies Act 2004’, para 14.3.2, available at: <http://www.cabinetoffice.gov.uk/media/238642/err-guidance-120809.pdf>.
- ⁶⁶ *ibid* s 28.
- ⁶⁷ *ibid* s 26.
- ⁶⁸ CONOPS (n 18) para 4.2(xvii).
- ⁶⁹ ‘Emergency Response and Recovery’ (n 65) 14.3.9.
- ⁷⁰ Emergency Regulations 1973 SI No 1881; renewed by 1973 SI No 2089; 1974 SI No 33; 1974 SI No 175; 1975 SI No 350.
- ⁷¹ HC Debs vol 397 cols 680-3, 15 November 1973, as cited by C Walker and J Broderick, *The Civil Contingencies Act 2004: Risk Resilience, and the Law in the United Kingdom*, (OUP 2006) 160.
- ⁷² C Walker and J Broderick, *ibid* 183.
- ⁷³ Emergency Regulations 1921, reg 19 and 22, as cited by C Walker and J Broderick, *ibid* 184.
- ⁷⁴ art 20(5)(b)(iv) of the CCA.
- ⁷⁵ CCA s 23.
- ⁷⁶ art 15(1) ECHR. Any derogation must be notified to the Secretary General of the Council of Europe under Article 15(3). Reasons for such derogation must be supplied and notice as to termination of any emergency measures must also be made. Derogations cannot be made with respect to specific articles under Article 15(2): articles 2 (right to life – except in respect of deaths resulting from lawful acts of war), 3 (prohibition of torture), 4(1) (prohibition of slavery or servitude) and 7 (no punishment without law).
- ⁷⁷ In 1988, the UK filed a notification under the ECHR in relation to the organised terrorism connected with Northern Ireland. The notification stated that the UK considered the terroristic activities a public emergency under Article 15(1) ECHR. In response to such activities, the UK passed several pieces of legislation which enabled the extended detention of persons reasonable suspected of involvement in terrorism. The powers of detention were found in Section 12 of the Prevention of Terrorism (Temporary Provisions) Act 1984, Article 9 of the Prevention of Terrorism (Supplemental Temporary Provisions) Order 1984 and Article 10 of the Prevention of Terrorism (Supplemental Temporary Provisions) (Northern Ireland) Order 1984. The UK was brought before the European Court of Human Rights (ECtHR) with respect to these new powers of detention in the case of *Brogan and Others* (1988) 11 EHRR 117). The ECtHR found that the UK had violated Article 5(3) relating to rights of detention and trial. Following the finding of a violation, the UK officially derogated from Article 5(3) of the ECHR, stating that it was considered as “necessary” given the situation in Northern Ireland (see HRA Schedule 3, Part I). In 1989, the UK filed an additional notification under the ECHR that the legislation had been replaced by Section 14(6) of Schedule 5 to the Prevention of Terrorism (Temporary Provisions) Act 1989

which included comparable powers and came into force on 22 March 1989. Following the derogation, the UK was again brought before the ECtHR in *Brannigan and McBride v UK* (1993) 17 EHRR 539) but was not considered to be in violation of the ECHR due to the UK having derogated.

In 2001, the UK again derogated from Article 5 in relation to the passage of the Anti-Terrorism Crime and Security Act. The Act permitted the extended detention of non-nationals suspected of terrorism. In *A (FC) and others (FC) v Secretary of State for the Home Department* ([2004] UKHL 56), the House of Lords held that the detention was discriminate and disproportionate because nationals suspected of terrorism were not similarly detained. As a result, the relevant provisions of the Act were repealed and control measures applicable to all nationals were utilized instead (Prevention of Terrorism Act 2005 art 2).

⁷⁸ See, e.g., s 3(3) CCA.

⁷⁹ SI No 2042. See also the applicable Scottish Regulations: The Civil Contingencies Act 2004 (Contingency Planning) (Scotland) Regulations 2005 SI 494.

⁸⁰ Available at: <http://www.cabinetoffice.gov.uk/media/131903/emergprepfinal.pdf>.

⁸¹ ‘Emergency Response and Recovery’ (n 65); ‘Evacuation and Shelter Guidance’, available at: http://www.cabinetoffice.gov.uk/media/132739/evac_shelter_guidance.pdf; and ‘Humanitarian Assistance in Emergencies: Non-statutory guidance on establishing Humanitarian Assistance Centres’, available at: <http://www.culture.gov.uk/images/publications/HACGuidancefinal2.pdf>.

⁸² Joint Committee on the Draft Civil Contingencies Bill, Appendix 9 q 1, cited by C Walker and J Broderick (n 71) 186.

⁸³ CONOPS (n18) para 1.12.

⁸⁴ (c 55).

⁸⁵ (c 38).

⁸⁶ s 1(1).

⁸⁷ s 7.

⁸⁸ SI No 894.

⁸⁹ s 73.

⁹⁰ See *Case of the King’s prerogative in Saltpetre* (1606) 12 Co Rep 12, confirming the right to enter private property to make defences in time of peril. See also, *Burmah Oil Company (Burma Trading) Ltd v The Lord Advocate* [1965] AC 75, where the House of Lords confirmed that private

property can be destroyed to prevent it falling in to the hands of the enemy.

⁹¹ Ministry of Justice, *The Governance of Britain: Review of the Executive Royal Prerogative Powers: Final Report*, 2009.

⁹² para 72.

⁹³ HC Debs vol 400 col 437w 25 February 2003, Adam Ingram, cited by C Walker and J Broderick (n 71) 43.

⁹⁴ *R v Dytham* [1979] QB 722; *R v Bowden* [1995] 4 All ER 505, cited by C Walker and J Broderick *ibid*.

⁹⁵ ‘Emergency Response and Recovery’ (n 65) p 266.

⁹⁶ CONOPS (n18) para 1.8.

⁹⁷ See Annex VI, Organogram 1.

⁹⁸ For more information about these teams, please see: http://www.cabinetoffice.gov.uk/ukresilience/ccs/how_we_work.aspx.

⁹⁹ These regional bodies are discussed below. See also Annex VI, Organogram 2.

¹⁰⁰ See Annex VI, Organogram 3.

¹⁰¹ CONOPS (n18) para 2.5.

¹⁰² CONOPS (n18) para. 2.26(j).

¹⁰³ Cabinet Office, ‘Ministerial Committee on Civil Contingencies (CCC)’, available at: <http://www.cabinetoffice.gov.uk/secretariats/committees/cc.aspx>.

¹⁰⁴ For emergencies in the devolved administrations, advice may be sought from the Advocate General for Scotland and legal teams in the Northern Ireland Office and the Wales Office.

¹⁰⁵ CONOPS (n18) para. 2.10.

¹⁰⁶ See also, ‘Departments Responsibilities for Planning, Response and Recovery from Emergencies’, March 2009, available at: http://www.cabinetoffice.gov.uk/media/211520/lead_gov_dept090521.pdf.

¹⁰⁷ ‘Operations in the UK: The Defence Contribution to Resilience,’ Joint Doctrine Publication 02 (2nd ed) (September 2007), available at: http://www.mod.uk/NR/rdonlyres/4F984DE3-6CA0-42D9-8BFF-FC90A07C04BF/0/jdp02_2nd_edition.pdf.

¹⁰⁸ *ibid* paras 846-56.

¹⁰⁹ ‘Preparing Scotland: Scottish Guidance on Preparing for Emergencies’, Scottish Executive (2006) available at: <http://www.scotland.gov.uk/Resource/Doc/94471/0022783.pdf>.

¹¹⁰ ‘Emergency Response and Recovery’ (n 65) p 227.

- ¹¹¹ ‘Preparing Scotland’ (n 109) pp 857-66.
- ¹¹² ‘Emergency Response and Recovery’ (n 65) p 247.
- ¹¹³ ‘Preparing Scotland’ (n 109) pp 867-85.
- ¹¹⁴ The Maritime and Coastguard Agency (MCA), and telecommunications operators. The Secretary of State has said, however, that it is expected that Northern Ireland will offer a level of protection to its citizens similar to that provided for by the CCA (The Northern Ireland Contingencies Framework (revised December 2005) para 13, available at: <http://cepu.nics.gov.uk/pubs/NI%20CCF.pdf>. From 12 April 2010, responsibility for policing and justice was devolved to Northern Ireland (see The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (Draft Instrument)). Sections 94 through 110 of the Draft Instrument amend the CCA to reflect these new changes.
- ¹¹⁵ “a. The regulations that relate to the way Category 1 and 2 Responders should perform their duties apply in the usual way, but with some adjustments for the Northern Ireland security situation. b. The provisions, which rely on bilateral cooperation between Category 1 and 2 Responders, apply to Northern Ireland. c. The provisions in the regulations relating to the LRF and its activities do not apply to Northern Ireland. d. Category 1 Responders in Northern Ireland should have regard to the activities of other bodies in Northern Ireland that are engaged in civil protection (including Northern Ireland departments, the Northern Ireland Ambulance Service and relevant utilities) and, where appropriate, may rely on or adopt those activities. e. Category 1 Responders in Northern Ireland may delegate their functions to, or exercise their functions jointly with, other bodies in Northern Ireland, which are engaged in civil protection.
- ¹¹⁶ ‘Emergency Response and Recovery’ (n 65) p 258.
- ¹¹⁷ *ibid* s 3.2.32, p 36-7.
- ¹¹⁸ Ministry of Defence (2007), available at: http://www.mod.uk/NR/rdonlyres/4F984DE3-6CA0-42D9-8BFF-FC90A07C04BF/0/jdp02_2nd_edition.pdf.
- ¹¹⁹ ‘Emergency Response and Recovery’ (n 65) 3.4.14.
- ¹²⁰ ‘Operations in the UK’ (n 107) para 117.
- ¹²¹ *ibid*.
- ¹²² *ibid*: General information on MACA can be found in Chapter 2; MAGD, Chapter 3; MACP, Chapter 4, MACC, Chapter 5.
- ¹²³ *ibid* para 510.
- ¹²⁴ *ibid* para 285.
- ¹²⁵ In Northern Ireland, requests would normally be endorsed by the Northern Ireland Office.
- ¹²⁶ CONOPS (n18) para. 2.15.
- ¹²⁷ CONOPS (n 18) Annex F.
- ¹²⁸ *ibid* Annex E.
- ¹²⁹ National Audit Office, ‘Managing Risk in the Overseas Territories’ (2007) Table 6, available at: <http://www.official-documents.gov.uk/document/hc0708/hc00/0004/0004.pdf>.
- ¹³⁰ As above.
- ¹³¹ Approved by HM The Queen in Council on 22 July 1997 with effect from 1 January 1998 and revised by HM The Queen in Council on 17 July 2003.
- ¹³² ‘Emergency Preparedness: Guidance on Part I of the Civil Contingencies Act 2004’, p 155.
- ¹³³ British Red Cross, ‘Category 1 Responders’, available at: <http://www.redcross.org.uk/standard.asp?id=89386>.
- ¹³⁴ See: http://www.cabinetoffice.gov.uk/ukresilience/response/respondingagencies/voluntary_sector.aspx.
- ¹³⁵ Detail of this can be found in ‘Emergency Response and Recovery’ (n 65) s 3.3, p 39.
- ¹³⁶ For more information on BT’s Civil Resilience Team, please visit: <https://www.btplc.com/civilresilience/Home/index.htm>.
- ¹³⁷ ‘Emergency Response and Recovery’ (n 65) s 3.4.21, p 52.
- ¹³⁸ CONOPS (n18) para. 3.40.
- ¹³⁹ (n 79).
- ¹⁴⁰ ‘Emergency Preparedness’ (n 132) p 25-6.
- ¹⁴¹ *ibid*. See also, CCS, ‘Information and Data Sharing’, available at: <http://www.cabinetoffice.gov.uk/ukresilience/preparedness/informationsharing.aspx>.
- ¹⁴² Other legislation and instruments may also be relevant, depending on the context. For example, see: the Freedom of Information Act 2000; the Environmental Information Regulations 2004; the Local Government Act 2000; the Children Act 2004; Access to Medical Reports Act 1988; Health and Social Care Act 2001; and the Public Health (Control of Diseases) Act 1984. Various professions may also have their own codes of conduct and guidance, such as the NHS Code of Practice on Confidentiality.

- ¹⁴³ Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data.
- ¹⁴⁴ Section 1, DPA.
- ¹⁴⁵ Section 1 of the DPA defines personal data as relating to a living individual.
- ¹⁴⁶ Section 5, DPA.
- ¹⁴⁷ As set out in *Data Protection and Sharing – Guidance for Emergency Planners and Responders*, non-statutory guidance prepared by UK Government, published February 2007.
- ¹⁴⁸ These include: consent (either implied or express); sharing the information is necessary to protect the vital interests of the person affected; sharing information is required to comply with a court order; sharing information is necessary to fulfil a legal duty or to perform a statutory function; sharing information is necessary to perform a public function in the public interest; or sharing information is necessary for the legitimate interests of the data controller or third parties.
- ¹⁴⁹ Sensitive personal data includes information concerning issues such as race, ethnicity, political opinions, religious and other similar beliefs, physical or mental health, membership of trade unions, sexual life and commission of offences: Section 2, DPA. The additional conditions in Schedule 3 include: explicit consent; sharing the information is necessary to establish or defend legal rights or for the purpose or in connection with legal proceedings; sharing the information is necessary to protect vital interests of the affected person and that person cannot consent, is unreasonably withholding consent or consent cannot be reasonably obtained; sharing the information is necessary to perform a statutory function; sharing the information is in the substantial public interest and necessary to prevent a crime; processing is necessary for medical purposes; processing is necessary for the exercise of police functions.
- ¹⁵⁰ Data controller is defined as ‘a person who (either alone or jointly or in common with other persons) determines the purposes for which and the manner in which any personal data are, or are to be, processed’.
- ¹⁵¹ Regulations 45-54 of the Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005 and regulations 39-47 of the Civil Contingencies Act 2004 (Contingency Planning) (Scotland) Regulations 2005.
- ¹⁵² See report by HMG, ‘Addressing Lessons from the Emergency Response to the 7 July 2005 London Bombings’ at <http://security.homeoffice.gov.uk/news-publications/publications-search/general/lessons-learned>.
- ¹⁵³ ‘Data Protection and Sharing – Guidance for Emergency Planners and Responders’ February 2007, available at: <http://www.cabinetoffice.gov.uk/media/132709/dataprotection.pdf>.
- ¹⁵⁴ ‘Emergency Response and Recovery’ (n 65) ch 4.
- ¹⁵⁵ Responders will usually categorize themselves into three main command and control levels in ascending order: Bronze, Silver and Gold, the Gold being the SCGs. Each of these may generally be referred to as strategic, tactical and operational, respectively.
- ¹⁵⁶ ‘Emergency Response and Recovery’ (n 65) s 4.2.4.
- ¹⁵⁷ CONOPS (n 18) para 3.70.
- ¹⁵⁸ More information is available at: http://www.decc.gov.uk/en/content/cms/what_we_do/uk_supply/energy_mix/nuclear/issues/safety/accidents/accidents.aspx.
- ¹⁵⁹ SI No 1999/743; Northern Ireland SR No 2000/93; Scotland SSI No 2000/179.
- ¹⁶⁰ SI No 2005/1088; Northern Ireland SR No 2005/305; Scotland SSI No 2009/378.
- ¹⁶¹ Directive 96/82/EC on the control of major-accidents involving dangerous substances (Seveso I) and Directive 2003/105/EC amending Directive 96/82/EC (Seveso II).
- ¹⁶² Article 6 of the International Health Regulations (2005), available at <http://www.who.int/ihr/9789241596664/en/index.html>
- ¹⁶³ Except, in relation to Scotland, regarding matters within devolved competence. Article 3 of the The Health Protection Agency (Scottish Health Functions) Amendment Order 2007, in conjunction with Article 2 of the The Health Protection Agency (Scottish Health Functions) Order 2006 also names the UK Health Protection Agency as the focal point.
- ¹⁶⁴ CONOPS (n 18) para 3.70.
- ¹⁶⁵ For Northern Ireland, see the Radiation (Emergency Preparedness and Public Information) Regulations (Northern Ireland) 2001, which are in broadly similar terms.
- ¹⁶⁶ Regulations 7, 8 and 9. Note that the Secretary of State for Defence may grant exemptions from the Regulations for individuals connected with Ministry of Defence, Regulation 18.
- ¹⁶⁷ Regulation 16. The information to be provided is specified in Schedule 9 to the Regulations.

- ¹⁶⁸ Regulation 13. The Agency is the Environment Agency in England and the Environment Protection Agency in Scotland (Regulation 1).
- ¹⁶⁹ Regulation 17. The information to be provided is specified in Schedule 10 to the Regulations.
- ¹⁷⁰ Reportable incidents include a serious incident resulting in the release of toxins and an explosion or fire at a licensed installation. Incidents are to be reported to the responsible Minister as soon as possible: see Regulations 3 and 4.
- ¹⁷¹ See Annex III.
- ¹⁷² See, eg, the International Law Commission's Articles on Prevention of Transboundary Harm (2001), which provides that: "The State of origin shall, without delay and by the most expeditious means, at its disposal, notify the State likely to be affected by (is this correct?) an emergency concerning an activity within the scope of the present articles and provide it with all relevant and available information." See also the *Corfu Channel Case*, which is considered an authority for a customary obligation to provide warning of environmental hazards (Judgment of April 9th, 1949, ICJ Reports 1949, p 4).
- ¹⁷³ CONOPS (n 18) para 3.67.
- ¹⁷⁴ *ibid* para 3.70.
- ¹⁷⁵ *ibid* para 3.71.
- ¹⁷⁶ *ibid* para 3.71.
- ¹⁷⁷ In contrast, see the dedicated emergency consular assistance unit which operates in relation to incidents affecting UK nationals abroad.
- ¹⁷⁸ CONOPS (n 18) para 3.68.
- ¹⁷⁹ *ibid* para 3.69.
- ¹⁸⁰ Agreement between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders.
- ¹⁸¹ Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders.
- ¹⁸² By virtue of the Protocol (No 19) on Schengen *acquis* integrated into the framework of the European Union art 4 (ex Protocol integrating the Schengen *acquis* into the framework of the European Union art 4).
- ¹⁸³ See Council Decision of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* [2000] OJ L/131. The Schengen Information System is a law enforcement data sharing arrangement among police forces across Europe.
- ¹⁸⁴ The Immigration Rules are not subordinate legislation although they have legal effect and give legal rights and decisions have to be taken in accordance with them (*Odelola v Secretary of State for the Home Department* [2009] UKHL 25 paras 6, 45-47 and 51-52).
- ¹⁸⁵ See Immigration Act 1971 s 1(1).
- ¹⁸⁶ *ibid* s 1(2).
- ¹⁸⁷ *ibid* s 3(1)(a). The power to give or refuse leave to enter the is delegated to immigration officers under Section 4(1) of the Immigration Act 1971 and an immigration officer, whether or not in the United Kingdom, may give or refuse a person leave to enter at any time before his or her departure for, or in the course of his or her journey to, the UK (Immigration (Leave to Enter and Remain) Order 2000 SI No 1161 art 7(1)). The Secretary of State may by order make further provision with respect to the giving, refusing or varying of leave to enter or remain (Immigration Act 1971 ss 3A(1) and 3B(1)). Any such order must be made by statutory instrument (*ibid* ss 3A(12) and 3B(5)) and before the order is made, a draft of it must be laid before Parliament and approved by a resolution of each House (*ibid* ss 3A(13) and 3B(6)).
- ¹⁸⁸ *ibid* s 8(3): a member of a diplomatic mission, a member of the family forming part of the household of such a member or a person otherwise entitled to the like immunity from jurisdiction as is conferred by the Diplomatic Privileges Act 1964 on a diplomatic agent.
- ¹⁸⁹ Immigration (Exemption from Control) Order 1972 SI No 1613 art 4 (except those provisions of the Immigration Act 1971 relating to deportation). The 2004 Amendment to the Order specifies that "visiting members of foreign governments" means: (1) members of diplomatic missions; (2) consular officers and employees; and (3) heads of State.
- ¹⁹⁰ *ibid* (except those provisions of the Immigration Act 1971 relating to deportation).
- ¹⁹¹ Immigration Rules para 5.
- ¹⁹² Immigration (European Economic Area) Regulations 2006 SI No 1003 reg 11.
- ¹⁹³ *ibid* reg 13(1).
- ¹⁹⁴ *ibid* reg 14(1).
- ¹⁹⁵ *ibid* reg 6(1).
- ¹⁹⁶ *ibid* reg 19(1).
- ¹⁹⁷ Immigration Rules para 245ZM(a).

- ¹⁹⁸ Tier 5 (Temporary Worker) of the Points Based System – Policy Guidance (1 October 2009) para 39.
- ¹⁹⁹ Immigration Rules para 6. Cf, Tier 5 (Temporary Worker) of the Points Based System – Policy Guidance (1 October 2009) para 39 states that a sponsor is a ‘United Kingdom based organisation that the applicant wants to work for’.
- ²⁰⁰ *ibid* para 245ZO and Appendix A paras 105-112.
- ²⁰¹ *ibid* para 245ZO and Appendix C paras 8-9. The maintenance requirement is satisfied if the applicant provides documentary evidence personal savings of at least £800 held for at least three consecutive months immediately before the date of application or if the applicant’s sponsor indicates on the certificate of sponsorship that it has certified the applicant’s maintenance (*ibid* Appendix C para 9; Tier 5 (Temporary Worker) of the Points Based System – Policy Guidance (1 October 2009) para 132). Documentary evidence must be either (1) personal bank or building society statements covering three full consecutive months, (2) building society pass book covering previous three month period, (3) letter from bank confirming funds and that they have been in the bank for at least three months or (4) letter from a financial institution regulated by the Financial Services Authority or, in the case of overseas accounts, the home regulator (*ibid* para 141). The documents should show details specified in paragraph 141 of the Policy Guidance. If the sponsor is certifying the applicant’s maintenance, the applicant need not provide documentary evidence (Tier 5 (Temporary Worker) of the Points Based System – Policy Guidance (1 October 2009) para 142). The certifying sponsor must be an A rated sponsor (Immigration Rules Appendix C para 9).
- ²⁰² Tier 5 (Temporary Worker) of the Points Based System – Policy Guidance (1 October 2009) para 126.
- ²⁰³ *ibid*.
- ²⁰⁴ *ibid* para 129.
- ²⁰⁵ *ibid*.
- ²⁰⁶ Guidance for Sponsor Applications for Tier 2 and Tier 5 of the Points Based System (5 October 2009) para 332.
- ²⁰⁷ Immigration Rules para 245ZP(d).
- ²⁰⁸ Guidance for Sponsor Applications for Tier 2 and Tier 5 of the Points Based System (5 October 2009) para 337.
- ²⁰⁹ Immigration Rules paras 245 ZQ and 245 ZR.
- ²¹⁰ Guidance for Sponsor Applications for Tier 2 and Tier 5 of the Points Based System (5 October 2009) para 337; see also <http://www.ukba.homeoffice.gov.uk/workingintheuk/tier5/internationalagreement/applying/extending/>.
- ²¹¹ Immigration Act 1971 s 8(3A).
- ²¹² Tier 5 (Temporary Worker) of the Points Based System – Policy Guidance (1 October 2009) para 114.
- ²¹³ *ibid* para 115.
- ²¹⁴ Guidance for Sponsor Applications for Tier 2 and Tier 5 of the Points Based System (5 October 2009) para 311.
- ²¹⁵ National Minimum Wage Act 1998 s 44(1A).
- ²¹⁶ Guidance for Sponsor Applications for Tier 2 and Tier 5 of the Points Based System (5 October 2009) para 313.
- ²¹⁷ *ibid* para 314.
- ²¹⁸ Section 8(2) Immigration Act 1971.
- ²¹⁹ After it has been made (Statutory Instruments Act 1946 s 5(1)).
- ²²⁰ Statutory Instruments Act 1946 s 2(1).
- ²²¹ Section 8(2) does not contain any limitation on the ability of the Secretary of State to delegate this authority.
- ²²² SI 2007/2781.
- ²²³ *ibid* regs 2(1) and 6(3)(b).
- ²²⁴ *ibid* reg 8. Regulated professions in the UK are those listed in schedule 1 of the Regulations and other professional activities access to or pursuit of which are subject to the possession of specific qualifications or limited to holders of a particular qualification (*ibid* reg 6(1)).
- ²²⁵ ‘Home state’ means an EEA State or Switzerland from which the professional originates or comes or in which the professional obtained his or her professional qualifications or in which he or she lawfully practised (*ibid* reg 2(1)).
- ²²⁶ *ibid* reg 6(3)(d). If the profession or the education and training leading to it is not regulated in his or her home State, the professional must have pursued the profession in the home State for at least two years during the last 10 years (*ibid* reg 6(3)(e)).
- ²²⁷ *ibid* reg 11(1) and 11(2)(a).
- ²²⁸ *ibid* reg 11(3).
- ²²⁹ *ibid*.
- ²³⁰ *ibid* reg 11(2)(b).
- ²³¹ *ibid* reg 12(1)(a) and 12(2).
- ²³² *ibid* reg 11(2)(c) and 11(3).
- ²³³ *ibid* reg 12(1)(b).

- 234 Including, child psychotherapist, osteopath, paramedic, radiographer and social worker (see *ibid* sch 2).
- 235 *ibid* reg 14(2).
- 236 *ibid* reg 16(1).
- 237 *ibid* reg 16(2)-(3).
- 238 Specific legislation also exists in regard to architects (Architects Act 1997; see also point 5.7.1 of Annex V to the Professional Qualifications Directive) and a specific regime is applicable to engineers (The UK Engineering Council is a party to the Washington Accord, the Sydney Accord and the Dublin Accord and engineering qualifications recognised by other parties to the agreements are mutually recognised in the UK).
- 239 Medical Act 1983 ss 3 and 17.
- 240 *ibid* s 19.
- 241 *ibid* s 21B(2).
- 242 General Medical Council, 'Accepted primary medical qualification', available at: http://www.gmc-uk.org/doctors/registration_applications/acceptable_primary_medical_qualification.asp.
- 243 Formerly WHO Directory of Medical Schools.
- 244 General Medical Council (n 242). Medical schools currently listed in the Avicenna Directory but not accepted by the GMC are St Matthew's University School of Medicine (Belize), Grace University School of Medicine (Belize), St Mary's Medical School (Cook Islands), Saint Luke School of Medicine (Liberia), St Christopher Ibrahima Mar Diop College of Medicine (Senegal), University of Seychelles American Institute of Medicine (Seychelles), Spartan Health Sciences University (St Lucia) and St Mary's Medical School (St Lucia) (*ibid*, as at 16 November 2009).
- 245 Medical Act 1983 sch 2A. An unregistered doctor cannot enjoy privileges accorded to registered doctors: for example, unregistered doctors who possess, supply or administer any substance or article for medicinal purposes such as treating or preventing disease and inducing anaesthesia are on summary conviction to a maximum fine of £5,000 (Medicines Act 1968 ss 7-9, 45(1), 45(8)(a), 130 and 132(1); Interpretation Act 1978 sch 1; Magistrates' Court Act 1980 s 32(2) and 32(9)) or on conviction on indictment to a fine or maximum two years' imprisonment or both (Medicines Act 1968 s 45(8)(b)). Unregistered doctors may not call themselves as a doctor (Medical Act 1983 ss 49(1) and 49A(1)), contravention of which is punishable by a maximum fine of £5,000 (Medical Act ss 49(1) and 49A(1); Criminal Justice Act 1983 s 37(2)).
- 246 Medical Act 1983 sch 2A paras 4 and 5(1).
- 247 *ibid* sch 2A para 5(2).
- 248 Nursing and Midwifery Order 2001 SI 2002/253 arts 2, 13(1)(b) and 14; European Nursing and Midwifery Qualifications Designation Order of Council 2004 SI 2004/1766 arts 2(1) and 3-10; for the list of relevant European qualifications, see Directive 2005/36/EC on the recognition of professional qualifications, Annex V point 5.2.2.
- 249 Nursing and Midwifery Order 2001 SI 2002/253 art 13(1)(c)(i) and 13(1)(d)(i).
- 250 *ibid* arts 39 and 39A(1)-(4) and sch 2A. An unregistered nurse who holds himself out as a nurse may be liable to a maximum fine of £5,000 (*ibid* art 44(1)-(2) and 44(5); Criminal Justice Act 1983 s 37(2)).
- 251 Nursing and Midwifery Order 2001 SI 2002/253 art 39A(1)(a) and sch 2A para 1(a).
- 252 *ibid* arts 39A(2) and 40 and sch 2A para 5; European Communities (Recognition of Professional Qualifications) Regulations 2007 SI 2007/2781 regs 11 and 12. Documents required are similar to those required of visiting EEA doctors.
- 253 Health Professions Order 2001 SI 2002/254 arts 3 and 12.
- 254 *ibid* art 12(1)(b) and sch 3.
- 255 *ibid* art 13A(1)-(4) and sch 3. An unregistered paramedic holding himself out as a paramedic in the UK (Health Professions Order 2001 SI 2002/254 art 39(1)-(3)) may be liable to a maximum fine of £5,000 (*ibid* art 39(6); Criminal Justice Act 1983 s 37(2)).
- 256 SI 2007/2781.
- 257 Health Professions Order 2001 SI 2002/254 art 13A(2).
- 258 European Communities (Recognition of Professional Qualifications) Regulations 2007 SI 2007/2781 sch 2.
- 259 *ibid* reg 14(2).
- 260 Medical Act 1983 s 18A; Nursing and Midwifery Order 2001 SI 2002/253 art 6A. Relevant emergency situations are emergencies as defined in Section 19(1)(a) of the Civil Contingencies Act 2004, read with Section 19(2)(a) and 19(2)(b) (Medical Act 1983 s 18A(9); Nursing and Midwifery Order 2001 art 6A(5)).
- 261 Medical Act 1983 s 18A(1).
- 262 *ibid* s 18A(2).
- 263 *ibid* s 18A(5)(a).

- 264 Nursing and Midwifery Order 2001 SI 2002/253 art 6A(1).
- 265 *ibid* art 1A(3)(a).
- 266 Case C-2/90 *Commission v Belgium* [1992] ECR I-4431 (opinion of AG Jacobs), reiterated in *Cinéthèque v Fédération Nationale des Cinémas Français*, para 10.
- 267 Schedule 2, Group 6 of the Value Added Tax (Imported Goods) Relief Order 1984 SI No 746.
- 268 Section 30 and Schedule 8, Part II, Group 15 of the Value Added Tax Act 1994. *Also* Council Regulation (EEC) No 918/83, Article 65. Information on this can also be found on the HM Revenue and Customs website at <http://www.hmrc.gov.uk/charities/vat/import.htm>.
- 269 Schedule 2, Group 6 of the Value Added Tax (Imported Goods) Relief Order 1984 SI No 746. *See also* Council Regulation (EEC) No 918/83, Article 65.
- 270 HM Revenue and Customs, Notice 200: Temporary Admission (September 2009).
- 271 The procedures are described in Section 3 of the Notice.
- 272 HMRC Notice 701/6, 'Charity funded equipment for medical, veterinary etc uses' (September 2003).
- 273 *ibid* s 3. This Section also specifies what sort of health bodies are eligible to receive qualifying goods and services at the zero rate.
- 274 *ibid* s 4.2.
- 275 Directive 2002/21/EC on a common regulatory framework for electronic communications networks and services (Framework Directive); Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services (Universal Services Directive); Directive 2002/19/EC on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive); and Directive 2002/20/EC on the authorization of electronic communications networks and services (Authorisation Directive). *See* Explanatory Notes to the Communications Act 2003.
- 276 BBC, 'Connecting in a Crisis', at: <http://www.bbc.co.uk/connectinginacrisis/01.shtml>, as cited by C Walker and J Broderick (n 71) 143.
- 277 Agreement Dated the 25th Day of January 1996 Between Her Majesty's Secretary of State for National Heritage and the British Broadcasting Corporation, para 8.
- 278 The UK entered a reservation relating to provisions of the Convention falling within the area of responsibility of the EU and stating that such provisions must be done in accordance with the procedures set by the EU.
- 279 Regulation 1889/2005/EC on controls of cash entering or leaving the Community.
- 280 SI No 2007/1509.
- 281 Regulation 1781/2006/EC on information on the payer accompanying transfers of funds.
- 282 Wire Transfer Regulation art 9(1).
- 283 SI No 3298. The 2007 Regulations confers strong inspection powers on the Financial Services Authority and HM Revenue and Customs and failure to comply with the Wire Transfer Regulation may lead to civil and criminal penalties (Transfer Regulation by the Transfer of Funds (Information on the Payer) Regulations 2007 (SI 2007/3298) regs 2(1), 3, 6, 8-9, 11 and 14-16).
- 284 Regulation 924/2009/EC on cross-border payments in the Community and repealing Regulation 2560/2001/EC.
- 285 *ibid* arts 1(1), 3(1) and 6-8.
- 286 *ibid* art 14(1).
- 287 SI 2010/89.
- 288 Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.
- 289 Third Money Laundering Directive art 9(5).
- 290 *ibid* art 2(1)(e).
- 291 *ibid* arts 2, 7, 9 and 11.
- 292 SI 2007/2157. There are civil and criminal penalties for breaches (*ibid* regs 42 and 45). The Regulations also implement Commission Directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC as regards the definition of politically exposed person and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis.
- 293 As stated in the Government's consultation paper "Breaking the logjam", published in March 1999 which can be found at <http://webarchive.nationalarchives.gov.uk/+http://www.dft.gov.uk/consultations/archive/1999/logjam/breakingthelogjamconsultatio1676>.
- 294 The Birmingham Northern Relief Road Toll Order 1998 (SI No 124) provides that police vehicles, fire engines and ambulances are exempt from toll charges.

- ²⁹⁵ Hansard answer by Mr. Jamieson, 20 Dec 2004 : Column 1356W.
- ²⁹⁶ Transport for London, ‘Discounts and Exemptions’, available at: <http://www.tfl.gov.uk/roadusers/congestioncharging/6713.aspx>.
- ²⁹⁷ on access to the market in the carriage of goods by road within the Community to or from the territory of a Member State or passing across the territory of one or more Member States.
- ²⁹⁸ This Act consolidates Part V of the Transport Act 1968 and related provisions concerning the licensing of operators of certain goods vehicles.
- ²⁹⁹ SI No 1996/2186.
- ³⁰⁰ s 5(a)(iii); s 5(b) referencing paragraph 9 of Schedule 2.
- ³⁰¹ World Health Organisation, International Health Regulations (2005) art 46..
- ³⁰² Article 5, Chicago Convention.
- ³⁰³ Article 3(a), Chicago Convention.
- ³⁰⁴ Article 3(b), Chicago Convention.
- ³⁰⁵ Article 3(c), Chicago Convention.
- ³⁰⁶ The exemptions in the Act are not relevant to this study. The 1993 Act has been amended by the Railways Act 2005. However, these amendments are not relevant to the current study, as they relate primarily to structural difficulties.
- ³⁰⁷ SI No 2005/3050.
- ³⁰⁸ Directive 2007/59/EC on the certification of train drivers operating locomotives and trains on the railway system in the Community.
- ³⁰⁹ art 4(2)(a).
- ³¹⁰ Directive 2007/58/EC amending Council Directive 91/440/EEC on the development of the Community’s railways and Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure.
- ³¹¹ SI No 2009/2081.
- ³¹² The Act commenced on 1 October 1987 under The Territorial Sea Act 1987 (Commencement) Order 1987 SI No 1270. It is extended to Jersey with The Territorial Sea Act 1987 (Jersey) (Amendment) Order 2002 SI No 250 and the Isle of Man with The Territorial Sea Act 1987 (Isle of Man) Order 1991 SI No 1722.
- ³¹³ SI No 1989/482.
- ³¹⁴ Explanatory Note, Marine and Coastal Access Act 2006 (n 6) para 26.
The instrument of accession states that: “[This] instrument of accession [...] extend[s] to: The United Kingdom of Great Britain and Northern Ireland, The Bailiwick of Jersey, The Bailiwick of Guernsey, The Isle of Man, Anguilla, Bermuda, British Antarctic Territory, British Indian Ocean Territory, British Virgin Islands, The Cayman Islands, Falkland Islands, Gibraltar, Montserrat, Pitcairn, Henderson, Ducie and Oeno Islands, St. Helena and Dependencies, South Georgia and South Sandwich Islands, Turks and Caicos Islands.”
- ³¹⁵ art 19.
- ³¹⁶ art 25.
- ³¹⁷ As amended by Directive 2005/14/EC.
- ³¹⁸ s 143. This Act has been implemented by the Motor Vehicles (Compulsory Insurance) Regulations of 1992 (SI No 3036, 2000 (SI No 726) and 2007 (SI No 1426).
- ³¹⁹ Details of this legislation can be found in HMRC Notice 200: Temporary Admission (n 270).
- ³²⁰ art 3.
- ³²¹ SI No 1996/2824. See also the Motor Vehicles (Driving Licenses) Regulations (Northern Ireland) 1996, SR No 542.
- ³²² SI No 1999/2864. This legislation has undergone several amendments that are outside the scope of this Report.
- ³²³ s 23.
- ³²⁴ SI No 2001/561.
- ³²⁵ art 3.
- ³²⁶ SI No 1983/1829.
- ³²⁷ SI No 1991/1293.
- ³²⁸ Regulation 2913/92/EEC establishing the Customs Code; Regulation 2454/93/EEC laying down the provisions for the implementation of Regulation 2913/92/EEC.
- ³²⁹ Directive 2006/112/EC, implemented into UK law through the Value Added Tax Act 1994 and the Value Added Tax Regulation 1995 (see above Section on Taxation and Customs).
- ³³⁰ s 5 of HMRC Notice 308.
- ³³¹ Private Road Vehicles: signature 4 June 1954; ratification 27 Feb 1956; Commercial Vehicles: signature 18 May 1956; ratification 30 July 1959.
- ³³² SI No 2363; Northern Ireland
- ³³³ As amended by Regulation 438/2010/EU.
- ³³⁴ This is a transitional regime that will expire on 31 December 2011. These provisions are set out in The Rabies (Importation of Dogs, Cats and Other Mammals) (England) (Amendment) Order 2004

- SI No 2364. See also the Rabies (Importation of Dogs, Cats and Other Mammals) (Northern Ireland) (Amendment) Order 2005 SI No 275.
- ³³⁵ The procedure for third country health certificates is found in Decision 2004/203/EC establishing a model health certificate for non-commercial movements from third countries of dogs, cats and ferrets and is referred to specifically in the UK legislation.
- ³³⁶ Part A of Annex I includes dogs.
- ³³⁷ Similar legislation exists in Northern Ireland under The Food Safety (Northern Ireland) Order 1991, SI No 762 (NI 7).
- ³³⁸ art 19.
- ³³⁹ SI No 2004/3279 (as amended).
- ³⁴⁰ Regulation 852/2004/EC on the hygiene of foodstuffs.
- ³⁴¹ art 3.
- ³⁴² arts 4.1 and 4.2.
- ³⁴³ art 4.3.
- ³⁴⁴ art 5.
- ³⁴⁵ art 6.
- ³⁴⁶ Regulation 853/2004/EC laying down specific hygiene rules on the hygiene of foodstuffs. Article 1 specifies that establishments involved in producing products of animal origin made from ready processed ingredients, such as cooked meat, fish or cheese, are exempt from the requirements of the Regulation. Production primarily for domestic use is also exempt.
- ³⁴⁷ Regulation 854/2004/EC laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption. Further detailed rules regarding the veterinary certification of animals and animal products are presented in Directive 96/93/EC.
- ³⁴⁸ England SI No 2006/14; Wales WSI No 2006/31 (W.5); Scotland SSI No 2006/3; Northern Ireland SR No 2006/3.
- ³⁴⁹ SI No 2006/1499.
- ³⁵⁰ art 8.
- ³⁵¹ The Medicines Act 1968 (Amendment) (No. 2) Regulations 1994 SI No 276. Entry into force 1 January 1993.
- ³⁵² art 2.
- ³⁵³ The Medicines Act 1968 (Amendment) Regulations 1995 SI No 2321.
- ³⁵⁴ SI 1998/1833.
- ³⁵⁵ SI No 2006/5. These Regulations cover England, Wales and Northern Ireland; The Public Contracts (Scotland) Regulations 2006, SSI No 1 are applicable to Scotland.
- ³⁵⁶ SI No 2006/6. These Regulations cover England, Wales and Northern Ireland; The Utilities Contracts (Scotland) Regulations 2006, SSI No 2 are applicable to Scotland.
- ³⁵⁷ Directive 2004/17/EC coordinating the procurement of procedures of entities operating in the water, energy, transport and postal services sectors; Directive 2004/18/EC on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts.
- ³⁵⁸ SI No 2008/2848. In Scotland, the relevant Regulations are The Public Contracts and Utilities Contracts (Postal Services and Common Procurement Vocabulary Codes) Amendment (Scotland) Regulations 2008, SSI No 376.
- ³⁵⁹ art 1(9) Directive 2004/18/EC.
- ³⁶⁰ The same exemption exists under Article 40 of Directive 2004/17/EC.
- ³⁶¹ The corresponding exemption in Article 40 of the the utilities and postal services Directive is found under Regulation 17 of The Utilities Contracts Regulations 2006.
- ³⁶² The term ‘public contract’ encompasses public services contracts, public works contracts and public supply contracts under Regulation 2.
- ³⁶³ Guide to the Community Rules on Public Supply Contracts other than in the Water, Energy, Transport and Telecommunications Sectors: Directive 93/36/EEC. Although this guidance is aimed at previous legislation applying specifically to supply contracts, it has been stated by the Advocate General in Case C-525/03, *Commission v Italy*, [2005] ECR I-9405 that “whatever view is reached with regard to one directive will be valid with regard to the other” as the same derogation was present in the legislation specifically relating to public service contracts. Of course, that legislation has been consolidated into the current regime in Directive 2004/18/EC and the derogation applies not only to those two types of contracts, but also to public works contracts.
- ³⁶⁴ *ibid.*
- ³⁶⁵ *Lazard Brothers & Co v Midland Bank Ltd* [1933] AC 289 (HL) 297.
- ³⁶⁶ *Carl Zeiss Stiftung v Rayner and Keeler Ltd (No 2)* [1967] 1 AC 853 (HL) 919.
- ³⁶⁷ *Pergamon Press v Maxwell* [1970] 2 All ER 809 (ChD) 813-814.
- ³⁶⁸ *Carl Zeiss Stiftung* (n 367) 919 and 972.
- ³⁶⁹ *Ibid.*

- ³⁷⁰ *JH Rayner (Mincing Lane) Ltd v Department of Trade and Industry* [1990] 2 AC 418 (HL) 509.
- ³⁷¹ *Bumper Development Corp Ltd v Commissioner of Police of the Metropolis (Union of India, claimants)* [1991] 4 All ER 638 (CA) 647-649.
- ³⁷² A foreign corporation may sue (*Bumper*, *ibid*) and be sued (*Newby v von Oppen and Colt's Patent firearms Manufacturing Company* (1872) LR 7 QB 293 (QBD) 295) in its corporate capacity (*Lazard Brothers & Co v Midland Bank Ltd* (n 366)).
- ³⁷³ *Janred Properties Ltd v Ente Nazionale Italiano per il Turismo* [1989] 2 All ER 444 (CA) 452; *Sierra Leone Telecommunications Co Ltd v Barclays Bank plc* [1998] 2 All ER 821 (QBD) 827. See also Companies Act 2006 s 43 and Overseas Companies (Execution of Documents and Registration of Charges) Regulations 2009 (SI 2009/1917) reg 4.
- ³⁷⁴ Consular Relations: signature – 27 March 1964; ratification – 9 May 1972 and implemented by the Consular Relations Act 1968. Diplomatic Relations: signature – 11 Dec 1961; ratification – 1 Sept 1964 and implemented by the Diplomatic Privileges Act 1964.
- ³⁷⁵ The following articles from the Vienna Convention on Diplomatic Relations were not implemented by the UK: 2-21, 25-6, 41-44. The following articles from the Vienna Convention on Consular Relations were not implemented by the UK: 2-4, 6-14, 16, 18-26, 28-30, 34, 36-38, 40, 41 (para 3), 42, 46-7, 55 (para 1), 56, 57 (para 1), 58 (para 4), 63-5, 68-9, 70 (para 3), 72-9.
- ³⁷⁶ Sch 1 arts 29-31 and 33-36.
- ³⁷⁷ Sch 1 art 37(2); sch 1 arts 29-35 and 36(1); the immunity from civil and administrative jurisdiction does not extend to acts performed outside the course of their duties (sch 1 art 37(2)).
- ³⁷⁸ Sch 1 art 37(3).
- ³⁷⁹ Sch 1 art 37(4).
- ³⁸⁰ Sch 1 art 37(1)-(2); sch 1 arts 29-36.
- ³⁸¹ Consular post means ‘any consulate-general, consulate, vice-consulate or consular agency’ (Consular Relations Act 1968 sch 1 art 1(a)).
- ³⁸² Sch 1 arts 41, 43, 44(3) and 48-52.
- ³⁸³ Consular Relations Act 1968 sch 1 arts 48-52 and 58.
- ³⁸⁴ Diplomatic Privileges Act 1964 sch 1 art 39(1); Consular Relations Act 1968 sch 1 art 53(1); consular post means ‘any consulate-general, consulate, vice-consulate or consular agency’ (Consular Relations Act 1968 sch 1 art 1(a)).
- ³⁸⁵ *Standard Chartered Bank v International Tin Council* [1986] 3 All ER 257, 263.
- ³⁸⁶ *ibid*.
- ³⁸⁷ International Organisations Act 1968 s 1(2)-(3).
- ³⁸⁸ *ibid* s 4.
- ³⁸⁹ SI No 2973.
- ³⁹⁰ ‘Charitable purpose is defined by Section 2 of the Charities Act 2006 as a purpose falling within one of 13 listed purposes. Most relevantly for this study, the listed purposes include: the prevention or the relief of poverty; the advancement of health or the saving of lives; the relief of those in need by reason of youth, age, ill-health, disability, financial hardship or other disadvantage; and the promotion of the efficiency of the armed forces of the Crown, or of the efficiency of the police, fire and rescue services or ambulance services. There is also a general listed purpose, so that any purpose currently recognised as charitable, or new purpose that is similar to those currently recognised as charitable, will also fall within the definition of ‘charitable purpose’.
- ³⁹¹ Charities Act 2006 s 3. The current statutory guidance issued by the Charities Commission for England and Wales further clarifies the concept of public benefit. In particular, there must be identifiable benefit or benefits, which are related to the aim of the charity and are to the benefit of the public or a Section of the public. The public benefit must be weighed against any potential or actual detriment or harm arising from the activities to be carried out.
- ³⁹² British Red Cross, ‘Disaster Appeal Scheme’ (June 2008), available at: <http://www.redcross.org.uk/documents/download.asp?lvid=54870&cid=82679>.
- ³⁹³ Case C-213/89, *R v Secretary of State for Transport, ex p Factortame Ltd (No 2)*.
- ³⁹⁴ Woolf J in *R v IRC, ex p Preston* [1983] 2 All ER 300, 306.
- ³⁹⁵ Crown Proceedings Act 1947 s 2(1)(a). However, the Crown will only be liable in such circumstances if the agent or servant was appointed directly or indirectly by the Crown and paid wholly from money from Parliament or central government funds.
- ³⁹⁶ C Turpin and A Tomkins (n 9) 708.
- ³⁹⁷ See, eg, *Poplar Housing and Regeneration Community Association Ltd v Donoghue* [2001] EWCA Civ 595 (27 April 2001); *R and Another v Leonard Cheshire Foundation (a charity)* [2002] EWCA 366 (21 March 2002); *R (on the application of) A v Partnerships in Care Ltd* [2002] EWCA 529 (Admin) (11 April 2002);

- Parochial Church Council of the Parish of Aston Cantlow and Wilmcote with Billesley, Warwickshire v Wallbank & Another* [2003] UKHL (26 June 2003); and *YL v Birmingham City Council & Others* [2007] UKHL 27 (20 June 2007).
- ³⁹⁸ Civil Procedure Rule 54.1(2)(a)(ii), available at: http://www.justice.gov.uk/civil/procrules_fin/index.htm.
- ³⁹⁹ According to the *Wednesbury* standard: “a decision which is so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had his mind to the question to be decided could have arrived at it.” *Associated Provincial Picture Houses v Wednesbury Corporation* [1948] 1 KB 223.
- ⁴⁰⁰ Lord Diplock, *R (on the application of Alconbury Developments Ltd) v Secretary of State for the Environment, Transport and the Regions* [2001] UKHL 23.
- ⁴⁰¹ See, eg, *R v Monopolies and Mergers Commission, ex parte Argyll Group plc* [1986] 1 WLR 763; *R v Somerset County Council ex p Dixon* [1997] COD 323.
- ⁴⁰² “A person who claims that a public authority has acted (or proposes to act) in a way which is made unlawful by Section 6(1) may – (a) bring proceedings against the authority under the Act in the appropriate court or tribunal or (b) rely on the Convention right or rights concerned in any legal proceedings but only if he is (or would be) a victim of the unlawful act.”
- ⁴⁰³ Human Rights Act 1998 s 6.
- ⁴⁰⁴ *ibid* s 7.
- ⁴⁰⁵ *ibid* s 3.
- ⁴⁰⁶ *ibid* s 4.
- ⁴⁰⁷ Equality Act 2006 s 24.
- ⁴⁰⁸ *ibid* s 30(1).
- ⁴⁰⁹ Prevention of Corruption Act 1906. The Prevention of Corruption Act 1916 which amends the 1906 Act has largely been repealed; that which remains is not relevant to our specific purposes.
- ⁴¹⁰ *ibid* s 1(1).
- ⁴¹¹ *ibid* s 1(3).
- ⁴¹² *ibid* s 1(1); see also the case of *R v Smith* [1960] QB 423.
- ⁴¹³ *ibid* s 108(1).
- ⁴¹⁴ *ibid* s 108(2).
- ⁴¹⁵ According to Section 17, the Act applies to England, Wales, Northern Ireland and Scotland, with some exceptions. The text of the draft is available at: <http://www.publications.parliament.uk/pa/ld200910/ldbills/003/10003.i-ii.html>.
- ⁴¹⁶ s 1 and 2 of the Draft Bribery Bill; please also refer to the discussion of ‘public authorities’ above in relation to the HRA.
- ⁴¹⁷ HL Deb, 9 December 2009, col 1085, 1088.
- ⁴¹⁸ Bribery Bill, s 6.
- ⁴¹⁹ *ibid* s 7.
- ⁴²⁰ *ibid* s 7(5).
- ⁴²¹ Available at: http://www.unodc.org/documents/treaties/UNCA/C/Publications/Convention/08-50026_E.pdf.
- ⁴²² The Convention was given affect to in Scotland by The Criminal Justice (International Co-Operation) Act 1990 (Enforcement of Overseas Forfeiture Orders) (Scotland) Order 2005 SSI No 2005/581, and in Northern Ireland by The Criminal Justice (International Co-Operation) Act 1990 (Enforcement of Overseas Forfeiture Orders) (Northern Ireland) Order 2005 SR No 2005/3179.
- ⁴²³ Available at: <http://conventions.coe.int/treaty/en/treaties/html/173.htm>.
- ⁴²⁴ The UK’s obligations are to a large extent met by The Prevention of Corruption Act 1906 (n 410). For more information, please see: <http://www.fco.gov.uk/en/about-us/publications-and-documents/treaty-command-papers-ems/explanatory-memoranda/explanatory-memoranda-2003/coecrimlaw>.
- ⁴²⁵ Fraud Act 2006 s 1. According to the Explanatory Notes, the Act extends to England, Wales and Northern Ireland, but not to Scotland, except for Section 10(1) which relates to a now repealed schedule of the Companies Act 1985. Scottish law on fraud is derived from the common law.
- ⁴²⁶ *ibid* ss 1(3) and 11(3).
- ⁴²⁷ *ibid* Schedule 1.
- ⁴²⁸ s 1.
- ⁴²⁹ Bribery Bill 2009, s 7(4)(h).
- ⁴³⁰ Draft Bribery Bill (n 416) s 3.
- ⁴³¹ *ibid* Schedule 1.
- ⁴³² *Capital Counties plc v Hampshire County Council* [1997] QB 1004.
- ⁴³³ For a full listing of these instruments, please see the website of the Health and Safety Executive at: <http://www.hse.gov.uk/legislation/statinstruments.htm>.

- ⁴³⁴ ‘Emergency Response and Recovery’ (n 65) s 3.2.6, p 28.
- ⁴³⁵ ‘Emergency Response and Recovery’ (n 65) s 3.2, p 27. Fire and Rescue services co-ordinate the response for major fire.
- ⁴³⁶ Article 1(c).
- ⁴³⁷ The Geneva Conventions and United Nations Personnel (Protocols) Act 2009 (Commencement No.1) Order 2009 SI No 2892.
- ⁴³⁸ This offence came into force on 10 February 2003 by s 143 of the Nationality, Immigration and Asylum Act 2002.
- ⁴³⁹ Section 25(5) applies the offence to: (1) a British citizen; (2) a British Overseas Territories citizen; (3) a British National who is overseas; (4) a British Overseas citizen; (5) a person who is British under the British Nationality Act 1981; and (6) a British protected person within the meaning of the British Nationality Act 1981.
- ⁴⁴⁰ s 25(2).
- ⁴⁴¹ Section 25(5) applies the offence to: (1) a British citizen; (2) a British Overseas Territories citizen; (3) a British National who is overseas; (4) a British Overseas citizen; (5) a person who is British under the British Nationality Act 1981; and (6) a British protected person within the meaning of the British Nationality Act 1981.
- ⁴⁴² Similar legislation exists in Scotland (Children Act (Scotland) 1995) and Northern Ireland (Children (Northern Ireland) Order 1995 No 755 (NI 2)). Our research indicated that Scotland and Northern Ireland have not, as yet, amended their legislation in the same way that England and Wales has done so with regard to the Children Act 2004, which was passed by Parliament largely in response to a specific incident outside the scope of this report.
- ⁴⁴³ In Scotland, see the Protection of Vulnerable Groups (Scotland) Act 2007 asp 14; in Northern Ireland, the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 No 1351 (NI 11).
- ⁴⁴⁴ Department for Children Schools and Families, ‘Vetting and Barring Scheme’, available at: <http://www.dcsf.gov.uk/everychildmatters/safeguardingandsocialcare/safeguardingchildren/vettingandbarringscheme/vettingvadbarring/>. See also, the ISA website: <http://www.isa-gov.org.uk/>.
- ⁴⁴⁵ The Act extends to England, Wales and Northern Ireland. The Emergency Workers (Scotland) Act 2005 applies in Scotland.
- ⁴⁴⁶ *ibid* s 1.
- ⁴⁴⁷ *ibid* s 2.
- ⁴⁴⁸ This information comes directly from the UK Resilience website of the Cabinet Office, available at: <http://www.cabinetoffice.gov.uk/ukresilience/response/ukgovernment/responsibilities.aspx>.

The following endnotes correspond to the chart depicting past disasters in the UK in Part III.b.

- i 'U.K. Getting More Rain Amid Cumbria Flood Cleanup (Update1)', Bloomberg (24 Nov 2009), available at: <http://www.bloomberg.com/apps/news?pid=20601102&sid=aG3GNpJd112M>.
- ii 'Cockermouth residents return to flooded homes', BBC (23 Nov 2009), available at: <http://news.bbc.co.uk/1/hi/uk/8373937.stm>.
- iii 'Cumbria floods: residents braced for more rain over weekend', Telegraph (20 Nov 2009), available at: <http://www.telegraph.co.uk/topics/weather/6616406/Cumbria-floods-residents-braced-for-more-rain-over-weekend.html>.
- iv 'Swine flu epidemic could derail Britain's recovery', The Independent (20 July 2009), available at: <http://www.independent.co.uk/news/business/news/swine-flu-epidemic-could-derail-britains-recovery-1753208.html>.
- v Department of Health, weekly swine fly update (29 Oct 2009), available at: http://www.dh.gov.uk/en/News/Recentstories/DH_107701.
- vi 'The Pitt Review – Learning the lessons from the 2007 Floods', available at: http://archive.cabinetoffice.gov.uk/pittreview/thepittreview/final_report.html.
- vii 'Summer floods cost Britain 3bn GBP', Telegraph, (4 Dec 2007), available at: <http://www.telegraph.co.uk/news/uknews/1571448/Summer-floods-cost-Britain-3bn-say-insurers.html>.
- viii *ibid* 3.
- ix 'Key points: Pitt report on floods', BBC (25 June 2008), available at: <http://news.bbc.co.uk/1/hi/uk/7472813.stm>.
- x 'Buncefield blast could cost 1bn GBP', BBC (11 Dec 2008), available at: <http://news.bbc.co.uk/1/hi/england/7777539.stm>.
- xi *ibid*.
- xii 'Sizzling temperatures break UK record', BBC (11 Aug 2003), available at: <http://news.bbc.co.uk/1/hi/uk/3138865.stm>.
- xiii Eurosurveillance, 'The Impact of the 2003 Heat Wave on Daily Mortality in England and Wales and the Use of Rapid Weekly Mortality Estimates', available at: <http://www.eurosurveillance.org/ViewArticle.aspx?ArticleId=558>.
- xiv Defra, 'Animal Health and Welfare', available at: <http://footandmouth.csl.gov.uk/>.
- xv 'Food-and-mouth: The key stats', BBC (18 Feb 2002), available at: <http://news.bbc.co.uk/1/hi/uk/1334466.stm>.
- xvi Environment Agency, 'Lessons learned – Autumn 2000 floods', iii, available at: <http://web.archive.org/web/20070927182913/http://www.environment-agency.gov.uk/commondata/acrobat/126637>.
- xvii *ibid*.
- xviii Lessons learned – Autumn 2000 Flood p.iii. Can be accessed at <http://web.archive.org/web/20070927182913/http://www.environment-agency.gov.uk/commondata/acrobat/126637>
- xix *Ibid*
- xx Train Derailment at Hatfield: A Final Report by the Independent Investigation Board July 2006, p.1. Can be accessed at <http://www.rail-reg.gov.uk/upload/pdf/297.pdf>.
- xxi *ibid*.

British Red Cross

44 Moorfields

London

EC2Y 9AL

Tel 0870 170 7000

Fax 020 7562 2000

redcross.org.uk

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is a charity registered in England and Wales (220949) and Scotland (SC037738)

Published 2010