

Civil Defence Emergency Management Amendment Bill

Government Bill

As reported from the Government Administration Committee

Commentary

Recommendation

The Government Administration Committee has examined the Civil Defence Emergency Management Amendment Bill and recommends that it be passed with the amendments shown.

Introduction

This bill seeks to amend the Civil Defence Emergency Management Act 2002 to enable better recovery from New Zealand's most frequent emergencies—those of small to moderate scale. The bill is the first stage of a wider review being undertaken by the Ministry of Civil Defence and Emergency Management into the legislative framework for recovery. Since the original Act came into force, it has been identified that provisions are needed to address timely, focussed, and effective recovery from an emergency. The bill would amend the Act to support the transition from emergency response to recovery.

Key provisions proposed by the bill include:

- establishing a legislative framework for recovery management, by providing a mandate for roles and responsibilities of recovery managers during emergency recovery, and strengthening recovery planning before an emergency occurs
- supporting a seamless transition of activities from response to an emergency to the initial recovery phase, by establishing a transition notice mechanism to ensure that appropriate powers are available for a specific amount of time
- creating a permanent legislative authority to assist the Crown in reimbursing local authorities for response and recovery costs, rather than setting the appropriation annually at a fixed amount.

This commentary discusses the main amendments we recommend. It does not cover minor and technical amendments.

Commencement

Clause 2 of the bill provides for this legislation to come into force 180 days after the date that it receives Royal Assent. We recommend amending clause 2 to provide that the arrangements for giving notice of a local transition period to be incorporated into Civil Defence Emergency Management (CDEM) Group plans, proposed in clause 19(3), would come into force 18 months after the date of Royal Assent. This staggered commencement would allow CDEM Groups time to make these arrangements.

Definitions and interpretation

Clause 4 seeks to amend the interpretation section of the principal Act to define terms used in the bill. The proposed changes aim to provide clarification.

Removing a definition

We recommend amending clause 4(5) to remove the proposed definition of “civil defence emergency management strategic recovery plan”. This amendment reflects a policy decision to dispense with separate recovery plans, so this definition is redundant.

Defining recovery activities

We recommend amending clause 4(7)(c) to add an additional dimension to the definition of “recovery activity”. We believe that this definition should include reference to the objective of organisations and entities working together. This would more effectively capture one of the principal themes of the bill—reinforcing that organisations should work together to carry out effective recovery.

Appointment, and functions and powers of Director for national transition periods

We recommend amending clause 7 to insert new subclause (2A). This would amend section 9(3)(b) of the Act to include recovery from emergencies. The proposed amendment would include the transition period to recovery, where use of the powers and functions of the Director of Civil Defence and Emergency Management are necessary.

We also recommend deleting clause 7(3), which is unnecessary because of the decision to dispense with separate strategic recovery plans.

Functions of Civil Defence Emergency Management Groups

Section 17(1)(e) of the Act lists a function of CDEM Groups as to “carry out recovery activities”. We recommend inserting new clause 9A which would amend section 17(1)(e), to specify that functions of CDEM Groups now includes planning for recovery.

ery as well as managing recovery. We consider that this is consistent with the best practice of CDEM Groups.

CDEM Co-ordinating Executive Groups

We recommend two changes to clause 10, which seeks to amend section 20 of the Act. This section is concerned with appointment and functions of CDEM Co-ordinating Executive Groups. First, we recommend inserting new subclause (1), to amend section 20(1)(d) by including reference to a representative of health and disability services. The wording currently proposed would be unworkable in some areas.

The second amendment we recommend is to insert new subclause (2), amending section 20 of the principal Act, to state that members who have been co-opted onto a CDEM Coordinating Executive Group under subsection (1)(e) may include a senior ambulance services officer. We believe that ambulance employees should be recognised and their services highlighted, as they could provide a valuable contribution to the Executive Group.

Appointment of persons who may declare state of local emergency or give notice of local transition period

We recommend amending clause 12 to replace, rather than amend, section 25 of the Act. We consider that this would provide clarity about authorisation and appointment with regards to declaring states of local emergency or giving notice of a local transition period. This change would also link this section more effectively with new part 5A, section 94B (about giving notice of local transition periods).

Consequently, we recommend deleting clause 13 which would have inserted new section 25A.

CDEM Group Recovery Managers and Local Recovery Managers

Clause 17 would replace sections 29 and 30 with new sections 29, 30, and 30A to provide for the appointment of CDEM Group Recovery Managers and Local Recovery Managers, and to set out their functions. As introduced, the bill would require any individual appointed as a CDEM Group Recovery Manager to be suitably qualified and experienced, but no such requirement was stipulated for Local Recovery Managers.

Therefore, for consistency we recommend amending clause 17, new section 30, to require that a Local Recovery Manager must be a suitably qualified and experienced person and may be appointed by name or by reference to office.

Functions of recovery managers and accountability

Clause 17, new section 30A sets out the functions of Recovery Managers. We recommend amendments to include recovery activities as a function of Recovery Managers. This would clarify their role during the recovery phase, especially as it is now proposed not to have separate recovery plans.

Proposed new subsection 30A(4) sets a requirement for Recovery Managers to supervise the exercise of a power or function as far as is reasonably practical. It is our view that this requirement is not appropriate here. We therefore recommend amending clause 17, new subsection 30A(4), to provide a more standard requirement that accountability would remain with a Recovery Manager who authorises a person under subsection (3). Our suggested amendment would better reflect the aim of this clause, which is to ensure that a Recovery Manager does not abdicate responsibility when authorising another individual to perform functions, duties, or exercise power. There are existing safeguards in the bill as introduced which cover the qualifications and experience of the person appointed, and liability under certain circumstances.

Planning

Content of CDEM Group Plans

We recommend adding clause 19(3), which would insert section 49(2)(fa), to specify that CDEM Group Plans should provide high level arrangements for giving notice of transition periods. This would align with intentions for arrangements in the principal Act. The timeframe for these arrangements is discussed in the commencement clause.

Matters taken into account by CDEM Group Plans

In the bill as introduced, clause 20 would amend section 53, which sets out requirements for CDEM Group Plans. Clause 20(2) states that a CDEM Group Plan must “take into account” any comments received from the Minister under section 49.

We consider it logical to relocate this amendment within the bill. We recommend amending clause 19 to add new subclause (1AA), which inserts new section 49(1A) to require the CDEM Group to “have regard to” comments made by the Minister rather than to “take account of” them. We consider this a more appropriate test and note that our proposed amendment would align with existing requirements in the Act.

Requirement to prepare a strategic recovery plan

One of the new requirements proposed by the bill is for CDEM Groups to prepare and approve civil defence emergency management strategic recovery plans. We are aware of concern over a lack of clarity about what was expected in the preparation of these plans. Because of this, we recommend deleting clause 21 to remove specific requirements to produce a strategic recovery plan. Again, this reflects the decision to dispense with separate recovery plans. We believe a legislative requirement for a separate plan may not be the most effective way of achieving expectations of best practice. We consider that it is appropriate for recovery planning to be integrated into CDEM Group plans.

Consequently, we also recommend deleting clause 22 which refers to recovery plans.

Termination of state of emergency

We recommend inserting new clause 22A, amending section 72 of the Act, to allow for a local transition notice put in place by the Minister to terminate the state of emergency in place. We consider this new clause necessary to give effect to the power in section 94B(4) for the Minister to issue a notice of a local transition period over the top of a state of emergency.

Transition periods**Capacity of local agencies**

It is appropriate that the legislation signal that using the provision for the Minister to put in place a transition period requires considering the circumstances at a local level. One of the key intents of the bill is also to support the principle of agencies working together. To ensure this intent is achieved, we recommend amending clause 28, new Part 5A, to provide for consideration to be given to the capacity of local agencies in the following places:

- new section 94A(3)(c), relating to matters the Minister must have regard to when signalling a national transition period
- new section 94B(6A), relating to matters the Minister must have regard to when signalling a local transition period
- new section 94D(3A), relating to matters the Minister must have regard to when deciding to extend a transition period.

Commencement and duration of transition periods

We recommend amending clause 28, new part 5A, to insert new sections 94C(1) and 94C(1A). These new subsections would cover additional circumstances affecting when transition periods come into force that were not covered in the bill as introduced.

We also recommend a consequential amendment, so that new section 94C(1)(a) refers to section 72(1).

Extension and creation of local transition periods

Transition periods (occurring when a formal transition notice is in place) should only exist as long as necessary to carry out immediate and vital recovery activities.

Proposed new section 94B provides for giving notice of a local transition period, and new section 94D provides for the extension of transition periods. The Minister must address a number of factors when deciding whether creating or extending a local transition period is necessary and justified.

We had some concern about the lack of a legal requirement for the Minister to engage with affected local representatives and communities. We therefore propose some amendments to provide for the Minister to seek and consider comment from affected CDEM Groups and the Mayor of any affected local authority before implementing or extending a transition period.

We recommend amending clause 28, new section 94B, to insert new subsection (6B). This new subsection would set out terms for engagement before the Minister gives notice of a local transition period under section 94B(4).

Similarly, we recommend amending clause 28, new section 94D, to insert new subsection (3B). This would provide for engagement before the Minister extends a local transition period.

National transition periods

We consider that a requirement to inform the House of Representatives of an extension to a transition period should be added to the bill.

We recommend that clause 28, new section 94D(6), be amended to require the Minister to advise the House of Representatives as soon as practicable of any extension to a national transition period.

Local transition periods

Clause 28, new section 94B, provides that certain persons may give notice of a local transition period, including the Minister. For clarity, we recommend amending clause 28, subsection 94B(5), to make it explicit that the decision-making criteria only apply to the giving of a transition notice, and do not include the use of powers during the period of transition.

We recommend consequential changes to reflect those proposed in new section 25 (as amended by clause 12). The language we suggest would be clearer about persons who are appointed or otherwise authorised.

We recommend that the requirement to inform the House of an extension to a local transition period only applies if it has been extended three or more times. A local transition period is shorter (28 days) than a national transition period (90 days). We recommend amending clause 28, new section 94D(7), so that when the third extension occurs, the Minister should be provided with a copy of the notice (unless the Minister is issuing the notice), and the Minister must advise the House as soon as is practicable.

Publication of transition period notices

Clause 28, new section 94F, sets out the requirements for the form, content, and publication of transition period notices.

We recommend amending new section 94F(4)(a) so that publication of the notices under this section would require publishing in the *Gazette*; and as soon as practicable in one or more newspapers in the area to which the notice relates. Additionally, a notice should be published on a freely accessible public internet site.

The wording we propose is more prescriptive about internet notification, and is consistent with a model for publishing in the Greater Christchurch Regeneration Act 2016.

Termination of transition periods

We recommend amending clause 28, new section 94E, to insert new subsection (3AA) so that the Minister must seek and consider comments from affected CDEM Groups and the Mayor of an affected local authority before terminating a local transition period. This requirement would be subject to the practicability of the circumstances and urgency of the situation.

General transition period powers

Clause 28, new section 94H, sets out the transition period powers of Recovery Managers.

We recommend amending new section 94H(a) to include examining and marking objects in the list of powers of the Recovery Manager. This proposed amendment would make it clear that the Recovery Manager can conduct inspections during the transition period.

We consider that marking buildings may be necessary during transition periods.

Reporting requirements

In the bill as introduced clause 28, new section 94P, sets out the reporting requirements for Recovery Managers, the Director, and the Minister. We recommend amending this section by inserting new subsection (6A) to require a report on the exercise of powers under a national transition notice period to be posted on a website. This would provide transparency on the use of powers, and consistency with requirements of CDEM Groups to publish their reports on the internet.

We also recommend amending new section 94P to remove the reference to “constable”, because the Police have existing protocols to deal with this.

Permanent legislative authority (PLA)

Clause 40, new section 115A proposes a permanent legislative authority (PLA) for the payment of certain expenses.

A PLA is a tool used by Parliament to authorise the incurring of expenditure on an ongoing basis. This is unlike an annual appropriation for an activity included in an Appropriation Act, which lapses at the end of the relevant financial year.

In this legislation the PLA would be used for reimbursement of expenses incurred by the Crown relating to local authorities’ eligible response and recovery activities in relation to an emergency.

In our consideration of the bill, we gave thought to the implications of a PLA, and whether this is the most appropriate mechanism by which to provide for these expenses. We concluded that use of the PLA is the best option in this case because it:

- provides certainty for local councils and communities
- provides a lawful way to incur expenses, and avoids unappropriated expenses

- addresses uncertainty on the level and scope of expenditure which is important because the level of funding that would be required in a given year depends on the number and magnitude of emergencies that occur which cannot be predicted.

We recommend amending clause 40, new section 115A, to remove any reference to “territorial authority” and replace it with “local authority”. We consider this amendment necessary because compensation can apply to regional councils and unitary authorities, as well as to territorial authorities.

We also recommend amending clause 40, new section 115A, to clarify that the clause relates to approved expenses for response to and recovery from an emergency, as determined by Cabinet. This wording would more clearly define the scope of the expenses, and ensure that the intent of the PLA is properly achieved.

Consequential changes to other Acts and the National CDEM Plan

Because of the amendments proposed in the bill, a number of consequential amendments are needed to the National Civil Defence Emergency Management Plan. All of the amendments align with the general policy intent of the bill, and are necessary to ensure that the language in the plan is consistent with the language in the bill.

We recommend amending Part 2 of the bill, Schedule 2, to add additional consequential amendments to the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

We also recommend amending Part 2 of the bill to insert new Schedule 3, setting out consequential changes to the National Civil Defence Emergency Management Plan Order 2015, particularly Part 9 Recovery.

New Zealand Labour Party minority view

Labour generally supports this bill. Our unease at several provisions which create an imbalance between the exercise of ministerial powers and consultation with local communities in the recovery phase of an emergency have been somewhat allayed due to subsequent amendments at committee stage. We remain concerned and watchful that this imbalance does not diminish the role of local communities in the recovery phase of an emergency.

We are also concerned that this bill fails to deal with important issues regarding large scale events.

We note that while this bill claims to make a significant difference for communities across the country hit by our most frequent emergencies: those of small to moderate size, often created by the impact of floods, storms, and natural hazards, it makes no attempt to address detailed requirements for large-scale events and formal national-local collaborative arrangements.

We also note there is no timeline for these wider issues to be dealt with.

We note the comments of submitters regarding the importance of civil defence emergency management strategic recovery plans which were contained in Section 57A of the bill but which has now been removed.

We agree these plans are a vital element of successful recoveries. We note that while the bill no longer requires CDEM groups to prepare a separate CDEM strategic recovery plan, the function of recovery planning is now integrated into the general statutory functions of CDEM Groups and Recovery Managers.

Our concern is that the lack of a specific requirement in the Act raises the risks for poor planning where CDEM plans are weak. As some submitters pointed out, there is also no detail in what these strategic recovery plans should contain such as guidelines, codes, or technical standards regarding timing and longevity of strategic recovery plans; the matters they would consider; their review process; how the plans align with a national direction; their relationship with CDEM plans; and details on their alignment with other Group Recovery Plans.

We agree with submitter IAG that this apparent lack of detail appears inconsistent with the amount of technical details included in other provisions of the bill such as those dealing with the establishment of National, Group and Local Recovery Managers and their associated powers.

We are therefore concerned that Section 57A has been removed which requires a strategic recovery plan, instead it is implicit and not explicit in the bill that CDEM Groups have a plan for recovery.

Appendix

Committee process

The Civil Defence Emergency Management Amendment Bill was referred to the committee on 9 February 2016. The closing date for submissions was 24 March 2016. We received and considered 12 submissions from interested groups and individuals. We heard oral evidence from six submitters.

We received advice from the Ministry of Civil Defence and Emergency Management. The Regulations Review Committee reported to the committee on delegated powers in the bill, in respect of instruments with no defined status.

Committee membership

Hon Ruth Dyson (chairperson)

Kris Faafoi

Paul Foster-Bell

Brett Hudson

Mojo Mathers

Mark Mitchell

Clare Curran replaced Kris Faafoi for some consideration of this item of business.

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Nikki Kaye

Civil Defence Emergency Management Amendment Bill

Government Bill

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Schedule 1

New Schedule 1AA inserted

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Consequential amendments to other Acts

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

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Civil Defence Emergency Management Amendment Act **2015**.

2 Commencement

~~This Act comes into force 180 days after the date on which it receives the Royal assent.~~ 5

(1) **Section 19(3)** comes 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. 10

Part 1

Amendments to principal Act

3 Principal Act

This Act amends the Civil Defence Emergency Management Act 2002 (the **principal Act**). 15

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,— 20

- (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
- ~~**civil defence emergency management strategic recovery plan**~~ means a plan prepared and approved under **section 57A**
- 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 5
- 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 10
- 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,— 15
- (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 20
 - (c) measures to support—
 - (i) the regeneration, restoration, and enhancement of communities across the 4 environments (built, natural, social, and economic); and 25
 - (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 30
 - (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) 35**
- 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)

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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”.

10

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

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

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(ba) during a national transition period, control ~~the exercise of the powers and the performance of the functions and duties~~ and the exercise of the powers of Civil Defence Emergency Management Groups and Recovery Managers:

(2A) In section 9(3)(b), replace “responding to” with “the response to, and recovery from,”.

20

(3) Replace section 9(3)(c) with:

(c) ~~the development of plans for civil defence emergency management by the Crown, local government agencies, emergency services, and lifeline utilities:~~

25

(ca) ~~the development of national and local strategic recovery plans to deal with the consequences of emergencies:~~

(4) In section 9(3)(d), replace “recovery co-ordinators,” with “Recovery Managers,”.

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

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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.

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- (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. 5
- (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. 10
- (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. 15
- (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. 20
- (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**. 25
- 9 Section 12 amended (Local authorities to establish Civil Defence Emergency Management Groups)**
- (1) Replace section 12(1)(b) with: 30
- (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: 35
- (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.

9A Section 17 amended (Functions of Civil Defence Emergency Management Groups)

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

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

5

In section 20(1)(d), replace “the hospital and health services” with “each provider of health and disability services”.

(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

10

(2) After section 20(1), insert:

(1A) A person co-opted under **subsection (1)(e)** may include a senior ambulance service officer.

11 Cross-heading above section 25-amended replaced

In Replace the cross-heading above section 25, replace “*Appointment of persons*” with “*Persons*”. with:

15

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

12 Section 25-amended replaced (Appointment of persons who may declare state of local emergency)

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(1) In the heading to section 25, replace “**Appointment of persons**” with “**Persons**”.

(2) In section 25(5), replace “may declare” with “is authorised to declare”.

(1) Replace section 25 with:

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

25

(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.

30

(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—

35

- (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
- (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. 10
- 13 New section 25A and cross-heading inserted**
- After section 25, insert: 15
- Persons who may give notice of local transition period*
- 25A Persons who may give notice of local transition period**
- (1) ~~A Civil Defence Emergency Management Group must appoint at least 1 person as a person authorised to give notice of a local transition period for its area.~~
- (2) ~~Section 25(2) to (5) applies, with any necessary modifications, to an appointment under **subsection (1)** and to the giving of notice of a local transition period.~~ 20
- 14 Section 26 amended (Appointment of Group Controllers)**
- In section 26(3), replace “subsection (1) or subsection (2)” with “subsection (1) or (2)”. 25
- 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”. 30
- 16 Section 28 amended (Functions of Group Controllers)**
- In section 28(3), replace “exercise any power or function or fulfil any duty” with “exercise any power or perform any function or duty or exercise any power”.
- 17 Sections 29 and 30 and cross-heading replaced** 35
- 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. 5
- (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. 10
- (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 94B 25(1)(b)** to give notice of a transition period for its area; and 15
 - (b) impose conditions or limitations on the circumstances in which the authority under **paragraph (a)** may be used. 20

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**. 25
- (2) Despite anything in **subsection (1)**, a Local Recovery Manager must follow any directions given by the Group Recovery Manager during a transition period. 30

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, for the purposes of this Act, 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. 35

- (2) The Group Recovery Manager must also perform any functions or duties delegated to the Group Recovery Manager by the Civil Defence Emergency Management 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. 5
- (3) A Group Recovery Manager or a Local Recovery Manager may authorise any suitably qualified and experienced person ~~to exercise any power or 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. 10
- (4) A Group Recovery Manager or Local Recovery Manager who authorises a person under **subsection (3)** ~~to exercise a power to perform a function or duty or to exercise a power must supervise the person so far as is reasonably practicable in the exercise of the power or remains responsible and accountable under this Act for the performance of the function or duty or the exercise of the power.~~ 15
- (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. 20
- 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”. 25

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

(1AA) After section 49(1), insert:

(1A) The Civil Defence Emergency Management Group must have regard to any comments made by the Minister. 30

(1) After section 49(2)(d), insert:

(da) the area of the Group:

(2) In section 49(2)(f), delete “in the area of the Group”.

(3) After section 49(2)(f), insert:

(fa) the arrangements for giving notice of a local transition period: 35

19A Section 51 amended (Incorporation by reference)

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

- 20** ~~Section 53 amended (Civil defence emergency management group plan must not be inconsistent with national civil defence emergency management strategy and must take account of Director's guidelines, codes, or technical standards)~~
- (1) ~~In the heading to section 53, after “must take account of”, insert “Minister’s comments and”.~~ 5
- (2) ~~After section 53(1), insert:~~
- (1A) ~~A civil defence emergency management group plan must take account of any comments that the Minister makes under section 49.~~
- 21** ~~New section 57A and cross-heading inserted~~ 10
- ~~After section 57, insert:~~
- Civil defence emergency management strategic recovery plans*
- 57A** ~~Recovery plans~~
- ~~Every Civil Defence Emergency Management Group must prepare and approve a civil defence emergency management strategic recovery plan in accordance with any guidelines, codes, or technical standards issued under section 9(3).~~ 15
- 22** ~~Section 65 amended (Duties to consider alternatives, assess benefits and costs, etc)~~
- ~~In section 65(2)(b), after “group plan”, insert “and civil defence emergency management strategic recovery plan”.~~ 20
- 22A** 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(4)** comes into force. 25
- 23** **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”. 30
- (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 Man- 35

	agement 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
(5)	Repeal section 75(7).	
24	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))”.	10
25	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))”.	
26	Section 83 replaced (Restriction on disclosure of information) Replace section 83 with:	15
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.	20
27	Section 86 amended (Evacuation of premises and places) In section 86, replace “require” with “direct”.	
28	New Parts 5A and 5B inserted After section 94, insert:	25
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.	30
(2)	Without limiting subsection (1) , the Minister must be satisfied that invoking the powers to manage, co-ordinate, or direct recovery activities is—	35

- (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 5
- (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. 10
- (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. 15
- 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 25A~~ 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 ~~for which the person is appointed~~ 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 ~~in the area~~. 20 25
- (2) ~~A person who is authorised to give notice of a local transition period may, after a state of emergency has been declared for the area of the Civil Defence Emergency Management Group concerned, give notice in relation to the whole area of the Civil Defence Emergency Management Group concerned or for 1 or more districts or wards within the area.~~ 30
- (3) 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) or (2)** ~~(as the case requires)~~ with the approval of the Minister.
- (4) 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— 35

- (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) or (2)**.
- (5) Without limiting **subsections (1) to (4)**, ~~the authorised person or the Minister or the appointed or otherwise authorised person~~ must ~~be 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.
- (6) In deciding whether a local transition period is required, ~~the authorised person or 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.
- (6A) 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.
- (6B) Before giving notice under subsection (4), 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.
- (7) 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.
- (8) After notice of a local transition period has been given for an area (the **first area**) in accordance with **subsections (1) to (4)**, 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.

- (9) The fact that a person purporting to be authorised under **section 25-25A** 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. 5
- (10) 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 ~~in respect of~~ for that part.

94C Commencement and duration of transition periods

- (1) ~~A transition period comes into force,—~~ 10
- (a) ~~if the notice of the transition period relates to an area for which a state of emergency has been declared, on the termination of that state of emergency; or~~
- (b) ~~in any other case, at the time and on the date that the notice of the transition period is given.~~ 15
- (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. 20
- (1A) In any other case, a transition period comes into force at the time and on the date the notice of transition is given.
- (2) A national transition period ends 90 days after the time and date on which the period comes into force, unless extended or terminated earlier. 25
- (3) 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. 30
- (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. 35
- (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.
- (3A) 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
- (3B) 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— 10
- (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. 15
- (4) 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. 20
- (5) A transition period may be extended more than once.
- (6) If the Minister extends a national transition period, the Minister must advise the House of Representatives as soon as practicable.
- (7) If a local transition period is extended a third or further time,— 25
- (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)(ab)**; and
 - (b) the Minister must advise the House of Representatives as soon as practicable. 30
- 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. 35
 - (3) A notice terminating a transition period—
 - (a) must specify the time and date on which it is given; and
 - (b) terminates the relevant transition period when given.

- (3) A notice terminating a transition period terminates the relevant transition period when given.
- (3AA) 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— 5
- (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.
- (3A) A notice terminating a transition period must— 10
- (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. 15
- (4) 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. 20
- (5) 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— 25
- (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— 30
- (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. 35
- (4) A person who gives notice of a transition period, or who extends 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~~
- ~~(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 after it is given.~~

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Part 5B

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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.

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94H General transition period powers

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A Recovery Manager may—

- (a) carry out or require to be carried out all or any of the following:
 - (i) works;
 - (ii) clearing of roads and other public places;
 - ~~(iia) examining and marking any property, animal, or any other thing;~~

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(iii)	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.	5
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.	10
(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) .	15
(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	20
(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.	25
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:	30
(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—	35
(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.	5
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	10
(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	15
	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.	20
94P	Reporting	
(1)	If a Recovery Manager, a person acting under the authority of the Recovery Manager, or a constable exercises a power conferred under this Part, the Recovery Manager must give—	25
(a)	a written report to the Director; and	
(b)	a copy of the report to the Civil Defence Emergency Management Group.	
(1)	<u>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.</u>	30
(1A)	<u>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—</u>	35
(a)	<u>a written report to the Director; and</u>	

- (b) a copy of the report to the Civil Defence Emergency Management Group.
- (2) A report and a copy of a report under **subsection (1) or (1A)** must be given within 7 days after the date on which the relevant transition period ends.
- (3) If a power was exercised by a person other than the Recovery Manager, ~~the giving the report, that~~ Recovery Manager must consult with that person in preparing the report. 5
- (4) The report must—
- (a) identify the power or powers exercised under this Part and the person who exercised the power or powers; and 10
- (b) include the reasons for the exercise of that power or those powers.
- (5) On receiving a report under ~~—subsection (1)(a), the Director—~~
- (a) **subsection (1)**, the Director must give a copy of the report to the Minister ~~if the report relates to a national transition period; and~~
- (b) **subsection (1A)(a)**, the Director may give a copy of the report to the Minister ~~if the report relates to a local transition period.~~ 15
- (6) If the Minister receives a copy of a report under **subsection (5)**, the Minister must present it to the House of Representatives as soon as practicable.
- (6A) 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. 20
- (7) On receiving a copy of a report under ~~**subsection (1)(b)(ii)**~~**subsection (1A)(b)**, a Civil Defence Emergency Management Group must publish it on the Group's Internet site as soon as practicable.
- (8) In this section, **Recovery Manager** means a person appointed under **section 29 or 30** ~~and, but~~ does not include any person authorised by the Recovery Manager. 25

29 Section 96 amended (Withholding information or giving false or misleading information)

- (1) In section 96(1), after “section 76”, insert “or **94I(1)**”. 30
- (2) In section 96(2), after “section 77”, insert “(including as applied and modified by **section 94I(2)**)”.

30 Section 97 amended (Disclosing information)

In section 97, after “section 83”, insert “(including as applied and modified by **section 94I(2)**)”. 35

31 Section 98 amended (Obstruction)

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

- 32 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,”.
- 33 Section 100 amended (Failure to comply with prohibition or restriction on access to road or public place)** 5
- In section 100, after “section 88”, insert “or **94M**”.
- 34 Section 102 amended (Failure to comply with direction)**
- In section 102, after “section 91(a)”, insert “or **94N(a)**”.
- 35 Section 103 amended (Personation)** 10
- In section 103, after “Controller,”, insert “a Recovery Manager,”.
- 36 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”: 15
 - (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”. 20
 - (4) In section 108(5)(b)(iv), replace “or Group Controller” with “, the Group Controller, or a Group Recovery Manager appointed by the Group”.
- 37 Section 109 amended (Compensation for other matters)**
- After section 109(3), insert: 25
- (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. 30
 - (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 35

er 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.

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38 Section 110 amended (Protection from liability)

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

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

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

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40 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

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(1) ~~The Crown may, without further appropriation than this section, incur expenses to reimburse a territorial authority for, or to pay public money for the purpose of meeting, expenses incurred by a territorial authority in connection with an emergency if the expenses are incurred in respect of civil defence emergency management activities specified in the national civil defence emergency management plan or any relevant guidelines.~~

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(2) Nothing in ~~subsection (1)~~ requires the Crown—

(a) ~~to pay the expenses that a territorial authority has incurred; or~~

(b) ~~to reimburse a territorial authority.~~

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—

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(a) are incurred in respect of civil defence emergency management activities; and

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(b) meet the criteria for being reimbursed or paid in a Government policy that was in force before the emergency occurred.

Compare: 1989 No 44 s 65ZH(1)

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

Repeal section 119(4).

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42 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**

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43 Consequential amendments to other Acts

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

**44 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**.

 10

Schedule 1

New Schedule 1AA inserted

s 42

Schedule 1AA

Transitional, savings, and related provisions

5

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 2015**.

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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 2015**) 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.

15

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 2015**) may remain in office until his or her term of appointment expires.

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(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 2015**) and section 30 remains in force for the purposes of this clause.

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Schedule 2

Consequential amendments to other Acts

s 43

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”. 5

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,”. 10

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”. 15

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,— 20
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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 30

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 35

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

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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)

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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 44

Clause 2

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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**.

10

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

Clause 5

After clause 5(a), insert:

(ab) a national transition period; or

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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

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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

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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:

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(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: 5
 - (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. 10
- (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— 15
- (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 20
 - (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 25
 - (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 30

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”. 35

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”.

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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

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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”.

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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”.

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New clauses 155A and 155B

After clause 155, insert:

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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,—

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- (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.

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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: 5
- (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. 10

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,”. 15

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,”. 20

Legislative history

11 November 2015
9 February 2016

Introduction (Bill 88–1)
First reading and referral to Government Administration
Committee