



# Civil Defence Emergency Management Amendment Act 2016

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Date of assent    15 November 2016  
Commencement    see section 2

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Civil Defence Emergency Management Amendment Act 2016.

**2 Commencement**

- (1) Section 19(2) and (5) come into force on the day that is 18 months after the date on which this Act receives the Royal assent.
- (2) The rest of this Act comes into force 180 days after the date on which it receives the Royal assent.

**Part 1**

**Amendments to principal Act**

**3 Principal Act**

This Act amends the Civil Defence Emergency Management Act 2002 (the **principal Act**).

**4 Section 4 amended (Interpretation)**

- (1) In section 4, definition of **administering authority**, replace “appointed under” with “described in”.
- (2) In section 4, replace the definition of **area** with:
 

**area**, in relation to a Civil Defence Emergency Management Group,—

  - (a) means all the districts of the local authorities that are members of the Group; and
  - (b) extends to—
    - (i) the landward boundary of the territorial authorities in the Group; and
    - (ii) the seaward boundary of the regions of regional councils or unitary authorities in the Group
- (3) In section 4, definition of **civil defence emergency management**, paragraph (a)(ii), after “reduce,”, insert “recover from.”
- (4) In section 4, definition of **emergency services**, replace “hospital and health services” with “providers of health and disability services”.

- (5) In section 4, insert in their appropriate alphabetical order:

**chief executive officer**, in relation to a provider, means—

- (a) in relation to a company, the person occupying the position of chief executive of the company, by whatever name called:
- (b) in relation to a partnership, a partner nominated for the purpose by the partnership:
- (c) in relation to an individual provider, the provider:
- (d) in relation to any other provider, including an unincorporated body, a person occupying a position that is comparable with that of chief executive officer of a company, by whatever name called

**constable**—

- (a) has the same meaning as in section 4 of the Policing Act 2008; and
- (b) in Part 5B, includes any person acting under the authority of a constable

**Group Recovery Manager** means a person appointed as a Group Recovery Manager under section 29

**health and disability services** means health services and disability support services within the meaning of the New Zealand Public Health and Disability Act 2000

**Local Recovery Manager** means a person appointed as a Local Recovery Manager under section 30

**local transition period** means a local transition period notified under section 94B

**National Recovery Manager** means the person who is delegated specified functions and powers of the Director under section 11A

**national transition period** means a national transition period notified under section 94A

**provider of health and disability services** means provider within the meaning of the New Zealand Public Health and Disability Act 2000

**recovery** means the co-ordinated efforts and processes used to bring about the immediate, medium-term, and long-term holistic regeneration and enhancement of a community following an emergency

**Recovery Manager** means the National Recovery Manager, a Group Recovery Manager, or a Local Recovery Manager, and includes any person acting under the authority of the National Recovery Manager, a Group Recovery Manager, or a Local Recovery Manager

**transition period** means a national transition period or a local transition period

- (6) In section 4, repeal the definition of **hospital and health service**.
- (7) In section 4, replace the definition of **recovery activities** with:

**recovery activity** means an activity carried out under this Act or any civil defence emergency management plan to deal with the consequences of an emergency, including, without limitation,—

- (a) the assessment and ongoing monitoring of the needs of a community affected by the emergency; and
- (b) the co-ordination and integration of planning, decisions, actions, and resources; and
- (c) measures to support—
  - (i) the regeneration, restoration, and enhancement of communities across the 4 environments (built, natural, social, and economic); and
  - (ii) the cultural and physical well-being of individuals and their communities; and
  - (iii) government and non-government organisations and entities working together; and
- (d) measures to enable community participation in recovery planning; and
- (e) new measures—
  - (i) to reduce risks from hazards; and
  - (ii) to build resilience

(8) In section 4, repeal the definition of **Recovery Co-ordinator**.

**5 New section 4A inserted (Transitional, savings, and related provisions)**

After section 4, insert:

**4A Transitional, savings, and related provisions**

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.

**6 Section 8 amended (Appointment and functions of Director of Civil Defence Emergency Management)**

In section 8(2)(h), after “state of national emergency”, insert “or a national transition period”.

**7 Section 9 amended (Powers of Director)**

(1) In section 9(2)(a), after “state of national emergency”, insert “or a national transition period”.

(2) Replace section 9(2)(b) with:

- (b) during a state of national emergency, control the performance of the functions and duties and the exercise of the powers of Civil Defence Emergency Management Groups and Group Controllers:

- (ba) during a national transition period, control the performance of the functions and duties and the exercise of the powers of Civil Defence Emergency Management Groups and Recovery Managers:
- (3) In section 9(3)(b), replace “responding to” with “ the response to, and recovery from,”.
- (4) After section 9(3)(b), insert:
  - (ba) the development of strategic recovery planning for emergencies:
- (5) In section 9(3)(d), replace “recovery co-ordinators,” with “Recovery Managers,”.

**8 New sections 11A and 11B and cross-heading inserted**

After section 11, insert:

*National Recovery Manager*

**11A Delegation of certain functions and powers of Director to National Recovery Manager**

- (1) The Director may, in writing, either generally or particularly, delegate to any person the functions and powers of the Director referred to in sections 8(2)(h) and 9(2)(a) for the purposes of dealing with a national transition period.
- (2) The Director may exercise the power of delegation at any time, whether or not a national transition period is in force or is imminent.
- (3) A person to whom functions and powers are delegated under this section is, while the delegation is in force, the National Recovery Manager and has all the powers conferred on the National Recovery Manager by this Act.
- (4) If no delegation has been made under this section, the Director is the National Recovery Manager and has all the powers conferred on the National Recovery Manager by this Act.

**11B Further provisions relating to delegation to National Recovery Manager**

- (1) Subject to any general or special directions given or conditions attached by the Director, a person to whom functions and powers are delegated under section 11A may perform those functions and exercise those powers in the same manner and with the same effect as if they had been conferred on him or her directly by that section and not by delegation.
- (2) A person purporting to act under any delegation under section 11A is presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.
- (3) A delegation under section 11A is revocable in writing at will, and no such delegation prevents the performance of any function or the exercise of any power by the Director.

- (4) A delegation under section 11A, until revoked, continues in force according to its tenor even if the Director who made the delegation has ceased to hold office.
- (5) A person is not employed in the service of Her Majesty for the purposes of the State Sector Act 1988 or the Government Superannuation Fund Act 1956 merely because functions and powers are delegated to that person under section 11A.

**9 Section 12 amended (Local authorities to establish Civil Defence Emergency Management Groups)**

- (1) Replace section 12(1)(b) with:
  - (b) subject to paragraph (c), a unitary authority must establish a Civil Defence Emergency Management Group for the purposes of this Act as a committee under clause 30(1)(a) of Schedule 7 of the Local Government Act 2002:
- (2) After section 12(1), insert:
- (1A) If subsection (1)(b) applies and subsection (1)(c) does not apply, a unitary authority is a Group rather than a member of a Group for the purposes of this Act.

**10 Section 17 amended (Functions of Civil Defence Emergency Management Groups)**

In section 17(1)(e), before “carry out”, insert “plan and”.

**11 Section 20 amended (Appointment and functions of Civil Defence Emergency Management Co-ordinating Executive Groups)**

- (1) Replace section 20(1)(d) with:
  - (d) the chief executive or a senior member of a provider of health and disability services operating in the area; and
- (2) After section 20(1), insert:
- (1A) A person co-opted under subsection (1)(e) may include a senior ambulance service officer.

**12 Cross-heading above section 25 replaced**

Replace the cross-heading above section 25 with:

*Persons authorised to declare state of local emergency or give notice of local transition period*

**13 Section 25 replaced (Appointment of persons who may declare state of local emergency)**

Replace section 25 with:



**25 Persons appointed and otherwise authorised to declare state of local emergency or give notice of local transition period**

- (1) A Civil Defence Emergency Management Group must appoint—
  - (a) at least 1 person as a person authorised to declare a state of local emergency for its area; and
  - (b) at least 1 person as a person authorised to give notice of a local transition period for its area.
- (2) A person appointed under subsection (1) must be chosen from representatives of the members of the Group.
- (3) If a Group appoints more than 1 person under subsection (1)(a) or (b), it must state in the instrument of appointment—
  - (a) whether the appointees have equal status to make a declaration, or give a notice, or whether any of the appointees is authorised to act only in the absence of another named person; and
  - (b) any other conditions or limitations.
- (4) If no person appointed under subsection (1) is or is likely to be able to perform or exercise his or her functions, duties, and powers under this Act, a representative of any member of the Group may exercise the power to declare a state of local emergency, or give notice of a local transition period.
- (5) Despite subsections (1) to (4), the mayor of a territorial authority, or an elected member of that territorial authority designated to act on behalf of the mayor if the mayor is absent, may declare a state of local emergency, or give notice of a local transition period, that covers the district of that territorial authority.

**14 Section 26 amended (Appointment of Group Controllers)**

In section 26(3), replace “subsection (1) or subsection (2)” with “subsection (1) or (2)”.

**15 Section 27 amended (Appointment of Local Controller)**

- (1) In the heading to section 27, replace “Controller” with “Controllers”.
- (2) In section 27(1), replace “that Group’s Group Controller” with “the Group Controller of the Group”.
- (3) In section 27(2), replace “the Local” with “a Local”.

**16 Section 28 amended (Functions of Group Controllers)**

In section 28(3), replace “exercise any power or function or fulfil any duty” with “perform any function or duty or exercise any power”.

**17 Sections 29 and 30 and cross-heading replaced**

Replace sections 29 and 30 and the cross-heading above section 29 with:

*Group Recovery Managers and Local Recovery Managers*

**29 Appointment of Group Recovery Managers**

- (1) A Civil Defence Emergency Management Group must appoint, either by name or by reference to the holder of an office, a suitably qualified and experienced person to be the Group Recovery Manager for its area.
- (2) A Group must appoint, either by name or by reference to the holder of an office, at least 1 suitably qualified and experienced person to perform the functions and duties and exercise the powers of the Group Recovery Manager on the occurrence of a vacancy in the office of Group Recovery Manager or in the absence from duty of the Group Recovery Manager for any reason, for the duration of the vacancy or absence.
- (3) A Group may, at any time, remove from office or replace a Group Recovery Manager appointed under subsection (1) or (2).
- (4) A Group may—
  - (a) delegate the authority to replace the Group Recovery Manager during a transition period with a person appointed under subsection (2) to 1 or more of the representatives who are authorised under section 25(1)(b) to give notice of a transition period for its area; and
  - (b) impose conditions or limitations on the circumstances in which the authority under paragraph (a) may be used.

**30 Appointment of Local Recovery Managers**

- (1) A Civil Defence Emergency Management Group may appoint, either by name or by reference to the holder of an office, 1 or more suitably qualified and experienced persons to be a Local Recovery Manager, and direct that person or those persons to perform any of the functions and duties of, or delegated to, the Group Recovery Manager of the Group and to exercise the powers of the Group Recovery Manager in the area for which the Group Recovery Manager is appointed, including, but not limited to, the powers in sections 94H, 94I, and 94K to 94N.
- (2) Despite anything in subsection (1), a Local Recovery Manager must follow any directions given by the Group Recovery Manager during a transition period.

**30A Functions of Recovery Managers**

- (1) A Group Recovery Manager must, during a local transition period for the area for which the Group Recovery Manager is appointed, direct and co-ordinate the use of the personnel, material, information, services, and other resources made available by departments, Civil Defence Emergency Management Groups, and other persons for the purpose of carrying out recovery activities.
- (2) The Group Recovery Manager must also perform any functions or duties delegated to the Group Recovery Manager by the Civil Defence Emergency Man-

agement Group or conferred on Group Recovery Managers by this Act or any other enactment, and may exercise any power conferred on the Group Recovery Manager by delegation under this Act.

- (3) A Group Recovery Manager or a Local Recovery Manager may authorise any suitably qualified and experienced person to perform any function or duty or exercise any power of that Group Recovery Manager or Local Recovery Manager, except the power to authorise another person to perform those functions and duties or to exercise those powers.
- (4) A Group Recovery Manager or Local Recovery Manager who authorises a person under subsection (3) to perform a function or duty or to exercise a power remains responsible and accountable under this Act for the performance of the function or duty or the exercise of the power.
- (5) No Group Recovery Manager or Local Recovery Manager, and no person performing the functions or duties or exercising the powers of a Group Recovery Manager or Local Recovery Manager, may exercise any power conferred on Group Recovery Managers by this Act during any national transition period in any manner contrary to any priorities for the use of resources and services that have been determined by the Director or National Recovery Manager.

Compare: 2012 No 2 s 10(3A)

**18 Section 39 amended (National civil defence emergency management plan)**

In section 39(2)(d), after “national emergency” insert “or a national transition period”.

**19 Section 49 amended (Proposed plan to be sent to Minister)**

- (1) After section 49(1), insert:
- (1A) The Civil Defence Emergency Management Group must have regard to any comments made by the Minister.
- (2) After section 49(2)(c), insert:
  - (ca) the strategic planning for recovery from the hazards and risks referred to in paragraph (b):
- (3) After section 49(2)(d), insert:
  - (da) the area of the Group:
- (4) In section 49(2)(f), delete “in the area of the Group”.
- (5) After section 49(2)(f), insert:
  - (fa) the arrangements for giving notice of a local transition period:

**20 Section 51 amended (Incorporation by reference)**

After section 51(3)(a), replace “or” with “and”.

**21 Section 72 amended (Termination of state of emergency)**

After section 72(2), insert:

- (3) In addition, a state of local emergency is terminated when a notice of a local transition period given by the Minister under section 94B(3) comes into force.

**22 Section 75 amended (Power of Director to act on default by others)**

- (1) In section 75(3),—
  - (a) replace “work is done or a function or duty is exercised or performed” with “a function or duty is performed”;
  - (b) replace “done, exercised, or performed, as the case may be” with “performed”.
- (2) In section 75(4), replace “paid in the first instance out of public money” with “authorised in accordance with the Public Finance Act 1989”.
- (3) Replace section 75(5) with:
- (5) Expenses so incurred, together with reasonable costs for administration, are recoverable as a debt due to the Crown from the Civil Defence Emergency Management Group or the person responsible for performing the function or duty, or may be recovered by deduction from any money payable by the Crown to that Civil Defence Emergency Management Group or the person responsible for performing the function or duty.
- (4) In section 75(6), replace “departmental bank account” with “Departmental Bank Account in accordance with section 65U of the Public Finance Act 1989”.
- (5) Repeal section 75(7).

**23 Section 77 amended (Appeal against requirement to give information)**

In section 77(1), after “section 76”, insert “(including as applied and modified by section 94I(2))”.

**24 Section 82 amended (Certain information not to be disclosed or seized)**

In section 82(1), after “section 76”, insert “(including as applied and modified by section 94I(2))”.

**25 Section 83 replaced (Restriction on disclosure of information)**

Replace section 83 with:

**83 Restriction on disclosure of information**

A person who receives information following a requirement to give information imposed under section 60 or 76, or in the execution of a warrant issued under section 78, may use or disclose that information only for the purposes of this Act.

**26 Section 86 amended (Evacuation of premises and places)**

In section 86, replace “require” with “direct”.

**27 New Parts 5A and 5B inserted**

After section 94, insert:

**Part 5A**  
**Transition periods**

**94A Minister may give notice of national transition period**

- (1) After a state of emergency has been declared for any area, or after an emergency arises for which a state of emergency has not been declared, the Minister may give notice of a national transition period over the whole of New Zealand or any areas or districts if it appears to the Minister that a national transition period is required.
- (2) Without limiting subsection (1), the Minister must be satisfied that invoking the powers to manage, co-ordinate, or direct recovery activities is—
  - (a) in the public interest; and
  - (b) necessary or desirable to ensure a timely and effective recovery.
- (3) In deciding whether a national transition period is required, the Minister must have regard to—
  - (a) the areas or districts affected by the emergency; and
  - (b) whether the focus of activities in any area or district is moving from response to recovery, including whether a state of emergency is about to expire or be terminated; and
  - (c) the capacity of any Civil Defence Emergency Management Group and any local authority in any area or district affected by the emergency to carry out recovery activities.
- (4) If the Minister gives notice of a national transition period,—
  - (a) the Minister must advise the House of Representatives as soon as practicable; and
  - (b) any other transition period then in force in any area or district to which the national transition period applies ceases to have effect.

**94B Notice of local transition period**

- (1) A person who is authorised to give notice of a local transition period by being appointed for the purpose under section 25(1)(b) or otherwise authorised by section 25(4) or (5) may, after a state of emergency has been declared for the area of the Civil Defence Emergency Management Group concerned, give notice of a local transition period for the area of the Civil Defence Management

- Group concerned, or for 1 or more districts or wards within the area, if it appears to the person that a local transition period is required.
- (2) After an emergency arises, for which a state of emergency has not been declared, a person who is appointed or otherwise authorised under section 25 to give notice of a local transition period may do so in accordance with subsection (1) with the approval of the Minister.
  - (3) After a state of emergency has been declared for the area of a Civil Defence Emergency Management Group, or after an emergency arises for which a state of emergency has not been declared, the Minister may give notice of a local transition period for the area or for 1 or more districts or wards within the area if—
    - (a) it appears to the Minister that a local transition period is required for the whole or any part of the area; and
    - (b) notice of a local transition period has not been given under subsection (1).
  - (4) Without limiting subsections (1) to (3), the Minister or the appointed or otherwise authorised person must not give notice of a local transition period unless satisfied that invoking the powers to manage, co-ordinate, or direct recovery activities is—
    - (a) in the public interest; and
    - (b) necessary or desirable to ensure a timely and effective recovery.
  - (5) In deciding whether a local transition period is required, the Minister or the appointed or otherwise authorised person must have regard to—
    - (a) the areas, districts, or wards affected by the emergency; and
    - (b) whether the focus of activities in any area, district, or ward is moving from response to recovery, including whether a state of emergency is about to expire or be terminated.
  - (6) The Minister must also have regard to the capacity of any Civil Defence Emergency Management Group and any local authority in any area, district, or ward affected by the emergency to carry out recovery activities.
  - (7) Before giving notice under subsection (3), the Minister must, in a manner the Minister considers appropriate, seek and consider comment from any affected Civil Defence Emergency Management Group and the Mayor of any affected local authority, unless—
    - (a) it is impracticable in the circumstances; or
    - (b) in the opinion of the Minister, the urgency of the situation requires the notice of transition to be given immediately.
  - (8) If notice of a local transition period is given under this section over—

- (a) the whole area of a Civil Defence Emergency Management Group, any other local transition period already in force for 1 or more districts or wards within the area ceases to have effect:
  - (b) a district within the area of a Civil Defence Emergency Management Group, any other local transition period already in force for 1 or more wards within the district ceases to have effect.
- (9) After notice of a local transition period has been given for an area (the **first area**) in accordance with subsections (1) to (3), a further notice of a local transition period may be given, in accordance with those subsections, for another district or ward in the area of the relevant Civil Defence Emergency Management Group that is not affected by an emergency if it appears to the person giving notice that the resources of that other district or ward are needed to assist the first area.
- (10) The fact that a person purporting to be authorised under section 25 gives notice of a local transition period is, in the absence of proof to the contrary, conclusive evidence that the person is authorised to do so.
- (11) However, nothing in this section authorises notice of a local transition period to be given for any part of New Zealand while a national transition period is in force for that part.

#### **94C Commencement and duration of transition periods**

- (1) A transition period for an area, or part of an area, for which a state of emergency has been declared comes into force—
- (a) on the termination of the state of emergency under section 72(1); or
  - (b) on the expiry of the state of emergency under section 70(3) or 71(4), if the transition notice states that the transition period comes into force on the expiry of the state of emergency.
- (2) In any other case, a transition period comes into force at the time and on the date the notice of transition is given.
- (3) A national transition period ends 90 days after the time and date on which the period comes into force, unless extended or terminated earlier.
- (4) A local transition period ends 28 days after the time and date on which the period comes into force, unless extended or terminated earlier.

#### **94D Extension of transition periods**

- (1) Before a national transition period ends, the Minister may by notice extend the national transition period if it appears to the Minister that the extension is required.
- (2) Before a local transition period ends, the person who gave notice of that local transition period (or another person, including the Minister, authorised to give that notice) may by notice extend the local transition period if it appears to the person that the extension is required.

- (3) In deciding whether an extension of a transition period is required,—
  - (a) the Minister or other person must have regard to the areas, districts, or wards affected by the emergency; and
  - (b) the Minister or other person must be satisfied that invoking the powers to manage, co-ordinate, or direct recovery activities is—
    - (i) in the public interest; and
    - (ii) necessary or desirable to ensure a timely and effective recovery.
- (4) In deciding whether an extension is required, the Minister must also have regard to the capacity of any Civil Defence Emergency Management Group and any local authority in any area, district, or ward affected by the emergency to carry out recovery activities.
- (5) Before giving notice under subsection (2), the Minister must, in a manner the Minister considers appropriate, seek and consider comment from any affected Civil Defence Emergency Management Group and the Mayor of any affected local authority, unless—
  - (a) it is impracticable in the circumstances; or
  - (b) in the opinion of the Minister, the urgency of the situation requires the notice of extension to be given immediately.
- (6) An extension of a transition period comes into force immediately before the end of the transition period that is extended and ends,—
  - (a) in the case of a national transition period, 90 days after the time and date on which the extension comes into force, unless terminated earlier; or
  - (b) in the case of a local transition period, 28 days after the time and date on which the extension comes into force, unless terminated earlier.
- (7) A transition period may be extended more than once.
- (8) If the Minister extends a national transition period, the Minister must advise the House of Representatives as soon as practicable.
- (9) If a local transition period is extended a third or further time,—
  - (a) the person (other than the Minister) who extends the period must give the Minister a copy of the notice at the same time as notifying the public of that extension under section 94F(4); and
  - (b) the Minister must advise the House of Representatives as soon as practicable.

**94E Termination of transition periods**

- (1) The Minister may by notice terminate a national transition period.
- (2) The person who gave notice of a local transition period (or the Minister or another person appointed or otherwise authorised to give that notice) may by notice terminate the local transition period.



- (3) A notice terminating a transition period terminates the relevant transition period when given.
- (4) Before giving notice under subsection (2), the Minister must, in a manner the Minister considers appropriate, seek and consider comment from any affected Civil Defence Emergency Management Group and the Mayor of any affected local authority, unless—
  - (a) it is impracticable in the circumstances; or
  - (b) in the opinion of the Minister, the urgency of the situation requires the notice of termination to be given immediately.
- (5) A notice terminating a transition period must—
  - (a) specify the time and date on which it is given; and
  - (b) specify the areas, districts, or wards to which the transition period applies; and
  - (c) be in the form prescribed by regulations made under section 115 or a form of similar effect.
- (6) A person who terminates a transition period must—
  - (a) immediately notify the public by any means of communication that are reasonably practicable in the circumstances of the case; and
  - (b) ensure that the notice of termination is published in the *Gazette* as soon as practicable after it is given.
- (7) If a state of emergency is declared over an area (or any part of an area) to which a transition period applies, the transition period ends without a termination notice being given.

**94F Content and publication of transition period notices and their extensions**

- (1) A notice of a transition period must—
  - (a) specify the time and date on which the notice is given; and
  - (b) specify the areas, districts, or wards to which it applies; and
  - (c) be in the form prescribed by regulations made under section 115 or a form of similar effect.
- (2) A notice of an extension of a transition period must—
  - (a) specify the time and date on which the notice is given; and
  - (b) specify the areas, districts, or wards to which it applies; and
  - (c) be in the form prescribed by regulations made under section 115 or a form of similar effect.
- (3) The validity of a notice of a transition period or a notice of an extension of a transition period is not affected by the inclusion of any additional information.
- (4) A person who gives notice of a transition period, or who extends a transition period, must,—

- (a) as soon as practicable, notify the public of the notice by publishing the notice—
  - (i) in 1 or more newspapers circulating in the areas, districts, or wards to which the notice relates; and
  - (ii) on an Internet site to which the public has free access; and
- (b) ensure that the notice or extension is published in the *Gazette* as soon as practicable.

## Part 5B

### Powers in relation to transition periods

#### 94G Application

- (1) This Part applies if a transition period is in force.
- (2) In addition, Part 5 (other than those provisions that apply only during a state of emergency) applies if a transition period is in force.
- (3) A Recovery Manager may exercise the powers conferred on Recovery Managers under this Part if the exercise of the powers—
  - (a) is in respect of those areas, districts, or wards for which the Recovery Manager is responsible; and
  - (b) is, in the opinion of the Recovery Manager,—
    - (i) in the public interest; and
    - (ii) necessary or desirable to ensure a timely and effective recovery; and
    - (iii) proportionate in the circumstances.
- (4) A constable may exercise the powers conferred on constables under this Part if the exercise of the powers is, in the opinion of the constable,—
  - (a) in the public interest; and
  - (b) necessary or desirable to ensure a timely and effective recovery; and
  - (c) proportionate in the circumstances.

#### 94H General transition period powers

A Recovery Manager may—

- (a) carry out or require to be carried out all or any of the following:
  - (i) works;
  - (ii) clearing roads and other public places;
  - (iii) examining and marking any property, animal, or any other thing;
  - (iv) removing or disposing of, or securing or otherwise making safe, dangerous structures and materials wherever they may be;

- (b) provide for the conservation and supply of food, fuel, and other essential supplies:
- (c) disseminate information and advice to the public.

**94I Power to require information**

- (1) A Recovery Manager may require any person to give the Recovery Manager information in accordance with section 76, as if a reference in that section to a Civil Defence Emergency Management Group were a reference to the Recovery Manager.
- (2) The provisions of sections 76, 77, 82, and 83 apply to a requirement under subsection (1) as if it were a requirement by a Civil Defence Emergency Management Group under section 76(1).

**94J Minister's power of direction**

- (1) This section applies if the Minister considers that, having regard to all the circumstances, it is expedient to exercise the power in subsection (2).
- (2) If this section applies, the Minister may direct the Director or any Civil Defence Emergency Management Group or person—
  - (a) to perform any of the functions or duties or exercise any of the powers conferred on the Director, Group, or person under this Part; or
  - (b) to cease to perform any of the functions or duties or to exercise any of the powers conferred on the Director, Group, or person under this Part.
- (3) If the Minister directs a person or a Civil Defence Emergency Management Group under this section, the Minister may direct that the functions or duties be performed or the powers be exercised under the control and to the satisfaction of the Director.

**94K Evacuation of premises and places**

Despite anything in section 94G, a Recovery Manager or a constable may, if necessary, in his or her opinion, for the preservation of human life, direct—

- (a) the evacuation of any premises or place, including any public place:
- (b) the exclusion of any persons or vehicles from any premises or place, including any public place.

**94L Entry on premises and places**

A Recovery Manager or a constable may enter, and if necessary break into, any premises or place if he or she believes on reasonable grounds that the action is necessary for—

- (a) saving life, preventing injury, or rescuing and removing injured or endangered persons; or
- (b) permitting or facilitating the carrying out of any urgent measure for the relief of suffering or distress.

**94M Closing roads and public places**

A Recovery Manager or constable may, in order to prevent, limit, or reduce the consequences of an emergency, totally or partially prohibit or restrict public access, with or without vehicles, to any road or public place.

**94N Power to give directions**

A Recovery Manager or a constable may—

- (a) direct any person to stop any activity that—
  - (i) may cause, or substantially contribute to the consequences of, an emergency; or
  - (ii) may prevent or substantially hinder recovery from an emergency:
- (b) request any person, either verbally or in writing, to take any action to prevent or limit or reduce the consequences of the emergency.

**94O Person exercising emergency powers to provide proof of identity**

A person exercising a power conferred on him or her by this Part must—

- (a) have with him or her, and produce if requested to do so, evidence of his or her identity; and
- (b) if requested to do so, produce evidence of or give a general explanation of the authority under which he or she is acting and the power or powers he or she is exercising.

**94P Reporting**

- (1) If a Recovery Manager or a person acting under the authority of a Recovery Manager exercises a power under this Part in relation to a national transition period, the National Recovery Manager must give a written report to the Director.
- (2) If a Recovery Manager or a person acting under the authority of a Recovery Manager exercises a power under this Part in relation to a local transition period, the Recovery Manager must give—
  - (a) a written report to the Director; and
  - (b) a copy of the report to the Civil Defence Emergency Management Group.
- (3) A report and a copy of a report under subsection (1) or (2) must be given within 7 days after the date on which the relevant transition period ends.
- (4) If a power was exercised by a person other than the Recovery Manager giving the report, that Recovery Manager must consult with that person in preparing the report.
- (5) The report must—

- (a) identify the power or powers exercised under this Part and the person who exercised the power or powers; and
- (b) include the reasons for the exercise of that power or those powers.
- (6) On receiving a report under—
  - (a) subsection (1), the Director must give a copy of the report to the Minister; and
  - (b) subsection (2)(a), the Director may give a copy of the report to the Minister.
- (7) If the Minister receives a copy of a report under subsection (6), the Minister must present it to the House of Representatives as soon as practicable.
- (8) If the National Recovery Manager gives a report to the Director under subsection (1), the National Recovery Manager must also publish a copy of the report on an Internet site as soon as practicable.
- (9) On receiving a copy of a report under subsection (2)(b), a Civil Defence Emergency Management Group must publish it on the Group’s Internet site as soon as practicable.
- (10) In this section, **Recovery Manager** means a person appointed under section 29 or 30, but does not include any person authorised by the Recovery Manager.

**28 Section 96 amended (Withholding information or giving false or misleading information)**

- (1) In section 96(1), after “section 76”, insert “or 94I(1)”.
- (2) In section 96(2), after “section 77”, insert “(including as applied and modified by section 94I(2))”.

**29 Section 97 amended (Disclosing information)**

In section 97, after “section 83”, insert “(including as applied and modified by section 94I(2))”.

**30 Section 98 amended (Obstruction)**

In section 98, after “state of emergency”, insert “or transition period”.

**31 Section 99 amended (Failure to comply with direction to evacuate premises or place)**

- (1) In section 99(1), after “section 86”, insert “or 94K”.
- (2) In section 99(2), replace “Controller” with “Controller, Recovery Manager”.

**32 Section 100 amended (Failure to comply with prohibition or restriction on access to road or public place)**

In section 100, after “section 88”, insert “or 94M”.

**33 Section 102 amended (Failure to comply with direction)**

In section 102, after “section 91(a)”, insert “or 94N(a)”.

**34 Section 103 amended (Personation)**

In section 103, after “Controller,”, insert “a Recovery Manager”.

**35 Section 108 amended (Compensation for loss or damage to personal property)**

(1) In section 108(1),—

- (a) replace “or a Recovery Co-ordinator” with “or a Recovery Manager”;
- (b) after “state of emergency”, insert “or a transition period”.

(2) In section 108(5)(a), replace “the Director or the National Controller” with “the Director, the National Controller, or the National Recovery Manager” in each place.

(3) In section 108(5)(b)(iii), replace “Recovery Co-ordinator” with “Recovery Manager”.

(4) In section 108(5)(b)(iv), replace “or Group Controller” with “, the Group Controller, or a Group Recovery Manager appointed by the Group”.

**36 Section 109 amended (Compensation for other matters)**

After section 109(3), insert:

(3A) A person who has suffered loss or damage as a result of any action or measure duly taken under instructions issued under any of sections 94K to 94N by the National Recovery Manager or a constable, or a person authorised by the National Recovery Manager or constable, may recover compensation from the Crown if the action or measure was such that the good done, or likely to be done, by the action or measure for that person was disproportionately less than the loss or damage suffered by that person as a result of that action or that measure.

(3B) A person who has suffered loss or damage as a result of any action or measure duly taken under instructions issued under any of sections 94K to 94N by a Group Recovery Manager or a Local Recovery Manager, or a person authorised by the Group Recovery Manager or Local Recovery Manager, may recover compensation from the Civil Defence Emergency Management Group that appointed the Group Recovery Manager or Local Recovery Manager if the action or measure was such that the good done, or likely to be done, by the action or measure for that person was disproportionately less than the loss or damage suffered by that person as a result of that action or that measure.

**37 Section 110 amended (Protection from liability)**

In section 110(1), after “state of emergency”, insert “or a transition period”.

**38 Section 111 amended (Restricted application of Resource Management Act 1991)**

In section 111, after “declared”, insert “, or notice of a transition period is given,”.

**39 New section 115A inserted (Permanent legislative authority for payment of certain expenses)**

After section 115, insert:

**115A Permanent legislative authority for payment of certain expenses**

The Crown may, without further appropriation than this section, incur expenses to reimburse a local authority for, or to pay public money for the purpose of meeting, expenses incurred by a local authority in connection with an emergency if the expenses—

- (a) are incurred in respect of civil defence emergency management activities; and
- (b) meet the criteria for being reimbursed or paid in a Government policy that was in force before the emergency occurred.

**40 Section 119 amended (Provisions of Civil Defence Act 1983 that continue)**

Repeal section 119(4).

**41 New Schedule 1AA inserted**

Before Schedule 1, insert the Schedule 1AA set out in Schedule 1 of this Act.

**Part 2****Consequential amendments to other enactments****42 Consequential amendments to other Acts**

Amend the enactments specified in Schedule 2 as set out in that schedule.

**43 Consequential amendments to Schedule of National Civil Defence Emergency Management Plan Order 2015**

Amend the Schedule of the National Civil Defence Emergency Management Plan Order 2015 as set out in Schedule 3.

## Schedule 1

### New Schedule 1AA inserted

s 41

### Schedule 1AA

#### Transitional, savings, and related provisions

s 4A

#### 1 Interpretation

In this schedule, **Recovery Co-ordinator** has the same meaning as it had in this Act immediately before the commencement of the Civil Defence Emergency Management Amendment Act 2016.

#### 2 Civil Defence Emergency Management Groups

Any Civil Defence Emergency Management Group established under section 12(1)(b) of this Act (as it read immediately before the commencement of the Civil Defence Emergency Management Amendment Act 2016) is to be treated as having been established as a committee under clause 30(1)(a) of Schedule 7 of the Local Government Act 2002.

#### 3 Recovery Co-ordinators

- (1) Any Recovery Co-ordinator who was appointed and in office under section 29 of this Act (as it read immediately before the commencement of the Civil Defence Emergency Management Amendment Act 2016) may remain in office until his or her term of appointment expires.
- (2) A Recovery Co-ordinator who remains in office under subclause (1) may continue to exercise powers under section 30 (as it read immediately before the commencement of the Civil Defence Emergency Management Amendment Act 2016) and section 30 remains in force for the purposes of this clause.



## Schedule 2

### Consequential amendments to other Acts

s 42

#### **Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26)**

In section 5(2)(f), after “declared”, insert “, or notice of a national or local transition period being given, under the Civil Defence Emergency Management Act 2002”.

In section 13(1)(g), after “emergency”, insert “or a national or local transition period (under the Civil Defence Emergency Management Act 2002)”.

In section 60(1), replace “a national or local emergency is declared” with “a state of emergency is declared, or a transition period is notified”.

In section 60(2), replace “a declaration is made under section 72 of the Civil Defence Emergency Management Act 2002 to terminate the emergency” with “the state of emergency is terminated under section 72, or the transition period is terminated under section 94E, of the Civil Defence Emergency Management Act 2002”.

In section 61(1), replace “a national or local emergency has been declared” with “a state of emergency has been declared or a transition period has been notified”.

#### **Local Authorities (Members’ Interests) Act 1968 (1968 No 147)**

Replace section 3(3)(d)(vii) with:

- (vii) any contract for the supply of goods or services made during a state of emergency declared, or a transition period for which notice is given, under the Civil Defence Emergency Management Act 2002, if that contract does not continue for more than 1 month after the end of that state of emergency or transition period, and if the goods or services are supplied at charges not in excess of those normally applying in the district of the local authority or in the area under its jurisdiction at the time immediately preceding the state of emergency or transition period,—

#### **Maritime Security Act 2004 (2004 No 16)**

Replace section 80(3)(b) with:

- (b) the person who is serving as the National Recovery Manager under the Civil Defence Emergency Management Act 2002; or

#### **Maritime Transport Act 1994 (1994 No 104)**

Replace section 100(5)(d) with:

- (d) the person who is serving as the National Recovery Manager under the Civil Defence Emergency Management Act 2002; or

Replace section 254(3)(b) with:

**Maritime Transport Act 1994 (1994 No 104)**—*continued*

- (b) the person who is serving as the National Recovery Manager under the Civil Defence Emergency Management Act 2002; or

Replace section 312(1)(b) with:

- (b) the person who is serving as the National Recovery Manager under the Civil Defence Emergency Management Act 2002; or

**Public Finance Act 1989 (1989 No 44)**

Replace section 25(1)(a) with:

- (a) a state of emergency is declared under the Civil Defence Emergency Management Act 2002; or

**Resource Management Act 1991 (1991 No 69)**

In section 330B(1), after “state of emergency declared”, insert “, or transition period notified,”.

**Schedule 3**  
**Consequential amendments to Schedule of National Civil Defence  
Emergency Management Plan Order 2015**

s 43

**Clause 2**

In clause 2(1), revoke the definitions of **group area** and **health and disability services**.

In clause 2(2), insert in their appropriate alphabetical order: **area, constable, Group Recovery Manager, health and disability services, Local Recovery Manager, local transition period, National Recovery Manager, national transition period, recovery activity, Recovery Manager, and transition period**.

In clause 2(2), delete “**Recovery Co-ordinator**”.

**Clause 5**

After clause 5(a), insert:

(ab) a national transition period; or

**Clause 6**

In clause 6(b)(i), replace “or” with “and”.

After clause 6(b)(i), insert:

(ia) a national transition period; and

**Clause 16**

In clause 16(1)(b), after “emergency”, insert “or a national transition period”.

In clause 16(1)(c), replace “and Group Controllers during a state of national emergency” with “, Group Controllers or Group Recovery Managers during a state of national emergency or a national transition period”.

**Clause 17**

Revoke clause 17(1)(a).

In clause 17(2), omit “appointed, and”.

**Clause 18**

In clause 18(b), replace “Controllers.” with “Controllers; and”.

After clause 18(b), insert:

(c) must, under section 25 of the Act, appoint at least 1 person as a person authorised to declare a state of local emergency for its area.

**New clauses 18A and 18B**

After clause 18, insert:

**New clauses 18A and 18B—continued****18A National Recovery Manager**

- (1) The National Recovery Manager may—
  - (a) be delegated functions and powers of the Director under section 11A(1) of the Act;
  - (b) be delegated functions and powers of the Director specified in sections 8(2)(h) and 9(2)(a) of the Act for the purposes of dealing with a national transition period;
  - (c) if no delegation has been made under section 11A(1) of the Act, be the Director, who has all of the powers conferred on the National Recovery Manager under the Act.
- (2) If delegated the functions and powers of the Director, a National Recovery Manager performs the functions and exercises the powers of National Recovery Manager under Part 9 of this plan.

**18B Group Recovery Managers and Local Recovery Managers**

Each CDEM Group—

- (a) must, under section 29 of the Act, appoint by name or reference—
  - (i) a suitably qualified and experienced person as Group Recovery Manager for its area to carry out the functions of a Group Recovery Manager under section 30A of the Act; and
  - (ii) at least 1 suitably qualified and experienced person to perform the functions and duties and exercise the powers of the Group Recovery Manager on the occurrence of a vacancy in the office of Group Recovery Manager or in the absence from duty of the Group Recovery Manager; and
- (b) may, under section 30 of the Act, appoint by name or reference 1 or more suitably qualified and experienced persons as Local Recovery Managers; and
- (c) must, under section 25 of the Act, appoint at least 1 person as a person authorised to give notice of a local transition period for its area.

**Clause 24**

In clause 24(2)(j), replace “, and maintain” with “, maintain, and delegate functions and powers to”.

**Clause 25**

In clause 25(2), replace “the Director and the National Controller” with “the Director, the National Controller, and the National Recovery Manager”.

**Clause 26**

In clause 26(d), replace “appointed” with “established”.

**Clause 29**

In clause 29(3)(e), replace “, and maintain” with “, maintain, and delegate functions to”.

Replace clause 29(5) with:

- (5) Each CDEM Group is to give effect to the directions of—
  - (a) the National Controller during a state of national emergency; and
  - (b) the National Recovery Manager during a national transition period.

**Clause 80**

In clause 80(1)(b), after “state of emergency”, insert “or a Recovery Manager during a transition period”.

**Clause 152**

In clause 152,—

- (a) replace “short-, medium-, and long-term” with “immediate, medium-term, and long-term”; and
- (b) replace “after” with “following”.

**Clause 154**

In clause 154(1),—

- (a) replace “short-, medium-, and long-term” with “immediate, medium-term, and long-term”; and
- (b) replace “after” with “following”; and
- (c) after “agencies”, insert “and CDEM Groups”.

**New clauses 155A and 155B**

After clause 155, insert:

**155A National transition period**

- (1) Section 94A of the Act authorises the Minister, under certain conditions specified in that section, to give notice of a national transition period over the whole of New Zealand or any areas or districts.
- (2) In the event that notice is given of a national transition period,—
  - (a) any other transition period then in force in any area or district to which the national transition period applies ceases to have effect; and
  - (b) the Director, or the National Recovery Manager in accordance with a delegation under section 11A(1) of the Act, will co-ordinate, direct, and control the resources made available for CDEM.

**New clauses 155A and 155B—continued****155B Transition period functions**

- (1) The functions of a Group Recovery Manager and a Local Recovery Manager are set out in section 30A of the Act and the specific powers of all Recovery Managers during a transition period are set out in Part 5B of the Act.
- (2) Without limiting subclause (1), a Recovery Manager has responsibility under this plan for the following:
  - (a) co-ordinating the use of resources made available under this plan; and
  - (b) directing and controlling the use of resources made available under this plan; and
  - (c) ensuring that any relevant CDEM Group and the Director (and, in turn, the Minister and ODESC) are adequately briefed on the situation during the transition period.

**Clause 156**

In clause 156(1), replace “co-ordinates” with “may co-ordinate”.

In clause 156(4), after “National Recovery Manager”, insert “, in addition to performing functions and exercising powers conferred by the Act,”.

In clause 156(4)(a) and (g), replace “short” with “immediate”.

Revoke clause 156(4)(f).

Revoke clause 156(5).

**Clause 157**

In clause 157(2), after “Group Recovery Manager”, insert “, in addition to performing functions and exercising powers conferred by the Act,”.

**Legislative history**

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This Act is administered by the Ministry of Civil Defence and Emergency Management.