



Civil Defence Emergency Management Act 2002

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Contents

1	Title	14	Membership rules for territorial authorities
2	Commencement	15	Appointment of chairperson
	Part 1	16	Powers and obligations of members of Civil Defence Emergency Management Groups
	Preliminary provisions	17	Functions of Civil Defence Emergency Management Groups
3	Purpose	18	General powers of Civil Defence Emergency Management Groups
4	Interpretation	19	Civil Defence Emergency Management Groups to follow model standing orders
5	Act to bind the Crown	20	Appointment and functions of Civil Defence Emergency Management Co-ordinating Executive Groups
6	Act not to affect functions, duties, and powers under other Acts or general law	21	Mergers of Civil Defence Emergency Management Groups
7	Precautionary approach	22	Membership rules in event of local government reorganisations
	Part 2	23	Establishment of administering authorities
	Appointment, functions, and powers of persons involved in civil defence emergency management	24	Functions and costs of administering authorities and chief executives of administering authorities
	<i>Director of Civil Defence Emergency Management</i>		<i>Appointment of persons who may declare state of local emergency</i>
8	Appointment and functions of Director of Civil Defence Emergency Management	25	Appointment of persons who may declare state of local emergency
9	Powers of Director		<i>Group Controllers</i>
	<i>National Controller</i>	26	Appointment of Group Controllers
10	Delegation of certain functions and powers of Director to National Controller	27	Appointment of Local Controller
11	Further provisions relating to delegation to National Controller	28	Functions of Group Controllers
	<i>Civil Defence Emergency Management Groups</i>		
12	Local authorities to establish Civil Defence Emergency Management Groups		
13	Membership of Civil Defence Emergency Management Groups		

- Recovery Co-ordinator*
- 29 Appointment and functions of Recovery Co-ordinator
- 30 Powers of Recovery Co-ordinator
- Part 3**
- Civil defence emergency management planning and civil defence emergency management duties**
- National civil defence emergency management strategy*
- 31 National civil defence emergency management strategy
- 32 Procedure for completing national civil defence emergency management strategy
- 33 Timing of first national civil defence emergency management strategy
- 34 Currency of national civil defence emergency management strategy
- 35 House of Representatives may resolve not to approve civil defence emergency management strategy
- 36 Amendment or revocation of national civil defence emergency management strategy
- 37 Groups and Director must not act inconsistently with national civil defence emergency management strategy
- Matters relevant to development of civil defence emergency management plans*
- 38 Matters relevant to development of civil defence emergency management plans
- National civil defence emergency management plan*
- 39 National civil defence emergency management plan
- 40 Incorporation by reference
- 41 Notification of proposed national civil defence emergency management plan
- 42 National civil defence emergency management plan must not be inconsistent with national civil defence emergency management strategy
- 43 Copy of order to be presented to House of Representatives
- 44 First national civil defence emergency management plan
- 45 Currency of national civil defence emergency management plan

- Review and amendment of national civil defence emergency management plan*
- 46 Review of national civil defence emergency management plan
- 47 Minor changes to plan
- Civil defence emergency management group plans*
- 48 Civil defence emergency management group plans
- 49 Proposed plan to be sent to Minister
- 50 Timing of first issue of guidelines under section 49(3)
- 51 Incorporation by reference
- 52 Procedure for making civil defence emergency management group plans
- 53 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
- 54 Timing of first civil defence emergency management group plan
- 55 Currency of civil defence emergency management group plan
- Review and amendment of civil defence emergency management group plans*
- 56 Review of civil defence emergency management group plans
- 57 Minor changes to plan
- General duties of government departments and others*
- 58 Departments to prepare plans to continue functioning during and after emergency
- 59 Departments and others to undertake civil defence emergency management functions and responsibilities
- Duties of lifeline utilities*
- 60 Duties of lifeline utilities
- 61 Schedule 1 may be amended by Order in Council
- 62 Minister may exempt lifeline utility
- Duties of emergency services*
- 63 Duties of emergency services
- Duties of local authorities*
- 64 Duties of local authorities

General duty to consider alternatives, etc
65 Duties to consider alternatives,
assess benefits and costs, etc

Part 4

Declaration of state of emergency

Declaration of state of national emergency

66 Minister may declare state of
national emergency

67 Parliament must meet if state of
national emergency declared

Declaration of state of local emergency

68 Declaration of state of local
emergency

69 Minister may declare state of local
emergency in certain cases

*General provisions applying to declaration
of state of national emergency or state of
local emergency*

70 Commencement and duration of
state of emergency

71 Extension of duration of state of
emergency

72 Termination of state of emergency

73 Form and publication of declaration
of state of emergency and declara-
tion extending or terminating state
of emergency

Part 5

**Powers in relation to civil defence
emergency management**

74 Statements by Director

75 Power of Director to act on default
by others

76 Power to require information

77 Appeal against requirement to give
information

78 Power of entry to obtain informa-
tion in urgent cases

79 Form and content of warrant

80 Powers conferred by warrant

81 Disposal of information

82 Certain information not to be dis-
closed or seized

83 Restriction on disclosure of
information

84 Minister's power of direction

85 Emergency powers of Civil Defence
Emergency Management Groups

86 Evacuation of premises and places

87 Entry on premises

88 Closing roads and public places

89 Removal of aircraft, vessels, vehi-
cles, etc

90 Requisitioning powers

91 Power to give directions

92 Power to carry out inspections, etc

93 Person exercising emergency pow-
ers to provide proof of identity

94 Contracts in urgent cases

Part 6

Offences, penalties, and proceedings

95 Failure to comply with requirement
in civil defence emergency manage-
ment plan

96 Withholding information or giving
false or misleading information

97 Disclosing information

98 Obstruction

99 Failure to comply with direction to
evacuate premises or place

100 Failure to comply with prohibition
or restriction on access to road or
public place

101 Offences in relation to
requisitioning

102 Failure to comply with direction

103 Personation

104 Penalty for offences

Part 7

Miscellaneous provisions

105 Delegation of powers of Director

106 Acting Director

107 Compensation if property
requisitioned

108 Compensation for loss or damage to
personal property

109 Compensation for other matters

110 Protection from liability

111 Restricted application of Resource
Management Act 1991

112 Absence on duty not to affect
employment rights

113 Recovery of costs by Civil Defence
Emergency Management Groups

114 Service of documents

115 Regulations

116 Repeal of Civil Defence Act 1983

117 Amendments to other Acts

Transitional provisions

118 Civil defence plans to continue

119 Provisions of Civil Defence Act
1983 that continue

120 Amendments to references in docu-
ments to civil defence personnel
and entities

121 Proceedings not affected

Schedule 1
Lifeline utilities

Schedule 2
Acts amended

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Civil Defence Emergency Management Act 2002.

2 Commencement

This Act comes into force on 1 December 2002.

Part 1
Preliminary provisions

3 Purpose

The purpose of this Act, which repeals and replaces the Civil Defence Act 1983, is to—

- (a) improve and promote the sustainable management of hazards (as that term is defined in this Act) in a way that contributes to the social, economic, cultural, and environmental well-being and safety of the public and also to the protection of property; and
- (b) encourage and enable communities to achieve acceptable levels of risk (as that term is defined in this Act), including, without limitation,—
 - (i) identifying, assessing, and managing risks; and
 - (ii) consulting and communicating about risks; and
 - (iii) identifying and implementing cost-effective risk reduction; and
 - (iv) monitoring and reviewing the process; and
- (c) provide for planning and preparation for emergencies and for response and recovery in the event of an emergency; and
- (d) require local authorities to co-ordinate, through regional groups, planning, programmes, and activities related to civil defence emergency management across

- the areas of reduction, readiness, response, and recovery, and encourage co-operation and joint action within those regional groups; and
- (e) provide a basis for the integration of national and local civil defence emergency management planning and activity through the alignment of local planning with a national strategy and national plan; and
 - (f) encourage the co-ordination of emergency management, planning, and activities related to civil defence emergency management across the wide range of agencies and organisations preventing or managing emergencies under this Act and the Acts listed in section 17(3).

4 Interpretation

In this Act, unless the context otherwise requires,—

administering authority means, in relation to a Civil Defence Emergency Management Group, the administering authority appointed under section 23

area, in relation to a Civil Defence Emergency Management Group, means the area that encompasses all the districts of the local authorities that are members of the Group

civil defence emergency management—

- (a) means the application of knowledge, measures, and practices that—
 - (i) are necessary or desirable for the safety of the public or property; and
 - (ii) are designed to guard against, prevent, reduce, or overcome any hazard or harm or loss that may be associated with any emergency; and
- (b) includes, without limitation, the planning, organisation, co-ordination, and implementation of those measures, knowledge, and practices

Civil Defence Emergency Management Co-ordinating Executive Group or **Executive Group** means a Group established under section 20

Civil Defence Emergency Management Group or **Group** means a Group established under section 12 or established or re-established under section 22

civil defence emergency management group plan means a plan prepared and approved under section 48

civil defence emergency management plan means a national civil defence emergency management plan or a civil defence emergency management group plan

Controller means the person who is the National Controller in accordance with section 10, or a Group Controller appointed under section 26

department means a department of the public service listed in the First Schedule of the State Sector Act 1988

Director means the Director of Civil Defence Emergency Management appointed under section 8

district has the same meaning as in section 2(1) of the Local Government Act 1974

emergency means a situation that—

- (a) is the result of any happening, whether natural or otherwise, including, without limitation, any explosion, earthquake, eruption, tsunami, land movement, flood, storm, tornado, cyclone, serious fire, leakage or spillage of any dangerous gas or substance, technological failure, infestation, plague, epidemic, failure of or disruption to an emergency service or a lifeline utility, or actual or imminent attack or warlike act; and
- (b) causes or may cause loss of life or injury or illness or distress or in any way endangers the safety of the public or property in New Zealand or any part of New Zealand; and
- (c) cannot be dealt with by emergency services, or otherwise requires a significant and co-ordinated response under this Act

emergency services means the New Zealand Police, New Zealand Fire Service, National Rural Fire Authority, rural fire authorities, and hospital and health services

Group Controller means a person appointed as a Group Controller under section 26

hazard means something that may cause, or contribute substantially to the cause of, an emergency

hospital and health service has the same meaning as in section 2 of the Health and Disability Services Act 1993

lifeline utility means an entity named or described in Part A of Schedule 1, or that carries on a business described in Part B of Schedule 1

local authority has the same meaning as in section 2(1) of the Local Government Act 1974

member means a local authority that is a member of a Civil Defence Emergency Management Group

Minister means, subject to any enactment, the Minister of the Crown who, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

national civil defence emergency management plan means a plan made under section 39

national civil defence emergency management strategy means a strategy completed under section 31

National Controller means the person who is the National Controller in accordance with section 10

national significance includes, without limitation, any case where the Minister or the Director considers that—

- (a) there is widespread public concern or interest; or
- (b) there is likely to be significant use of resources; or
- (c) it is likely that the area of more than 1 Civil Defence Emergency Management Group will be affected; or
- (d) it affects or is likely to affect or is relevant to New Zealand's international obligations; or
- (e) it involves or is likely to involve technology, processes, or methods that are new to New Zealand; or
- (f) it results or is likely to result in or contribute to significant or irreversible changes to the environment (including the global environment)

public place means a place that, at any material time, is—

- (a) open to or is being used by the public, whether free or on payment of a charge, and whether or not any owner or occupier of the place is lawfully entitled to exclude or reject any person; and
- (b) includes, without limitation, any aircraft, hovercraft, ship or ferry or other vessel, train, or vehicle carrying or available to carry passengers for reward

recovery activities means activities carried out under this Act or any civil defence emergency management plan after an emergency occurs, including, without limitation,—

- (a) the assessment of the needs of a community affected by the emergency; and
- (b) the co-ordination of resources made available to the community; and
- (c) actions relating to community rehabilitation and restoration; and
- (d) new measures to reduce hazards and risks

Recovery Co-ordinator means a Recovery Co-ordinator appointed under section 29

region has the same meaning as in section 2(1) of the Local Government Act 1974

regional council has the same meaning as in section 2(1) of the Local Government Act 1974

representative means an elected member of a local authority, including an elected member of a community board

responsible department means the department that is, with the authority of the Prime Minister, for the time being responsible for the administration of this Act

risk means the likelihood and consequences of a hazard

road has the same meaning as in section 2(1) of the Land Transport Act 1998

state of emergency means a state of national emergency or a state of local emergency

state of local emergency means a state of local emergency declared under section 68 or section 69

state of national emergency means a state of national emergency declared under section 66

State services has the same meaning as in section 2 of the State Sector Act 1988

territorial authority has the same meaning as in section 2(1) of the Local Government Act 1974

unitary authority means a territorial authority that, by virtue of section 37N(1) of the Local Government Act 1974, has the functions, duties, and powers of a regional council in respect of a region under its control

working day means any day of the week other than—

- (a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday, and Waitangi Day; and
- (b) a day in the period beginning on 25 December in any year and ending with 15 January in the following year.

5 Act to bind the Crown

This Act binds the Crown.

Compare: 1983 No 46 s 3

6 Act not to affect functions, duties, and powers under other Acts or general law

Unless this Act otherwise provides, this Act does not limit, is not in substitution for, and does not affect the functions, duties, or powers of any person under the provisions of any enactment or any rule of law.

Compare: 1983 No 46 s 4

7 Precautionary approach

All persons exercising functions in relation to the development and implementation of civil defence emergency management plans under this Act may be cautious in managing risks even if there is scientific and technical uncertainty about those risks.

Part 2

Appointment, functions, and powers of persons involved in civil defence emergency management

Director of Civil Defence Emergency Management

8 Appointment and functions of Director of Civil Defence Emergency Management

- (1) The chief executive of the responsible department may appoint under the State Sector Act 1988 a suitably qualified and experienced person as the Director of Civil Defence Emergency Management.
- (2) The functions of the Director are to—
 - (a) provide advice to the Minister on matters relating to civil defence emergency management:

- (b) identify hazards and risks that the Director considers are of national significance:
 - (c) monitor and evaluate the national civil defence emergency management strategy:
 - (d) develop, monitor, and evaluate the national civil defence emergency management plan:
 - (e) develop, in consultation with the relevant persons and organisations that have responsibilities under this Act, any guidelines, codes, or technical standards that may be required for the purposes of this Act:
 - (f) monitor the performance of Civil Defence Emergency Management Groups and persons who have responsibilities under this Act:
 - (g) promote civil defence emergency management that is consistent with the purpose of this Act:
 - (h) during a state of national emergency, direct and control for the purposes of this Act the resources available for civil defence emergency management.
- (3) The Director also has any other functions that are conferred or imposed on the Director by or under this Act or any other enactment.

Compare: 1983 No 46 ss 7, 8(1), (2)

9 Powers of Director

- (1) The Director has all the powers that are reasonably necessary or expedient to enable the Director to perform his or her functions.
- (2) Without limiting the generality of subsection (1), the Director may—
- (a) co-ordinate the use of and, during a state of national emergency, use, for the purposes of this Act, the personnel, material, information, services, and any other resources made available by departments, Civil Defence Emergency Management Groups, emergency services, New Zealand Defence Force (as provided in the Defence Act 1990), and other persons and in particular, without limitation, for—
 - (i) the provision of transport:

- (ii) the removal of endangered persons and casualties from any area affected by the emergency to areas of safety or to hospitals:
 - (iii) medical care and attention to casualties:
 - (iv) the relief of distress and suffering:
 - (v) the accommodation, feeding, care, and protection of persons:
 - (vi) the provision of other services necessary to restore community services and provide for the welfare of the public:
- (b) during a state of national emergency, control the exercise and performance of the functions, duties, and powers of Civil Defence Emergency Management Groups and Group Controllers:
 - (c) enter into arrangements, including employment arrangements, with any person for the purpose of carrying out civil defence emergency management as may be agreed:
 - (d) devise, promote, and carry out, or cause to be carried out, research and investigations into matters relating to civil defence emergency management:
 - (e) issue or cause to be issued warnings of hazards:
 - (f) disseminate information and advice on matters relating to civil defence emergency management:
 - (g) promote and carry out, or cause to be carried out, the training of personnel for civil defence emergency management purposes:
 - (h) co-ordinate the planning of civil defence emergency management between Civil Defence Emergency Management Groups:
 - (i) advise in relation to, and assist in the planning, preparation, co-ordination, and carrying out of, civil defence emergency management.
- (3) Without limiting the generality of subsection (1), the Director may issue guidelines, codes, or technical standards to any person or organisation with responsibilities under this Act, including guidelines, codes, or technical standards for—
- (a) the establishment and operation of Civil Defence Emergency Management Groups and Co-ordinating Executive Groups:

- (b) the development of Civil Defence Emergency Management Group plans and operational plans for responding to specific emergencies:
- (c) the development of Civil Defence Emergency Management plans by the Crown, local government agencies, emergency services, and lifeline utilities:
- (d) the operational role of controllers, recovery coordinators, and other persons with responsibilities under this Act:
- (e) any other matters that—
 - (i) the Director considers necessary; and
 - (ii) are consistent with the purposes of this Act.

Compare: 1983 No 46 s 8

National Controller

10 Delegation of certain functions and powers of Director to National Controller

- (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 any state of national emergency.
- (2) The Director may exercise the power of delegation at any time, whether or not a state of national emergency 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 Controller, and has all the powers conferred on the National Controller by this Act.
- (4) If no delegation has been made under this section, the Director is the National Controller and has all the powers conferred on the National Controller by this Act.

11 Further provisions relating to delegation to National Controller

- (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 10 may exercise those functions and 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 10 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 10 is revocable in writing at will, and no such delegation prevents the exercise of any function or power by the Director.
- (4) A delegation under section 10, until revoked, continues in force according to its tenor even if the Director by whom it was made has ceased to hold office.
- (5) No person is 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 10.

Civil Defence Emergency Management Groups

12 Local authorities to establish Civil Defence Emergency Management Groups

- (1) Within 6 months after the date of the commencement of this Act,—
 - (a) every regional council and every territorial authority within that region must unite to establish a Civil Defence Emergency Management Group for the purposes of this Act as a joint standing committee under section 114S of the Local Government Act 1974:
 - (b) subject to paragraph (c), a unitary authority must establish a Civil Defence Emergency Management Group for the purposes of this Act for the district of that unitary authority alone:
 - (c) instead of establishing a Civil Defence Emergency Management Group in accordance with paragraph (b), a unitary authority may unite with a unitary authority or unitary authorities that border it, or a regional council that borders it, or all or any of them, to establish a Civil Defence Emergency Management Group for the purposes of this Act as a joint standing committee under section 114S of the Local Government Act 1974.
- (2) Section 114P(5) of the Local Government Act 1974 must not be read as permitting, during a term of local government or as a consequence of a local government election, the discharge

or reconstitution of a Civil Defence Emergency Management Group established for the purposes of this Act.

- (3) Nothing in this section requires the Minister of Local Government to be a member of a Civil Defence Emergency Management Group.

13 Membership of Civil Defence Emergency Management Groups

- (1) Every local authority must be a member of a Civil Defence Emergency Management Group.
- (2) No Group may have more than 1 regional council as a member unless a merger has been approved under section 21.
- (3) Despite subsection (2), unitary authorities that border one another may be members of the same Group.
- (4) Each local authority that is a member of a Group with other local authorities must be represented on the Group by 1, and only 1, person, being the chairperson of that local authority or an elected person from that local authority who has delegated authority to act for the chairperson.

14 Membership rules for territorial authorities

- (1) A territorial authority whose district is completely within the area of a regional council must be a member of the Civil Defence Emergency Management Group of which the regional council is a member.
- (2) Each territorial authority whose district is in the area of 2 or more regional councils must, after consulting with the relevant regional councils, join any 1, but only 1, of the Groups of which the relevant regional councils are members.
- (3) A territorial authority's decision to join a particular Group under subsection (2) is irrevocable, and must be made within 2 months of the establishment of the particular Group.
- (4) If a territorial authority's decision under subsection (2) is not made before the expiry of the time limit in subsection (3), the Minister must direct the territorial authority to join 1 of the relevant Groups.
- (5) A territorial authority that is subject to a ministerial direction under subsection (4) must comply with that direction.

15 Appointment of chairperson

- (1) Each Civil Defence Emergency Management Group may appoint 1 of the representatives of its members to act as chairperson.
- (2) The appointed chairperson may hold office for the period agreed by the Group at the time of the appointment.
- (3) Despite subsection (2), the term of office of an appointed chairperson ends if that person ceases to be a representative of a member of the Group.

16 Powers and obligations of members of Civil Defence Emergency Management Groups

Each member of a Civil Defence Emergency Management Group—

- (a) may acquire, hold, and dispose of real or personal property for the use of the Group; and
- (b) may remunerate its representative for the cost of that person's participation in the Group; and
- (c) must provide to the Group the information or reports that may be required by the Group; and
- (d) must pay the costs of administrative and related services in accordance with section 24; and
- (e) must pay the costs, or a share of the costs, of any civil defence emergency management activity that the member has agreed to pay; and
- (f) may carry out any other functions or duties conferred on a member of a Group under this Act.

17 Functions of Civil Defence Emergency Management Groups

- (1) The functions of a Civil Defence Emergency Management Group, and of each member, are to—
 - (a) in relation to relevant hazards and risks,—
 - (i) identify, assess, and manage those hazards and risks;
 - (ii) consult and communicate about risks;
 - (iii) identify and implement cost-effective risk reduction;

- (b) take all steps necessary on an ongoing basis to maintain and provide, or to arrange the provision of, or to otherwise make available suitably trained and competent personnel, including volunteers, and an appropriate organisational structure for those personnel, for effective civil defence emergency management in its area:
 - (c) take all steps necessary on an ongoing basis to maintain and provide, or to arrange the provision of, or otherwise to make available material, services, information, and any other resources for effective civil defence emergency management in its area:
 - (d) respond to and manage the adverse effects of emergencies in its area:
 - (e) carry out recovery activities:
 - (f) when requested, assist other Groups in the implementation of civil defence emergency management in their areas (having regard to the competing civil defence emergency management demands within the Group's own area and any other requests for assistance from other Groups):
 - (g) within its area, promote and raise public awareness of, and compliance with, this Act and legislative provisions relevant to the purpose of this Act:
 - (h) monitor and report on compliance within its area with this Act and legislative provisions relevant to the purpose of this Act:
 - (i) develop, approve, implement, and monitor a civil defence emergency management group plan and regularly review the plan:
 - (j) participate in the development of the national civil defence emergency management strategy and the national civil defence emergency management plan:
 - (k) promote civil defence emergency management in its area that is consistent with the purpose of this Act.
- (2) A Group also has any other functions that are conferred or imposed by or under this Act or any other enactment.
- (3) For the purposes of subsection (1)(g) and (h), legislative provisions relevant to the purpose of this Act include, but are not limited to, the provisions in the following Acts that may be relevant to civil defence emergency management:
- (a) Biosecurity Act 1993:

- (b) Building Act 1991:
- (c) Fire Service Act 1975:
- (d) Forest and Rural Fires Act 1977:
- (e) Hazardous Substances and New Organisms Act 1996:
- (f) Health Act 1956:
- (g) Health and Safety in Employment Act 1992:
- (h) Local Government Act 1974:
- (i) Maritime Transport Act 1994:
- (j) Resource Management Act 1991:
- (k) any enactment passed in substitution for any of the Acts in paragraphs (a) to (j).

18 General powers of Civil Defence Emergency Management Groups

- (1) A Civil Defence Emergency Management Group has all the powers that are reasonably necessary or expedient to enable it to perform its functions, including the power to delegate any of its functions to members, the Group Controller, or other persons.
- (2) Without limiting the generality of subsection (1), a Group may—
 - (a) recruit and train volunteers for civil defence emergency management tasks:
 - (b) conduct civil defence emergency management training exercises, practices, and rehearsals:
 - (c) issue and control the use of signs, badges, insignia, and identification passes authorised under this Act, regulations made under this Act, or any civil defence emergency management plan:
 - (d) provide, maintain, control, and operate warning systems:
 - (e) provide communications, equipment, accommodation, and facilities for the exercise of its functions and powers during an emergency:
 - (f) exercise any other powers that are necessary to give effect to any civil defence emergency management plan.

Compare: 1983 No 46 s 32

19 Civil Defence Emergency Management Groups to follow model standing orders

- (1) Unless three-quarters of the representatives of the members of a Civil Defence Emergency Management Group present at a meeting of the Group agree otherwise, at its meetings the Group must follow the New Zealand Standard for standing orders (NZS: 9202:1992) or any New Zealand Standard substituted for that standard.
- (2) If the representatives of the members of the Group agree in accordance with subsection (1) to adopt other standing orders, those standing orders must not contravene the provisions of the Local Government Act 1974, the Local Government Official Information and Meetings Act 1987, or any other enactment.

20 Appointment and functions of Civil Defence Emergency Management Co-ordinating Executive Groups

- (1) A Civil Defence Emergency Management Group must establish and maintain a Civil Defence Emergency Management Co-ordinating Executive Group consisting of—
 - (a) the chief executive officer of each member local authority or a person acting on the chief executive officer's behalf; and
 - (b) a senior member of the police who is assigned for the purpose by the Commissioner of Police; and
 - (c) a senior member of the Fire Service who is assigned for the purpose by the National Commander; and
 - (d) the chief executive officer of the hospital and health services operating in the area or a person acting on the chief executive officer's behalf; and
 - (e) any other persons that may be co-opted by the Civil Defence Emergency Management Group.
- (2) Each Executive Group is responsible to the Civil Defence Emergency Management Group for—
 - (a) providing advice to the Civil Defence Emergency Management Group and any subgroups or subcommittees of the Group;
 - (b) implementing, as appropriate, the decisions of the Civil Defence Emergency Management Group;

- (c) overseeing the implementation, development, maintenance, monitoring, and evaluation of the civil defence emergency management group plan.

21 Mergers of Civil Defence Emergency Management Groups

- (1) The Minister may approve the merger of any 2 or more Civil Defence Emergency Management Groups.
- (2) A proposal for a merger under this section must be submitted to the Minister in writing and must state or provide for—
 - (a) the local authorities that will unite to establish the Group; and
 - (b) the apportionment between the local authorities of liability for the provision of financial and other resources for the activities of the proposed Group before the making of a civil defence emergency management group plan, and the basis for that apportionment; and
 - (c) who is to be the administering authority.

22 Membership rules in event of local government reorganisations

- (1) This section applies to local authorities affected by a local government reorganisation that—
 - (a) creates new regional councils or unitary authorities; or
 - (b) redraws boundaries between regional councils or unitary authorities, or between regional councils and unitary authorities; or
 - (c) extends the area of a territorial authority into the area of another regional council or unitary authority.
- (2) If this section applies, then—
 - (a) each affected regional council or unitary authority must establish or re-establish, as the case may be, a Civil Defence Emergency Management Group in accordance with this Act within 6 months of the effective date of its reorganisation:
 - (b) each territorial authority whose district is completely within the affected regional council or unitary authority must be a member of the Group of which that regional council or unitary authority is a member:

- (c) each territorial authority whose district is in the district of 2 or more affected regional councils or unitary authorities must, after consulting with the relevant regional councils or unitary authorities, join any 1, but only 1, of the Groups of which the relevant regional councils or unitary authorities are members:
 - (d) each territorial authority whose district is extended into the district of another regional council or unitary authority must, after consulting with the relevant regional councils or unitary authorities, join any 1, but only 1, of the Groups of which the relevant regional councils or unitary authorities are members.
- (3) A territorial authority's decision to join a particular Group under subsection (2)(c) or (d) is irrevocable, and must be made within 2 months of the establishment of the Group.
 - (4) If a territorial authority's decision under subsection (2)(c) or (d) is not made before the expiry of the time limit in subsection (3), the Minister must direct the territorial authority to join 1 of the relevant Groups.
 - (5) A territorial authority that is subject to a ministerial direction under subsection (4) must comply with that direction.

23 Establishment of administering authorities

- (1) The administering authority for each Civil Defence Emergency Management Group is a regional council or unitary authority that is a member of the Group.
- (2) If a unitary authority joins a Group that has a regional council as a member, the regional council must be the administering authority for that Group.
- (3) If a Group has 2 or more unitary authorities as members, the respective unitary authorities must reach an agreement within 2 months of the date on which the Group is established appointing 1 of the unitary authorities as the administering authority for that Group.
- (4) If the unitary authorities fail to reach an agreement, the Minister must—
 - (a) appoint 1 of the unitary authorities as the administering authority; or
 - (b) direct 1, some, or all of the unitary authorities to establish their own Groups.

- (5) A unitary authority that is subject to a ministerial direction under subsection (4)(b) must comply with that direction.
- (6) If a Group has 2 or more unitary authorities as members, the unitary authorities may change the administering authority for their Group only if the Minister approves, in writing, an application from the respective unitary authorities to change the administering authority for their Group.

24 Functions and costs of administering authorities and chief executives of administering authorities

- (1) An administering authority established under section 23 and, as appropriate, the chief executive of that authority are responsible for the provision of administrative and related services that may from time to time be required by the relevant Civil Defence Emergency Management Group.
- (2) The administrative and related services referred to in subsection (1) include services required for the purposes of the Local Government Act 1974, this Act, or any other Act, regulation, or bylaw that applies to the conduct of a joint standing committee under section 114S of the Local Government Act 1974.
- (3) The cost of the administrative and related services must be agreed from time to time by each Group.
- (4) Unless the members of a Group agree otherwise, the costs agreed under subsection (3) must be divided equally among the members and each member must pay 1 share of the cost.

Appointment of persons who may declare state of local emergency

25 Appointment of persons who may declare state of local emergency

- (1) A Civil Defence Emergency Management Group must appoint at least 1 person as a person authorised to declare a state of local emergency for its area.
- (2) The person or persons appointed under subsection (1) must be chosen from the representatives of the members of the Group.
- (3) If a Group appoints more than 1 person under this section, it must state in the instrument of appointment—

- (a) whether the appointee has equal status to make a declaration or whether the appointee is authorised only to act in the absence of other named persons:
 - (b) any other conditions or limitations.
- (4) If no appointed person is or is likely to be able to 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.
- (5) Despite subsections (1) to (4), the Mayor of a territorial authority, or an elected member of the territorial authority designated to act on behalf of the Mayor if the Mayor is absent, may declare a state of local emergency that covers the district of that territorial authority.

Group Controllers

26 Appointment of Group Controllers

- (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 Controller 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 be the person or persons who are to perform the functions and duties and exercise the powers of the Group Controller on the occurrence of a vacancy in the office of Group Controller or the absence from duty of the Group Controller 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 Controller appointed under subsection (1) or subsection (2).
- (4) A Group may—
 - (a) delegate the authority to replace the Group Controller during a state of emergency with a person appointed under subsection (2) to 1 or more of the representatives who are authorised under section 25(1) to declare a state of emergency for that group area; and

- (b) impose limitations on the circumstances in which the authority delegated under paragraph (a) may be used.

Compare: 1983 No 46 ss 30, 40

27 Appointment of Local Controller

- (1) A Civil Defence Emergency Management Group may appoint 1 or more persons to be a Local Controller, and direct that person or persons to carry out any of the functions and duties of, or delegated to, that Group's Group Controller and to exercise the powers of Controllers in the area for which the Group Controller is appointed, including, but not limited to, the powers in sections 86 to 94.
- (2) Despite anything in subsection (1), the Local Controller must follow any directions given by the Group Controller during an emergency.

28 Functions of Group Controllers

- (1) The Group Controller must, during a state of local emergency for the area for which the Group Controller 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.
- (2) The Group Controller must also perform any functions or duties delegated to the Group Controller by the Civil Defence Emergency Management Group or conferred on Controllers by this Act or any other enactment, and may exercise any power conferred on the Group Controller by delegation under this Act.
- (3) A Group Controller or person directed under section 27 may authorise any suitably qualified and experienced person to exercise any power or function or fulfil any duty of that Group Controller or directed person, including the power to authorise the use of those powers, functions, and duties.
- (4) No Group Controller or person directed under section 27 may exercise any power conferred on Controllers by this Act during any state of national emergency in any manner contrary to any priorities for the use of resources and services that have been determined by the Director or National Controller.

*Recovery Co-ordinator***29 Appointment and functions of Recovery Co-ordinator**

- (1) If the Minister is satisfied that a Civil Defence Emergency Management Group is, or is likely to be, unable to ensure the effective carrying out of recovery activities in its area, the Minister may, by notice in the *Gazette*, appoint, on the terms and conditions that the Minister considers fit, a suitably qualified and experienced person as the Recovery Co-ordinator for the area.
- (2) A Recovery Co-ordinator holds office for a specified term, not exceeding 28 days, and may be reappointed.
- (3) No person is 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 he or she holds the office of Recovery Co-ordinator.
- (4) Every notice appointing or reappointing a Recovery Co-ordinator must—
 - (a) specify the term of the appointment:
 - (b) specify the area in respect of which the powers of the Recovery Co-ordinator may be exercised:
 - (c) specify whether or not the Recovery Co-ordinator has the functions, duties, and powers of a Group Controller that may be conferred on the Recovery Co-ordinator under section 30:
 - (d) be published in the *Gazette* as soon as practicable.

Compare: 1983 No 46 s 69

30 Powers of Recovery Co-ordinator

- (1) A Recovery Co-ordinator is responsible to the Director for undertaking recovery activities for the area for which he or she has been appointed.
- (2) Subject to the directions of the Director, a Recovery Co-ordinator has all the functions, duties, and powers of a Group Controller if specified in the appointment notice described in section 29(4) and—
 - (a) there is no civil defence emergency management group plan; or
 - (b) the Minister is satisfied that the Group Controller for the area is, or is likely to be, unable to exercise the functions, duties, and powers that are conferred on or

imposed on a Group Controller by this Act or any other enactment.

- (3) If the powers referred to in subsection (2) are conferred on any Recovery Co-ordinator, the Recovery Co-ordinator must be treated as the Group Controller for the purposes of this Act for the area for which the Group Controller has been appointed.

Compare: 1983 No 46 s 71

Part 3

Civil defence emergency management planning and civil defence emergency management duties

National civil defence emergency management strategy

31 National civil defence emergency management strategy

- (1) The Minister must, on behalf of the Crown, complete a national civil defence emergency management strategy.
- (2) The national civil defence emergency management strategy may include statements of—
- (a) the Crown's goals in relation to civil defence emergency management in New Zealand;
 - (b) the objectives to be pursued to achieve those goals;
 - (c) the measurable targets to be met to achieve those objectives.

32 Procedure for completing national civil defence emergency management strategy

- (1) Before completing the national civil defence emergency management strategy, the Minister must—
- (a) publicly notify the proposed strategy by—
 - (i) publishing a notice in the *Gazette*; and
 - (ii) publishing a notice in 1 or more daily newspapers circulating in the major metropolitan areas; and
 - (iii) giving any other notification that the Minister considers appropriate having regard to the persons likely to have an interest in the proposal; and
 - (b) give interested persons a reasonable time, which must be specified in the notice published under paragraph (a), to make submissions on the proposal; and
 - (c) consult any persons that the Minister in each case considers appropriate.

- (2) The Minister may sign the completed national civil defence emergency management strategy and, as soon as possible after signing the strategy, must,—
 - (a) by notice in the *Gazette*, state that the strategy has been made and specify the place or places where the strategy is available to members of the public for inspection free of charge and for purchase at a reasonable price; and
 - (b) present a copy of the strategy to the House of Representatives.

33 Timing of first national civil defence emergency management strategy

The Minister must complete the first national civil defence emergency management strategy within 1 year after the date of the commencement of this Act.

34 Currency of national civil defence emergency management strategy

- (1) The national civil defence emergency management strategy—
 - (a) takes effect on the 28th day after the date of its notification in the *Gazette* or on any later date specified in the strategy; and
 - (b) subject to section 36, remains current for 10 years or any lesser period specified in the strategy.
- (2) The Minister must ensure that, at all times after the completion of the first national civil defence emergency management strategy, there is a current national civil defence emergency management strategy.

35 House of Representatives may resolve not to approve civil defence emergency management strategy

- (1) The civil defence emergency management strategy takes effect under section 34 unless, within 15 sitting days after it is presented, the House of Representatives resolves not to approve the civil defence emergency management strategy.
- (2) If the House of Representatives resolves not to approve a civil defence emergency management strategy, the Minister must, within 30 working days of that resolution,—
 - (a) complete a revised civil defence emergency management strategy under section 32; and

- (b) present the revised civil defence emergency management strategy to the House of Representatives under section 32.
- (3) The revised civil defence emergency management strategy takes effect in accordance with subsection (1).

36 Amendment or revocation of national civil defence emergency management strategy

The Minister may amend or revoke a national civil defence emergency management strategy by following, with any necessary modifications, the procedure provided in section 32 for completing a national civil defence emergency management strategy.

37 Groups and Director must not act inconsistently with national civil defence emergency management strategy

- (1) A Civil Defence Emergency Management Group must ensure that its actions in exercising or performing its functions, duties, and powers under this Act are not inconsistent with any national civil defence emergency management strategy that is for the time being in force.
- (2) The Director must ensure that his or her actions in exercising or performing his or her functions, duties, and powers under this Act are not inconsistent with any national civil defence emergency management strategy that is for the time being in force.

Matters relevant to development of civil defence emergency management plans

38 Matters relevant to development of civil defence emergency management plans

All persons exercising functions in relation to the development of civil defence emergency management plans under this Act must have regard to—

- (a) the responsibility of people and communities to provide for their own well-being and the well-being of future generations;
- (b) the benefits to be derived for people and communities from the management of hazards and risks;
- (c) New Zealand's international obligations.

*National civil defence emergency management plan***39 National civil defence emergency management plan**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make a national civil defence emergency management plan.
- (2) The national civil defence emergency management plan must state and provide for—
 - (a) the hazards and risks to be managed at the national level;
 - (b) the civil defence emergency management necessary at the national level to manage the hazards and risks described under paragraph (a);
 - (c) the objectives of the plan and the relationship of each objective to the national civil defence emergency management strategy;
 - (d) the co-ordination of civil defence emergency management during a state of national emergency;
 - (e) the period for which the plan remains in force.
- (3) The national civil defence emergency management plan may authorise a person to exercise the power in section 88.
- (4) A national civil defence emergency management plan made under this section is a regulation for the purposes of the Acts and Regulations Publication Act 1989, but is not a regulation for the purposes of the Regulations (Disallowance) Act 1989.

40 Incorporation by reference

- (1) Any written material or document that, in the opinion of the Minister, is too large or otherwise impractical to be printed as part of a national civil defence emergency management plan may be incorporated by reference.
- (2) Any material incorporated by reference under this section is to be treated for all purposes as forming part of the plan.
- (3) If any amendment to the material incorporated by reference under this section is made, the amendment does not come into force as part of the plan until—
 - (a) an amendment to that effect to the plan has been made under this Act; or
 - (b) a date specified by the Minister by notice in the *Gazette*.

- (4) All material incorporated by reference under this section must be available at the office of the Director and copies of that material must be available for purchase for a reasonable charge.

41 Notification of proposed national civil defence emergency management plan

- (1) The Minister must not recommend to the Governor-General the making of a national civil defence emergency management plan unless the Minister—
- (a) has publicly notified the proposed plan by—
 - (i) publishing a notice in the *Gazette*; and
 - (ii) publishing a notice in 1 or more daily newspapers circulating in the major metropolitan areas; and
 - (iii) giving any other notification that the Minister considers appropriate, having regard to the persons likely to have an interest in the proposal; and
 - (b) has presented the proposed plan to the House of Representatives at least 90 days before making the recommendation.
- (2) Every notice under this section must include—
- (a) a description of the proposed plan;
 - (b) a statement that submissions on the proposed plan may be made in writing to the Minister by any person;
 - (c) a closing date for submissions (which must not be earlier than 40 working days after notification under this section);
 - (d) a statement that every submission should state—
 - (i) those aspects of the proposed plan that the submission supports; and
 - (ii) those aspects of the proposed plan that the submission opposes; and
 - (iii) the reasons for the support and opposition identified; and
 - (iv) any specific alternatives to the proposed plan that the person making the submission wishes to recommend;
 - (e) a list of the places where a copy of the proposal for the plan may be obtained or inspected;
 - (f) an address for submissions.

42 National civil defence emergency management plan must not be inconsistent with national civil defence emergency management strategy

The Minister must not recommend to the Governor-General the making of a national civil defence emergency management plan if the plan will be inconsistent with the national civil defence emergency management strategy in force when the plan takes effect.

43 Copy of order to be presented to House of Representatives

As soon as is practicable after an order has been made under section 39, the Minister must present a copy of the order to the House of Representatives.

44 First national civil defence emergency management plan

The Minister must, no later than 3 years after the date of the commencement of this Act, recommend that the Governor-General make an Order in Council under this section making the first national civil defence emergency management plan.

45 Currency of national civil defence emergency management plan

A national civil defence emergency management plan—

- (a) takes effect on the date specified in the Order in Council making the plan under section 39, which date must be no earlier than the 28th day after the date of the notification of the order in the *Gazette*; and
- (b) remains operative for the period specified in the Order in Council, but if the plan is not replaced before the close of that period it continues in force until replaced.

Review and amendment of national civil defence emergency management plan

46 Review of national civil defence emergency management plan

- (1) If a national civil defence emergency management plan has been operative for 5 years or more and it is more than 5 years since the plan has been reviewed under this section, the Minister must review the plan.

- (2) The Minister may at any time review a national civil defence emergency management plan.
- (3) Following a review, the Minister may recommend that the plan be amended or revoked and replaced or may decide not to recommend that the plan be changed.
- (4) A review under this section is commenced by a proposal notified in accordance with section 41, and sections 39, 40, 43 and 45 apply to that review with any necessary modifications.

47 Minor changes to plan

- (1) Subject to subsection (2), a national civil defence emergency management plan may be amended by the Governor-General, by Order in Council made on the recommendation of the Minister, without a review of the plan under section 46.
- (2) A plan may be amended under this section only if the Minister is satisfied that the amendment will have no effect or no likely effect on the rights of any person and no effect or no more than a minor effect on the obligations of any person.

Civil defence emergency management group plans

48 Civil defence emergency management group plans

Every Civil Defence Emergency Management Group must prepare and approve a civil defence emergency management group plan.

49 Proposed plan to be sent to Minister

- (1) Before approving a civil defence emergency management group plan, a Civil Defence Emergency Management Group must send a copy of the proposed plan to the Minister for his or her comments and must allow the Minister 20 working days to comment.
- (2) The plan must state and provide for—
 - (a) the local authorities that have united to establish the Civil Defence Emergency Management Group;
 - (b) the hazards and risks to be managed by the Group;
 - (c) the civil defence emergency management necessary to manage the hazards and risks described under paragraph (b):

- (d) the objectives of the plan and the relationship of each objective to the national civil defence emergency management strategy:
 - (e) the apportionment between local authorities of liability for the provision of financial and other resources for the activities of the Group, and the basis for that apportionment:
 - (f) the arrangements for declaring a state of emergency in the area of the Group:
 - (g) the arrangements for co-operation and co-ordination with other Groups:
 - (h) the period for which the plan remains in force.
- (3) The Director must issue written guidelines in relation to the matters described in subsection (2).
- (4) The civil defence emergency management group plan may authorise a person to exercise the power in section 88.

50 Timing of first issue of guidelines under section 49(3)

The Director must, within 12 months after the commencement of this Act, issue the first written guidelines under section 49(3).

51 Incorporation by reference

- (1) Any written material or document that, in the opinion of the Civil Defence Emergency Management Group, is too large or otherwise impractical to be printed as part of a civil defence emergency management group plan may be incorporated by reference.
- (2) Any material incorporated by reference under this section is to be treated for all purposes as forming part of the plan.
- (3) If any amendment to the material incorporated by reference under this section is made, the amendment does not come into force as part of the plan until—
 - (a) an amendment to that effect to the plan has been made under this Act; or
 - (b) a date specified by the Group by notice in the major metropolitan daily newspaper circulating in the Group's area.
- (4) All material incorporated by reference under this section must be available at the office of the Group and copies of that

material must be available for purchase for a reasonable charge.

52 Procedure for making civil defence emergency management group plans

- (1) Before making a civil defence emergency management group plan, a Civil Defence Emergency Management Group must—
 - (a) give public notice, and any specific notice that the Group considers appropriate, of the proposal to make a plan; and
 - (b) specify in every notice given under paragraph (a) a period within which persons interested in the proposal may make submissions on the proposal to—
 - (i) the Group; or
 - (ii) a subgroup or committee of the Group; and
 - (c) ensure that any person who makes written submissions on the proposal within the period specified in the notice given under paragraph (a) is given a reasonable opportunity to be heard by the body to which the submissions are made; and
 - (d) make all written submissions on the proposal available to the public unless there is some good reason in law why it should not do so; and
 - (e) ensure that the final decision in relation to the proposal is made at a meeting of the Group.
- (2) The period specified under subsection (1)(b)—
 - (a) must not be less than 1 month; and
 - (b) unless the Group otherwise directs, must not be more than 3 months.

53 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) A civil defence emergency management group plan must not be inconsistent with the national civil defence emergency management strategy in force when the plan is approved.
- (2) A civil defence emergency management group plan must take account of the guidelines, codes, or technical standards issued by the Director under this Act.

54 Timing of first civil defence emergency management group plan

Every Civil Defence Emergency Management Group must prepare and approve its first civil defence emergency management group plan within 2 years after the date on which the Group is established.

55 Currency of civil defence emergency management group plan

A civil defence emergency management group plan—

- (a) takes effect on the date of the final decision taken under section 52(1)(e); and
- (b) remains operative for the period specified in the plan, but if the plan is not replaced before the close of that period it continues in force until replaced.

Review and amendment of civil defence emergency management group plans

56 Review of civil defence emergency management group plans

- (1) If a civil defence emergency management group plan has been operative for 5 years or more and it is more than 5 years since the plan has been reviewed under this section, the Civil Defence Emergency Management Group concerned must review the plan.
- (2) A Group may at any time review any civil defence emergency management group plan made by it.
- (3) Following a review, the Group may amend or revoke and replace the plan or leave the plan unchanged.
- (4) A review under this section is commenced by a proposal notified in accordance with section 52, and sections 49, 51, and 55 apply to that review with any necessary modifications.

57 Minor changes to plan

- (1) Subject to subsection (2), a civil defence emergency management group plan may be amended by the Civil Defence Emergency Management Group concerned without a review of the plan under section 56.

- (2) A plan may be amended under this section only if the Group is satisfied that the amendment will have no effect or no likely effect on the rights of any person and no effect or no more than a minor effect on the obligations of any person.

General duties of government departments and others

58 Departments to prepare plans to continue functioning during and after emergency

Every department must—

- (a) ensure that it is able to function to the fullest possible extent, even though this may be at a reduced level, during and after an emergency;
- (b) make available to the Director in writing, on request, its plan for functioning during and after an emergency.

Compare: 1983 No 46 s 43

59 Departments and others to undertake civil defence emergency management functions and responsibilities

Every department, Civil Defence Emergency Management Group, local authority, emergency service, and lifeline utility, and any other person required by this Act or any regulations made under this Act, or any civil defence emergency management plan, to undertake civil defence emergency management or to perform any functions or duties, must take all necessary steps to undertake civil defence emergency management or to perform those functions and duties.

Compare: 1983 No 46 s 44

Duties of lifeline utilities

60 Duties of lifeline utilities

Every lifeline utility must—

- (a) ensure that it is able to function to the fullest possible extent, even though this may be at a reduced level, during and after an emergency;
- (b) make available to the Director in writing, on request, its plan for functioning during and after an emergency;
- (c) participate in the development of the national civil defence emergency management strategy and civil defence emergency management plans:

- (d) provide, free of charge, any technical advice to any Civil Defence Emergency Management Group or the Director that may be reasonably required by that Group or the Director;
- (e) ensure that any information that is disclosed to the lifeline utility is used by the lifeline utility, or disclosed to another person, only for the purposes of this Act.

61 Schedule 1 may be amended by Order in Council

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister,—
 - (a) add the name of an entity or description of an entity to Part A of Schedule 1; or
 - (b) omit the name of an entity or description of an entity from Part A of Schedule 1; or
 - (c) amend the name of an entity or the description of an entity in Part A of Schedule 1; or
 - (d) add a description of a class of business to Part B of Schedule 1; or
 - (e) omit a description of a class of business from Part B of Schedule 1; or
 - (f) amend the description of a class of business in Part B of Schedule 1; or
 - (g) otherwise amend Schedule 1 or revoke Schedule 1 or a part of the schedule, and substitute a new schedule or a new part, as the case may require.
- (2) The Minister must not recommend the addition of the name of an entity or description of an entity to Part A of Schedule 1 unless the Minister is satisfied that the entity operates a service or system the reduced availability, or non-availability, of which would constitute a hazard.
- (3) The Minister must not recommend the addition of a description of a class of business to Part B of Schedule 1 unless the Minister is satisfied that the business provides a service or system the reduced availability, or non-availability, of which would constitute a hazard.

62 Minister may exempt lifeline utility

The Minister may, by notice in the *Gazette*, on any conditions that the Minister thinks fit, exempt a particular entity

described in, or carrying on a business described in, Schedule 1 in whole or in part from the provisions of this Act relating to lifeline utilities if the Minister is satisfied that the application of the provisions is not appropriate in the case of that entity.

Duties of emergency services

63 Duties of emergency services

Emergency services must—

- (a) participate in the development of the national civil defence emergency management strategy and civil defence emergency management plans:
- (b) provide an active member for each of the Civil Defence Emergency Management Co-ordinating Executive Groups, as required by section 20.

Duties of local authorities

64 Duties of local authorities

- (1) A local authority must plan and provide for civil defence emergency management within its district.
- (2) A local authority must ensure that it is able to function to the fullest possible extent, even though this may be at a reduced level, during and after an emergency.

Compare: 1983 No 46 s 43

General duty to consider alternatives, etc

65 Duties to consider alternatives, assess benefits and costs, etc

- (1) In achieving the purpose of this Act, before proposing, recommending, or adopting any provisions or regulations in relation to any function described in subsection (2), any person described in that subsection must—
 - (a) have regard to—
 - (i) the extent, if any, to which the provisions or regulations are necessary to achieve the purpose of this Act; and
 - (ii) other means in addition to or in place of the provisions or regulations that, under this Act or any other enactment, may be used in achieving

- the purpose of this Act, including the provision of information, services, or incentives; and
- (iii) the reasons for and against proposing, recommending, or adopting the proposed provisions or regulations and the principal alternative means available, or of taking no action if this Act does not require otherwise; and
- (b) carry out an evaluation, which the Minister or the Civil Defence Emergency Management Group is satisfied is appropriate to the circumstances, of the likely benefits and costs of the principal alternative means; and
 - (c) be satisfied that the provisions or regulations (or any combination of them)—
 - (i) are necessary to achieve the purpose of this Act; and
 - (ii) are the most appropriate means to achieve that purpose, having regard to their efficiency and effectiveness relative to other means.
- (2) Subsection (1) applies to—
- (a) the Minister, in relation to—
 - (i) proposing any national civil defence emergency management plan provisions:
 - (ii) recommending the making of regulations for the purpose of this Act that impose requirements on persons other than the Minister, the Director, or Civil Defence Emergency Management Groups (or their employees or agents):
 - (iii) recommending the making of an order under section 61:
 - (b) a Civil Defence Emergency Management Group, in relation to adopting any civil defence emergency management group plan provisions that impose requirements on persons other than the Group, its member local authorities, or emergency services (or their employees or agents).

Part 4

Declaration of state of emergency

Declaration of state of national emergency

66 Minister may declare state of national emergency

- (1) The Minister may declare that a state of national emergency exists over the whole of New Zealand or any areas or districts if at any time it appears to the Minister that—
- (a) an emergency has occurred or may occur; and
 - (b) the emergency is, or is likely to be, of such extent, magnitude, or severity that the civil defence emergency management necessary or desirable in respect of it is, or is likely to be, beyond the resources of the Civil Defence Emergency Management Groups whose areas may be affected by the emergency.
- (2) The Minister must advise the House of Representatives as soon as practicable where a state of national emergency has been declared or extended.
- (3) If a declaration of a state of national emergency is made, any other state of emergency then in force in the area to which the state of national emergency applies ceases to have effect.

Compare: 1983 No 46 ss 46, 50

67 Parliament must meet if state of national emergency declared

- (1) Subsection (3) applies if—
- (a) a declaration of a state of national emergency is made; and
 - (b) Parliament—
 - (i) has been prorogued until a date more than 7 days after the date on which the declaration is made or the date on which Parliament is next to meet has not been determined; or
 - (ii) has been dissolved or has expired and no Proclamation has been made summoning Parliament to meet on a day not later than 7 days after the date on which the declaration is made.
- (2) Subsection (4) applies if—
- (a) a declaration of a state of national emergency is made; and

- (b) the House of Representatives is adjourned until a date more than 7 days after the date on which the declaration is made.
- (3) If this subsection applies,—
- (a) a Proclamation must be made appointing a day for Parliament to meet, being—
 - (i) a day not later than 7 days after the date of the making of the declaration of a state of national emergency; or
 - (ii) if the declaration is made after the date on which Parliament has been dissolved or has expired and before the latest day appointed under the Electoral Act 1993 for the return of the writ for the election of members of Parliament, a day not later than 7 days after the latest day appointed for the return of the writ; and
 - (b) Parliament must meet and sit on the day appointed.
- (4) If this subsection applies,—
- (a) the Speaker of the House of Representatives must, as soon as practicable, by notice in the *Gazette*, appoint a day and time for the House of Representatives to meet, being a day not later than 7 days after the date of the making of the declaration; and
 - (b) the House of Representatives must meet and sit at the time and on the day specified in the notice.

Compare: 1983 No 46 s 49

Declaration of state of local emergency

68 Declaration of state of local emergency

- (1) A person appointed for the purpose under section 25 may declare that a state of local emergency exists in the area for which the person is appointed if at any time it appears to the person that an emergency has occurred or may occur within the area.
- (2) A person who is authorised to declare a state of local emergency may declare that the state of local emergency exists in respect of the whole area of the Civil Defence Emergency Management Group concerned or 1 or more districts or wards within the area.

- (3) A state of local emergency may be declared in respect of an area that is not affected by an emergency if, in the opinion of any person authorised to declare a state of local emergency in respect of that area, the resources of that area are needed to assist any other area where a state of local emergency is in force.
- (4) The fact that a person purporting to be authorised by section 25 declares a state of local emergency is, in the absence of proof to the contrary, conclusive evidence that the person is a person authorised under that section to do so.
- (5) Nothing in this section authorises a person to declare a state of local emergency for any part of New Zealand while a state of national emergency is in force in respect of that part.

Compare: 1983 No 46 ss 51, 52

69 Minister may declare state of local emergency in certain cases

- (1) If at any time it appears to the Minister that an emergency has occurred or may occur in the area of any Civil Defence Emergency Management Group and a state of local emergency has not been declared under section 68, the Minister may declare a state of local emergency for that area.
- (2) Nothing in this section authorises the Minister to declare a state of local emergency for any part of New Zealand while a state of national emergency is in force in respect of that part.

General provisions applying to declaration of state of national emergency or state of local emergency

70 Commencement and duration of state of emergency

- (1) A state of emergency comes into force immediately on the making of the declaration declaring it, or at a later time and date stated in that declaration.
- (2) A state of emergency expires with the commencement of the seventh day after the date on which it was declared, or any earlier time and date that may be stated in the declaration of the state of emergency.
- (3) Nothing in this section prevents the extension or termination of a state of emergency under section 71 or section 72.

Compare: 1983 No 46 s 54

71 Extension of duration of state of emergency

- (1) The duration of a state of national emergency may be extended by declaration made by the Minister.
- (2) The duration of a state of local emergency may be extended by declaration by a person authorised to declare a state of local emergency for the area concerned.
- (3) Every extension of a state of emergency expires with the commencement of the seventh day after the date on which it was declared, or at any earlier time and date that may be stated in the declaration of the extension of the duration of the state of emergency.
- (4) Nothing in this section prevents the termination of a state of emergency under section 72, or the making of another declaration under this section, before the expiration of the state of emergency (as extended), further extending the state of emergency.

Compare: 1983 No 46 s 55

72 Termination of state of emergency

- (1) A person who is authorised to declare a state of emergency may, by declaration, terminate that state of emergency, whether or not the declaration of the state of emergency or any extension of it was made by that person.
- (2) Every declaration made under subsection (1) takes effect from the time and date of the declaration, or any later time and date that may be stated in the declaration.

Compare: 1983 No 46 s 56

73 Form and publication of declaration of state of emergency and declaration extending or terminating state of emergency

- (1) A person who declares a state of emergency, or extends or terminates a state of emergency, must do so by a declaration in the appropriate form prescribed in regulations made under section 115, or a form of similar effect.
- (2) The validity of a declaration made under subsection (1) is not affected by the inclusion in it of any additional information not specified in the appropriate prescribed form.

- (3) A person who makes a declaration in accordance with subsection (1) must immediately give notice to the public of the declaration by any means of communication that are reasonably practicable in the circumstances of the case, and must ensure that the declaration is published in the *Gazette* as soon as practicable.

Compare: 1983 No 46 s 57

Part 5

Powers in relation to civil defence emergency management

74 Statements by Director

- (1) The Director may, for the purpose of protecting the public, publish statements relating to any emergency, or to the performance or non-performance of any duty imposed on any person by or under this Act.
- (2) Every statement published under this section is protected by qualified privilege.

75 Power of Director to act on default by others

- (1) If a Civil Defence Emergency Management Group or person (other than the Minister) fails to commence or to complete the performance of a function or duty under this Act within the time that the Director considers reasonable, the Director may commence and complete the performance of the function or duty.
- (2) For the purposes of this section, the Director may employ any officers, employees, contractors, and others that may be necessary.
- (3) Subject to subsections (4) to (6), if work is done or a function or duty is exercised or performed by or on behalf of the Director under this section, it must be treated for all purposes as having been done, exercised, or performed, as the case may be, by the Civil Defence Emergency Management Group or person responsible for performing the function or duty.
- (4) All expenses incurred by the Director under this section must be paid in the first instance out of public money.
- (5) Public money so paid, together with reasonable costs for administration, is recoverable as a debt due to the Crown from

the Civil Defence Emergency Management Group or person responsible for performing the function or duty, or may be deducted from any money payable by the Crown to that debtor.

- (6) All money recovered from a debtor under this section, or deducted under subsection (5), must be paid into the Crown Bank Account or a departmental bank account.
- (7) Nothing in this section limits the powers of the Minister under section 29.

Compare: 1956 No 65 s 123

76 Power to require information

- (1) The Director, or a Civil Defence Emergency Management Group, or a person acting under the authority of the Director or Group, may, by notice in writing, require any person to give the Director or the Group information described in subsection (2).
- (2) The information referred to in subsection (1) is information that, in the opinion of the Director or the Group, as the case may be, is reasonably necessary for the exercise of civil defence emergency management by the Director or the Civil Defence Emergency Management Group, as the case may be, and that is—
 - (a) in the possession of the person who is asked to give the information; and
 - (b) capable of being provided without unreasonable difficulty or expense.
- (3) The information required to be given under subsection (1) must be given—
 - (a) in the form specified by the Director or the Group; and
 - (b) within the reasonable time that is specified by the Director or the Group; and
 - (c) free of charge.

77 Appeal against requirement to give information

- (1) A person who is required to give information under section 76 may appeal to a District Court on the grounds that the requirement is unreasonable.
- (2) The appeal must be brought within 10 working days after the date on which the requirement to give information was

imposed, or within any further time that a District Court may allow.

- (3) The Court must inquire into the circumstances of the requirement and may vary, rescind, or confirm it.
- (4) An appeal against a requirement to give information operates as a stay of the requirement.

78 Power of entry to obtain information in urgent cases

- (1) This section applies if a state of emergency is in force or the Director, a Controller, or a person authorised by a Civil Defence Emergency Management Group considers that an imminent threat of an emergency exists.
- (2) If this section applies, a District Court Judge may, by warrant, authorise any member of the police to enter and search any premises, not being a dwellinghouse, to obtain information if satisfied on oath by the Director, a Controller, or a person authorised by a Civil Defence Emergency Management Group that—
 - (a) the information is urgently required in order to prevent or limit the extent of the emergency; and
 - (b) the person in possession of the information has refused to provide the information.
- (3) A warrant may be issued under this section—
 - (a) even if a requirement to give the information referred to in subsection (2) has been imposed at an earlier time under section 76; and
 - (b) whether or not appeal proceedings or the prosecution of an offence in respect of that requirement have been completed.

79 Form and content of warrant

A warrant issued under section 78 must—

- (a) be in the prescribed form; and
- (b) state the period, not exceeding 10 days, for which it is valid; and
- (c) be directed to any member of the police by name, or to any class of members of the police stated in the warrant, or generally to every member of the police; and
- (d) be subject to any special conditions that the District Court Judge may state in the warrant.

80 Powers conferred by warrant

- (1) Subject to any special conditions stated in the warrant under section 79, every warrant issued under section 78 authorises the member of the police executing the warrant—
- (a) to enter and search the premises stated in the warrant at any time by day or night during the currency of the warrant; and
 - (b) to use any assistants that may be reasonable in the circumstances for the purpose of the entry and search; and
 - (c) to use any force that is reasonable in the circumstances for the purposes of effecting entry, and for breaking open anything in or on the place searched; and
 - (d) to search for and seize the information referred to in section 78, and for that purpose,—
 - (i) to take copies of any document, or extracts from any document; and
 - (ii) to require any person who has a document in his or her possession or under his or her control to reproduce, or to assist the person executing the warrant to reproduce, in usable form, any information recorded or stored in the document.
- (2) Every person called on to assist any member of the police executing a warrant issued under section 78 has the powers described in paragraphs (c) and (d) of subsection (1).

81 Disposal of information

- (1) If a member of the police seizes any information or document under section 80, the member of the police must—
- (a) give it to the Director, a Controller, or a person authorised by a Civil Defence Emergency Management Group; or
 - (b) if it is no longer required for the purpose for which it was seized, return it to the person from whom it was seized.
- (2) Any person to whom a member of the police gives any information or document under subsection (1)(a) must return it to the person from whom it was seized when the information is no longer required for the purpose for which it was seized.

82 Certain information not to be disclosed or seized

- (1) No requirement to give information that is imposed under section 76 requires any person to give—
 - (a) information concerning the medical condition or history of any person; or
 - (b) information that is protected by legal professional privilege.
- (2) Nothing in section 80 authorises the seizure of information that is of a kind described in subsection (1).

83 Restriction on disclosure of information

- (1) If information is received by any person following a requirement to give information imposed under section 60 or section 76 or following the execution of a warrant issued under section 78, that person must not disclose or use that information except for the purposes of this Act.
- (2) No person to whom any information is disclosed under subsection (1) may disclose or use that information except for the purposes of this Act.

84 Minister's power of direction

- (1) This section applies if—
 - (a) a state of emergency is in force, or the Minister considers that an imminent threat of an emergency exists; and
 - (b) 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 or exercise any of the functions, duties, or powers conferred on that person or Group under this Act; or
 - (b) to cease to perform or exercise any of the functions, duties, or powers conferred on that person or Group under this Act.
- (3) If, under this section, the Minister directs any Civil Defence Emergency Management Group or person to perform any function or duty or exercise any power, the Minister may

direct that the function, duty, or power must be performed or exercised under the control and to the satisfaction of the Director.

Compare: 1983 No 46 s 73

85 Emergency powers of Civil Defence Emergency Management Groups

- (1) While a state of emergency is in force in its area, a Civil Defence Emergency Management Group 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) removing or disposing of, or securing or otherwise making safe, dangerous structures and materials wherever they may be:
 - (b) provide for the rescue of endangered persons and their removal to areas of safety:
 - (c) set up first aid posts, and provide for first aid to be given to casualties and for their movement to hospital, other place of treatment, or areas of safety:
 - (d) provide for the relief of distress, including emergency food, clothing, and shelter:
 - (e) provide for the conservation and supply of food, fuel, and other essential supplies:
 - (f) prohibit or regulate land, air, and water traffic within the area or district to the extent necessary to conduct civil defence emergency management:
 - (g) undertake emergency measures for the disposal of dead persons or animals if it is satisfied that the measures are urgently necessary in the interests of public health:
 - (h) disseminate information and advice to the public:
 - (i) enter into arrangements, including employment arrangements, with any person for the purpose of carrying out civil defence emergency management as may be agreed:
 - (j) provide equipment, accommodation, and facilities for the exercise of any of the powers conferred by this subsection.

- (2) A Civil Defence Emergency Management Group must not act inconsistently with any directions given by the Minister or the Director.

Compare: 1983 No 46 s 58(5)

86 Evacuation of premises and places

If a state of emergency is in force and, in the opinion of a Controller or any member of the police, the action authorised by this section is necessary for the preservation of human life, that person or a person authorised by him or her may require, within the area or district in which the emergency is in force,—

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

Compare: 1983 No 46 s 60(1)

87 Entry on premises

If a state of emergency is in force in any area, a Controller or a member of the police, or any person acting under the authority of a Controller or member of the police, may enter on, and if necessary break into, any premises or place within the area or district in respect of which the state of emergency is in force 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.

Compare: 1983 No 46 s 61

88 Closing roads and public places

If a state of emergency is in force, a Controller or a member of the police, or any person acting under the authority of a Controller or member of the police, or any person so authorised in a relevant civil defence emergency management plan, may, in order to prevent or limit the extent of the emergency, totally or partially prohibit or restrict public access, with or without vehicles, to any road or public place within the

area or district in respect of which the state of emergency is in force.

Compare: 1983 No 46 s 62(1)

89 Removal of aircraft, vessels, vehicles, etc

If a state of emergency is in force, a Controller or a member of the police, or any other person acting under the authority of a Controller or member of the police, may, in order to prevent or limit the extent of the emergency,—

- (a) remove from any place within the area or district in respect of which the state of emergency is in force, any aircraft, hovercraft, ship or ferry or other vessel, train, or vehicle impeding civil defence emergency management; and
- (b) if reasonably necessary for that purpose, use force or break into the aircraft, hovercraft, ship or ferry or other vessel, train, or vehicle.

Compare: 1983 No 46 s 63

90 Requisitioning powers

- (1) This section applies if a state of emergency is in force and, in the opinion of a Controller or a member of the police, the action authorised by this section is necessary for the preservation of human life.
- (2) The Controller or member of the police, or a person authorised by him or her, may direct the owner or person for the time being in control of any land, building, vehicle, animal, boat, apparatus, implement, earth-moving equipment, construction materials or equipment, furniture, bedding, food, medicines, medical supplies, or any other equipment, materials, or supplies, to immediately place that property (**requisitioned property**)—
 - (a) under his or her control and direction; or
 - (b) under the control and direction of a Controller or a member of the police, or person authorised by that Controller or member of the police, if that person has requested the person making the requisition to do so on his or her behalf.
- (3) A person exercising any power conferred on him or her by this section must give to the owner or person in charge of the

requisitioned property a written statement specifying the property that is requisitioned and the person under whose control the property is to be placed.

- (4) If the owner or person for the time being in control of any property that may be requisitioned under this section cannot be immediately found, a Controller or a member of the police, or a person authorised by a Controller or member of the police, may assume immediately the control and direction of the requisitioned property.
- (5) If a person assumes the control and direction of requisitioned property under subsection (4), that person must ensure that, as soon as is reasonably practicable in the circumstances, a written statement specifying the property that has been requisitioned and the person under whose control it has been placed is given to the owner or person formerly in charge of the requisitioned property.
- (6) The owner or person in control of any property immediately before it is requisitioned under this section must provide the person exercising the power under this section with any assistance that the person may reasonably require for the effective and safe use of that property.

Compare: 1983 No 46 s 64(1)–(4)

91 Power to give directions

While a state of emergency is in force, a Controller or a member of the police, or any person acting under the authority of a Controller or member of the police, may—

- (a) direct any person to stop any activity that may cause or substantially contribute to an emergency;
- (b) request any person, either verbally or in writing, to take any action to prevent or limit the extent of the emergency.

Compare: 1996 No 30 s 137(1)(d), (e)

92 Power to carry out inspections, etc

While a state of emergency is in force, a Controller or a member of the police, or any person acting under the authority of a Controller or member of the police, may examine, mark, seize, sample, secure, disinfect, or destroy any property,

animal, or any other thing in order to prevent or limit the extent of the emergency.

93 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.

Compare: 1983 No 46 s 59

94 Contracts in urgent cases

- (1) Despite anything in the Public Bodies Contracts Act 1959, the following persons may, during a state of emergency, enter into any contract on behalf of a Civil Defence Emergency Management Group for any of the purposes of this Act:

- (a) the chairperson of the Group;
- (b) the deputy chairperson of the Group;
- (c) any employee of the Group who is authorised for the purpose in the Group's civil defence emergency management plan;
- (d) the Group Controller.

- (2) A person who exercises the power conferred on him or her by this section must report the full circumstances of its exercise to the Civil Defence Emergency Management Group at its next ordinary meeting or, if that is not practicable, at its next succeeding ordinary meeting.

Compare 1983 No 46 s 68

Part 6

Offences, penalties, and proceedings

95 Failure to comply with requirement in civil defence emergency management plan

A person commits an offence who intentionally fails to comply with a requirement in a civil defence emergency management plan.

96 Withholding information or giving false or misleading information

- (1) A person commits an offence who, when required under section 76 to provide information,—
 - (a) intentionally fails or refuses to supply the information within the time specified in the request; or
 - (b) knowingly gives false information.
- (2) No prosecution may be brought under this section before the time for appeal has expired under section 77 and, if a person appeals under that section, no prosecution may be brought under this section pending the determination of the appeal.

97 Disclosing information

A person who intentionally discloses or uses information in breach of section 83 commits an offence.

98 Obstruction

A person commits an offence who, during a state of emergency, threatens, assaults, or intentionally obstructs or hinders any person in that person's exercise or performance of a function, power, or duty under this Act.

Compare: 1983 No 46 s 77(a)

99 Failure to comply with direction to evacuate premises or place

- (1) A person commits an offence who intentionally fails to comply with any direction given to the person under section 86.
- (2) It is a defence to any proceedings for an offence against this section if the Court is satisfied that the Controller or member of the police did not have reasonable grounds for believing that in all the circumstances of the case the requirement was necessary for the preservation of human life.

Compare: 1983 No 46 s 60(2), (3)

100 Failure to comply with prohibition or restriction on access to road or public place

A person commits an offence who intentionally fails to comply with any prohibition or restriction imposed under section 88.

Compare: 1983 No 46 s 62(2)

101 Offences in relation to requisitioning

- (1) A person commits an offence who—
- (a) intentionally fails to comply with any direction given to him or her under section 90(2); or
 - (b) intentionally fails to provide assistance under section 90(6).
- (2) It is a defence in any proceedings for an offence against subsection (1)(a) if the Court is satisfied that the Controller or the member of the police did not have reasonable grounds for believing that in all the circumstances of the case the direction requisitioning property was necessary for the preservation of human life.
- (3) It is a defence in any proceedings for an offence against subsection (1)(b) if the Court is satisfied that the person had reasonable grounds for not providing assistance.

Compare: 1983 No 46 s 64(5), (6)

102 Failure to comply with direction

A person commits an offence who intentionally fails to comply with a direction given under section 91(a).

103 Personation

A person commits an offence who intentionally personates or falsely represents himself or herself to be the Director, a Controller, a member of a Civil Defence Emergency Management Group, or a person acting under the authority of any of those persons, or any person duly authorised or employed for carrying out any provision of this Act or any civil defence emergency management plan.

Compare: 1983 No 46 s 77(b)

104 Penalty for offences

A person who commits an offence against this Act is liable on summary conviction,—

- (a) in the case of an individual, to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$5,000, or both;
- (b) in the case of a body corporate, to a fine not exceeding \$50,000.

Compare: 1983 No 46 s 78

Part 7

Miscellaneous provisions

105 Delegation of powers of Director

- (1) The Director may, in writing, either generally or particularly, delegate to any person employed in the State services all or any of the functions, duties, and powers exercisable by the Director under this Act, except this power of delegation.
- (2) Subject to any general or special directions given or conditions attached by the Director, a person to whom any functions, duties, or powers are delegated under this section may exercise those functions, duties, and powers in the same manner and with the same effect as if they had been conferred on him or her directly by this section and not by delegation.
- (3) A person purporting to act under any delegation under this section is presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.
- (4) A delegation under this section may be made to a specified employee or to employees of a specified class, or may be made to the holder or holders for the time being of a specified office or class of offices.
- (5) A delegation under this section is revocable in writing at will, and no delegation prevents the exercise of any function, duty, or power by the Director.
- (6) A delegation under this section, until revoked, continues in force according to its tenor even if the Director by whom it was made has ceased to hold office.
- (7) Nothing in this section limits section 10 or section 11.

Compare: 1983 No 46 s 9

106 Acting Director

- (1) In the case of absence from duty of the Director (arising from whatever cause) or on the occurrence from any cause of a vacancy in that position (whether by reason of death, resignation, or otherwise) and while the absence or vacancy continues, all or any of the functions, duties, and powers of the Director or pertaining to the position may be exercised and performed by any other person for the time being directed or appointed by the chief executive of the responsible department to exercise and perform them.

- (2) The direction may be given or the appointment may be made before the absence or vacancy occurs or while the absence or vacancy continues.
- (3) No direction or appointment under this section, and no acts done by a person acting under the direction or appointment, may in proceedings be questioned on the ground that the occasion for the direction or appointment had not arisen or had ceased, or on the ground that the person has not been appointed to the position of Director.
- (4) If a person appointed under this section is an employee within the meaning of that term in the State Sector Act 1988, nothing in section 62 of that Act applies.
- (5) Except as provided in subsection (4), this section does not limit or affect the application of the State Sector Act 1988.

107 Compensation if property requisitioned

- (1) Subsection (2) applies if any requisitioned property has come under the control of the National Controller, any member of the police, or a person authorised by the National Controller or member of the police, while acting under section 90 in a state of emergency.
- (2) There is payable, on application by any person having an interest in the requisitioned property, out of money appropriated by Parliament, reasonable compensation for—
 - (a) the use of that requisitioned property while under that control; and
 - (b) any loss of or damage or injury to that requisitioned property suffered or incurred while under that control.
- (3) Subsection (4) applies if any requisitioned property has come under the control of a Civil Defence Emergency Management Group, a Group Controller, or a person authorised by the Group or Group Controller, while acting under section 90 in a state of emergency.
- (4) There is payable, on application by any person having an interest in the requisitioned property, by the Civil Defence Emergency Management Group that appointed the Group Controller, reasonable compensation for—
 - (a) the use of that requisitioned property while under that control; and

- (b) any loss of, or damage or injury to, that requisitioned property suffered or incurred while under that control.
- (5) In determining the amount of compensation payable under this section for any loss of, or damage or injury to, requisitioned property, any amount that the person having an interest in the property has, or is likely to, recover under a contract of insurance or by any other means must be taken into account.
- (6) If there is any dispute as to the entitlement of any person to compensation under this section, or as to the amount of the compensation, or as to the liability of the Crown or any Civil Defence Emergency Management Group or other person to pay the compensation, the matter may be determined by a court of competent jurisdiction.

Compare: 1983 No 46 s 65

108 Compensation for loss or damage to personal property

- (1) Subject to subsections (3) and (4), every member of a Civil Defence Emergency Management Group, and any other person who carries out civil defence emergency management under the direction of the Director or a Civil Defence Emergency Management Group or a Controller or a Recovery Coordinator, and who suffers loss of or damage to his or her personal property occasioned by the exercise or performance of work or duties arising from a state of emergency is entitled to receive compensation equal to—
 - (a) the value of any personal property that has been lost; or
 - (b) the diminution in value of any personal property that has been damaged.
- (2) Subsection (1) may, at the discretion of the Minister, be applied to any person who is not a person referred to in that subsection.
- (3) Subsection (1) does not apply to any loss of or damage to property to the extent to which that loss or damage is covered by a contract of insurance.
- (4) A person is not entitled to receive any compensation under subsection (1) to the extent to which the person has recovered, or, having regard to the circumstances of the case, may reasonably be expected to recover, any damages, compensation, or ex gratia payment for the loss or damage.

- (5) Any compensation payable under subsection (1) must be paid by—
- (a) the Crown if the person entitled to the payment was, at the time of the loss or damage, carrying out civil defence emergency management under the control of the Director or the National Controller or any person acting under the authority of the Director or the National Controller:
 - (b) the Civil Defence Emergency Management Group if the person entitled to the payment was, at the time of the loss or damage, carrying out civil defence emergency management under the control of—
 - (i) the Civil Defence Emergency Management Group; or
 - (ii) the Group Controller appointed by the Civil Defence Emergency Management Group; or
 - (iii) a Recovery Co-ordinator; or
 - (iv) any person acting under the authority of the Civil Defence Emergency Management Group or Group Controller.
- (6) If there is any dispute as to the entitlement of any person to compensation under this section, or as to the amount of the compensation, or as to the liability of the Crown or any Civil Defence Emergency Management Group to pay the compensation, the matter may be determined by a court of competent jurisdiction.
- (7) A payment of compensation by the Crown under this section must be made out of public money appropriated by Parliament for the purpose.
- (8) Despite anything to the contrary in the Social Security Act 1964, nothing in this section may be construed as to in any way limit or affect the entitlement of any person to any benefit under that Act.

Compare: 1983 No 46 s 75

109 Compensation for other matters

- (1) This section does not apply if section 107 or section 108 applies.
- (2) 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 86 to 92 by the National Controller or a member of the police, or a person authorised by the National Controller or member of the police, 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.
- (3) 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 86 to 92 by a Group Controller, or a person authorised by him or her, may recover compensation from the Civil Defence Emergency Management Group that appointed the Group Controller 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.
- (4) In determining the amount of compensation payable under this section for any loss or damage, any amount that the person has, or is likely to, recover under a contract of insurance or by any other means must be taken into account.
- (5) If a claim is brought against the Crown or a Civil Defence Emergency Management Group for compensation under this section, a court, in determining whether subsection (2) or subsection (3) applies, must take into account—
- (a) the probability of the adverse effect to the claimant's property that the action or measure in the relevant section is intended to avert occurring if the action or measure had not been taken; and
 - (b) the extent of the loss or damage that has been caused by the action or measure taken.
- (6) Any claim for compensation brought against the Crown or a Civil Defence Emergency Management Group—
- (a) may only be brought for direct loss or damage suffered in relation to property; and
 - (b) may only be brought in respect of uninsured loss or damage that does not exceed the replacement value of that property; and

- (c) may not be brought by any insurer in relation to any person who has insured against the loss or damage.
- (7) If loss or damage to property is caused by the Crown, the Group Controller, any member of a Civil Defence Emergency Management Group, or any other person in the performance in good faith of his or her functions or duties or the exercise in good faith of his or her powers at, or in connection with, any emergency, liability for that loss or damage may not exceed the replacement value of the property and is covered as follows:
- (a) in relation to insured property,—
- (i) by any contract of insurance that covers the property regardless of how it describes loss or damage; and
- (ii) with respect to any loss or damage exceeding the cover of that contract of insurance,—
- (A) by the local authorities that are members of the Civil Defence Emergency Management Group or Groups if the action or measure that caused the damage was undertaken by or on behalf of the Group or Groups; or
- (B) by the Crown if the action or measure that caused the damage was undertaken by or on behalf of the Crown; and
- (b) in the case of uninsured property,—
- (i) by the local authorities that are members of the relevant Civil Defence Emergency Management Group or Groups if the action or measure that caused the damage was undertaken by or on behalf of the Group or Groups; or
- (ii) by the Crown if the action or measure that caused the damage was undertaken by or on behalf of the Crown.
- (8) Despite anything in subsection (7), if any emergency or anticipated emergency is a natural disaster within the meaning of the Earthquake Commission Act 1993 or within the meaning of any policy or contract of insurance, the loss or damage is to be treated as natural disaster damage for the purposes of that Act, policy, or contract.
- (9) Nothing in this section prevents the Crown or a Civil Defence Emergency Management Group from making any ex gratia

payments it considers justifiable on the basis of hardship or fairness.

(10) For the purposes of this section,—

insurer means any provider of insurance

property means—

- (a) real property; and
- (b) livestock; and
- (c) personal property, excluding livestock, not exceeding \$20,000 less any insurance cover for that personal property (if any).

110 Protection from liability

- (1) Except as provided in sections 107 to 109, there is no cause of action against the Crown, or a Civil Defence Emergency Management Group, or an officer or employee or member of any of them, or against any other person, to recover damages for any loss or damage that is due directly or indirectly to a state of emergency.
- (2) Subsection (1) applies whether the loss or damage is caused by any person taking any action or failing to take any action, so long as the act or omission occurred in the exercise or performance of his or her functions, duties, or powers under this Act.
- (3) No person is exempted from liability under subsection (1) for any act or omission to act that constitutes bad faith or gross negligence on the part of that person.

Compare: 1983 No 46 s 66

111 Restricted application of Resource Management Act 1991

If a state of emergency is declared under this Act, the Resource Management Act 1991 applies to emergency works as provided for in section 330B of that Act.

112 Absence on duty not to affect employment rights

- (1) No person who is required by the Director or a Controller to be absent from his or her accustomed employment on civil defence emergency management duties during a state of emergency is liable to dismissal from that employment merely

- because of his or her absence on civil defence emergency management duties, whether or not his or her accustomed employer has consented to that absence.
- (2) A person is to be treated as having been required by the Director or a Controller to be absent from his or her employment on civil defence emergency management duties if the person was so required personally or was required to participate in the duties performed by an organisation so required.
 - (3) Nothing in this section is to be construed as imposing on the employer of any person any obligation to pay to him or her any remuneration in respect of any period of absence from his or her employment on civil defence emergency management duties.

Compare: 1983 No 46 s 74

113 Recovery of costs by Civil Defence Emergency Management Groups

Subject to any agreement entered into between them, if a Civil Defence Emergency Management Group agrees to undertake civil defence emergency management at the request of another Civil Defence Emergency Management Group under section 17(1)(f), it may recover as a debt due to it from that other Group all actual and reasonable costs and expenses incurred for that civil defence emergency management.

Compare: 1983 No 46 s 76(5)

114 Service of documents

- (1) If a document under this Act is to be served on a person, it may be served—
 - (a) by delivering it personally to the person (other than a Minister of the Crown); or
 - (b) by delivering it at the usual or last known place of residence or business of the person by any means, including by facsimile; or
 - (c) by sending it by pre-paid post addressed to the person at the usual or last known place of residence or business of that person.
- (2) If a notice or other document is to be served on a body (whether incorporated or not) for the purposes of this Act, service on an officer of the body, or on the registered office of

the body, in accordance with subsection (1) must be treated as service on the body.

- (3) If a notice or other document is to be served on a Civil Defence Emergency Management Group for the purposes of this Act, service on the chairperson of the Group or the administering authority of the Group must be treated as service on the Group.
- (4) If a notice or other document is to be served on a partnership for the purposes of this Act, service on any 1 of the partners in accordance with subsection (1) must be treated as service on the partnership.
- (5) If a notice or other document is sent by post to a person in accordance with subsection (1)(c), it must be treated, in the absence of proof to the contrary, as having been received by the person at the time at which the letter would have been delivered in the ordinary course of the post.

115 Regulations

The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:

- (a) prescribing the form of distinguishing warrants, badges, or other insignia for civil defence emergency management personnel, and regulating the use and wearing of those warrants, badges, or other insignia:
- (b) prescribing the form of identification passes for civil defence emergency management purposes, and regulating their use:
- (c) prescribing matters relating to the provision, maintenance, control, and operation of warning systems:
- (d) prescribing the level of competence or standard to be met by persons carrying out specified civil defence emergency management functions:
- (e) prescribing technical standards, performance standards, operating procedures, training systems, and qualifications for the purposes of this Act:
- (f) providing for the identification and promotion of civil defence emergency management services:
- (g) prohibiting or regulating any activity or class of activity that may impede or adversely affect measures taken for

the purpose of implementing a civil defence emergency management plan:

- (h) prescribing the form of warrant for the purposes of section 79;
- (i) prescribing forms that may be used for the purposes of this Act;
- (j) prescribing fines not exceeding \$500 for the breach of any regulation made under this section;
- (k) providing for any other matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect.

Compare: 1983 No 46 s 80

116 Repeal of Civil Defence Act 1983

The Civil Defence Act 1983 (1983 No 46) is repealed.

117 Amendments to other Acts

The Acts specified in Schedule 2 are amended in the manner set out in that schedule.

Transitional provisions

118 Civil defence plans to continue

- (1) Every national civil defence plan in force immediately before the commencement of this Act continues in force until the first national civil defence emergency management plan becomes operative.
- (2) Every regional civil defence plan in force immediately before the commencement of this Act continues in force until—
 - (a) the regional council has joined a Civil Defence Emergency Management Group; and
 - (b) the first civil defence emergency management group plan for the area becomes operative.
- (3) Every local civil defence plan in force immediately before the commencement of this Act continues in force until—
 - (a) the territorial authority has joined a Civil Defence Emergency Management Group; and
 - (b) the first civil defence emergency management group plan for the area becomes operative.

119 Provisions of Civil Defence Act 1983 that continue

- (1) Sections 23 to 42 of the Civil Defence Act 1983 (which relate to the functions, duties, and powers of regional councils and territorial authorities) continue to apply in each district until the regional council or the territorial authority, as the case may be, has joined a Civil Defence Emergency Management Group and the first plan for that Group becomes operative.
- (2) Sections 50 to 52 and 54 to 57 of the Civil Defence Act 1983 (which relate to the declaration of states of emergency) continue to apply until,—
 - (a) in the case of a local or regional emergency, the first relevant civil defence emergency management group plan becomes operative; and
 - (b) in the case of a national emergency, the first national civil defence emergency management plan becomes operative.
- (3) Sections 58 to 68 of the Civil Defence Act 1983 (which relate to emergency powers) continue to apply while the provisions referred to in subsection (2) continue to apply.
- (4) Sections 69 to 72 of the Civil Defence Act 1983 (which relate to the appointment and functions, duties, and powers of disaster recovery co-ordinators) continue to apply in each district until the regional council or the territorial authority, as the case may be, has joined a Civil Defence Emergency Management Group and the first plan for that Group becomes operative.
- (5) Sections 73 to 79 of the Civil Defence Act 1983 (which are general provisions) continue to apply for the purposes of provisions continued by this section.

120 Amendments to references in documents to civil defence personnel and entities

Unless the context otherwise requires, in any Order in Council, agreement, deed, instrument, application, notice, direction, contract, lease, or other document in force at the commencement of this Act,—

- (a) every reference to the Director of Civil Defence, a Civil Defence Commissioner, the National Civil Defence Committee, or a Planning Committee appointed under section 21 of the Civil Defence Act 1983 is a reference

to the Director of Civil Defence Emergency Management:

- (b) every reference to a regional council or territorial authority, if the reference relates to functions, duties, or powers under the Civil Defence Act 1983, is a reference to the Civil Defence Emergency Management Group once the Group is formed for the area and the first plan for that Group becomes operative:
- (c) every reference to Regional Controllers or Group Controllers appointed under the Civil Defence Act 1983 is a reference to a Group Controller under this Act once the first civil defence emergency management group plan for the area concerned becomes operative:
- (d) every reference to a state of national emergency or a state of national civil defence emergency is a reference to a state of national emergency under this Act once the first national civil defence emergency management plan becomes operative:
- (e) every reference to a state of regional civil defence emergency or a state of local civil defence emergency is a reference to a state of local emergency under this Act once the first civil defence emergency management group plan for the area concerned becomes operative.

121 Proceedings not affected

- (1) Nothing in this Act affects the rights of any party to any proceedings commenced in any court before the commencement of this Act.
 - (2) All claims for compensation commenced under any provisions repealed by this Act may be continued and completed in all respects as if the Civil Defence Act 1983 remained in force.
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Schedule 1

Lifeline utilities

Part A

Specific entities

- 1 Radio New Zealand Limited and Television New Zealand Limited.
- 2 The company (as defined in section 2 of the Auckland Airport Act 1987) that operates Auckland international airport.
- 3 The company (as defined in section 2 of the Wellington Airport Act 1990) that operates Wellington international airport.
- 4 The airport company (as defined in section 2 of the Airport Authorities Act 1966) that operates Christchurch international airport.
- 5 The entity (being an airport authority as defined in section 2 of the Airport Authorities Act 1966, whether or not it is also an airport company as defined in that section) that operates the primary airport at Bay of Islands, Blenheim, Dunedin, Gisborne, Hamilton, Hokitika, Invercargill, Napier, Nelson, New Plymouth, Palmerston North, Queenstown, Rotorua, Tauranga, Wanganui, Westport, Whakatane, or Whangarei.
- 6 The port company (as defined in section 2(1) of the Port Companies Act 1988) that carries out port-related commercial activities at Auckland, Bluff, Port Chalmers, Gisborne, Lyttelton, Napier, Nelson, Picton, Port Taranaki, Tauranga, Timaru, Wellington, Westport, or Whangarei.
- 7 The Grey District Council, acting as the Greymouth harbour authority and owner and operator of the Port of Greymouth under Parts IV and VI of the Local Government (West Coast Region) Reorganisation Order 1989, Part 39A of the Local Government Act 1974, and section 16 of the Local Government Amendment Act (No 2) 1999.

Part B
Entities carrying on certain businesses

- 1 An entity that produces, supplies, or distributes manufactured gas or natural gas (whether it is supplied or distributed through a network or in bottles of more than 20 kg of gas).
 - 2 An entity that generates electricity for distribution through a network or distributes electricity through a network.
 - 3 An entity that supplies or distributes water to the inhabitants of a city, district, or other place.
 - 4 An entity that provides a waste water or sewerage network or that disposes of sewage or storm water.
 - 5 An entity that provides a telecommunications network (within the meaning of the Telecommunications Act 1987).
 - 6 An entity that provides a road network (including state highways).
 - 7 An entity that produces, processes, or distributes to retail outlets and bulk customers any petroleum products used as an energy source or an essential lubricant or additive for motors for machinery.
 - 8 An entity that provides a rail network or service.
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s 117

Schedule 2

Acts amended

Burial and Cremation Act 1964 (1964 No 75)

Omit from section 46(1) the expression “section 38(1)(e) of the Civil Defence Act 1962” and substitute the expression “section 85(1)(g) of the Civil Defence Emergency Management Act 2002”.

Civil Aviation Act 1990 (1990 No 98)

Omit from section 99(1) the expression “the Civil Defence Act 1983” and substitute the expression “the Civil Defence Emergency Management Act 2002”.

Constitution Act 1986 (1986 No 114)

Insert, after section 18(1):

“(1A) The Governor-General may, by Proclamation, change the place of meeting of Parliament set out in the Proclamation summoning Parliament if that place is unsafe or uninhabitable.”

Crown Research Institutes Act 1992 (1992 No 47)

Repeal section 43(1)(a) and substitute:

“(a) there is in force a state of emergency declared under the Civil Defence Emergency Management Act 2002; or”.

Customs and Excise Act 1996 (1996 No 27)

Repeal section 4(4)(a) and substitute:

“(a) an emergency due to an actual or imminent attack on New Zealand by an enemy, or to any actual or imminent warlike act whether directed against New Zealand or not, if loss of life or injury or distress to persons or danger to the safety of the public is caused or threatened to be caused in New Zealand or in any part of New Zealand; or”.

Defence Act 1990 (1990 No 28)

Omit from section 39(2) the words “any state of national or civil defence emergency declared under Part III or Part IV of the Civil Defence Act 1983” and substitute the words “any state of emergency declared under the Civil Defence Emergency Management Act 2002”.

Omit from section 40(2) the words “any state of national or civil defence emergency declared under Part III or Part IV of the Civil Defence Act 1983” and substitute the words “any state of

Defence Act 1990 (1990 No 28)—continued

emergency declared under the Civil Defence Emergency Management Act 2002”.

Finance Act 1968 (1968 No 54)

Repeal section 3(2)(a) and substitute:

- “(a) with the approval of the Director of Civil Defence Emergency Management, for the purchase of supplies and equipment required to enable the Society or the St John Ambulance Association under the control of the Priory to carry out their respective civil defence emergency management duties under any national civil defence emergency management plan in force under the Civil Defence Emergency Management Act 2002; or”.

Fire Service Act 1975 (1975 No 42)

Repeal the definition of **civil defence emergency** in section 2.

Omit from section 17(1) the words “civil defence emergency” and substitute the words “state of emergency declared under the Civil Defence Emergency Management Act 2002”.

Repeal section 17P(1)(c) and substitute:

- “(c) fire protection in the event of war or a state of emergency declared under the Civil Defence Emergency Management Act 2002.”

Repeal section 17P(3) and substitute:

- “(3) In establishing and operating any scheme under this section, the National Commander may also provide liaison and specialist assistance and advice to the Director of Civil Defence Emergency Management or to Civil Defence Emergency Management Groups established under the Civil Defence Emergency Management Act 2002.”

Omit from section 30(1) the words “Regional or Local Controller of Civil Defence, as the case may be, while a state of civil defence emergency exists under the Civil Defence Act 1983” and substitute the words “Controller under the Civil Defence Emergency Management Act 2002, while a state of emergency exists under that Act”.

Forest and Rural Fires Act 1977 (1977 No 52)

Omit from section 36(1)(f) the words “Regional or Local Controller of Civil Defence, as the case may be, while a state of civil defence emergency exists under the Civil Defence Act 1983” and substitute the words “Controller under the Civil Defence Emergency Management Act 2002, while a state of emergency exists under that Act”.

Hazardous Substances and New Organisms Act 1996

(1996 No 30)

Repeal section 46(1)(b) and substitute:

“(b) a state of emergency declared under the Civil Defence Emergency Management Act 2002; or”.

Repeal section 136(1)(b)(i) and substitute:

“(i) no state of emergency has been declared under the Civil Defence Emergency Management Act 2002; or”.

Repeal section 136(4)(b) and substitute:

“(b) when a state of emergency is declared under the Civil Defence Emergency Management Act 2002; or”.

Health Act 1956 (1956 No 65)

Omit from section 70(1) the words “a state of national civil defence emergency or a state of regional civil defence emergency has been declared under the Civil Defence Act 1983” and substitute the words “a state of emergency has been declared under the Civil Defence Emergency Management Act 2002”.

Omit from section 71(1) the words “a state of national civil defence emergency or a state of regional civil defence emergency under the Civil Defence Act 1983” and substitute the words “a state of emergency declared under the Civil Defence Emergency Management Act 2002”.

Layout Designs Act 1994 (1994 No 116)

Omit from section 20(1)(b) the words “a state of national civil defence emergency that is in force under section 50 of the Civil Defence Act 1983” and substitute the words “a state of national emergency declared under section 66 of the Civil Defence Emergency Management Act 2002”.

Local Authorities (Members' Interests) Act 1968

(1968 No 147)

Repeal section 3(3)(d)(vii) and substitute:

“(vii) any contract for the supply of goods or services made during a state of emergency declared under the Civil Defence Emergency Management Act 2002, if that contract does not continue for more than 1 month after the cessation of that state of emergency, 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

Local Authorities (Members' Interests) Act 1968

(1968 No 147)—continued

time immediately preceding the state of emergency,—”.

Local Government Act 1974 (1974 No 66)

Repeal section 37S(1)(g).

Repeal section 648 and substitute:

“648 Pipes to be kept charged with water

“(1) Except in case of unusual drought, or of accident, or of shortage from any cause of the water supply, or during necessary repairs, connections, or inspections, or in a case of a state of emergency declared under the Civil Defence Emergency Management Act 2002, the council must at all times keep charged with water the pipes in which fire hydrants are fixed by the council under section 647.

“(2) Subject to the overall requirements of any Controller while a state of emergency exists under the Civil Defence Emergency Management Act 2002, the council must allow all persons to take and use water from any waterworks or water race for extinguishing fire without any payment for the same.”

Repeal section 692B(1)(a) and substitute:

“(a) a state of emergency declared under the Civil Defence Emergency Management Act 2002 is current or has just expired in relation to the district of the local authority; and”.

Repeal clauses 22 and 23 in Part II of Schedule 3B and substitute:

“22 Where any area of land is included in the district of another territorial authority, the civil defence emergency management group plan under the Civil Defence Emergency Management Act 2002 for the district in which the land is included must be the only civil defence emergency management group plan under the Civil Defence Emergency Management Act 2002 to apply in that area.

“23 Where a new district is constituted, every civil defence emergency management group plan under the Civil Defence Emergency Management Act 2002 that is in force in respect of any area included in that district must continue in force until a new plan is prepared and approved for the district under Part 3 of the Civil Defence Emergency Management Act 2002.”

Maritime Transport Act 1994 (1994 No 104)

Repeal section 100(5)(c) to (e) and substitute:

- “(c) a person under Part 5 of the Civil Defence Emergency Management Act 2002; or
- “(d) a Recovery Co-ordinator appointed under the Civil Defence Emergency Management Act 2002 and acting under that Act; or”.

Repeal section 254(3) and substitute:

- “(3) The Director must not issue Director’s instructions that conflict with the exercise of a power by—
- “(a) a person under Part 5 of the Civil Defence Emergency Management Act 2002; or
 - “(b) a Recovery Co-ordinator appointed under the Civil Defence Emergency Management Act 2002 and acting under that Act; or
 - “(c) any member of the police under section 10 of the International Terrorism (Emergency Powers) Act 1987.”

Repeal section 312(1) and substitute:

- “(1) No power conferred by section 305 or section 311 of this Act may be exercised so as to conflict with the exercise of a power by—
- “(a) a person under Part 5 of the Civil Defence Emergency Management Act 2002; or
 - “(b) a Recovery Co-ordinator appointed under the Civil Defence Emergency Management Act 2002 and acting under that Act; or
 - “(c) any member of the police under section 10 of the International Terrorism (Emergency Powers) Act 1987.”

Ombudsmen Act 1975 (1975 No 9)

Omit from Part I of the First Schedule the item “The Ministry of Civil Defence”.

Omit from Part II of the First Schedule the item “National Civil Defence Committee”.

Omit from Part III of the First Schedule the item “Regional Civil Defence Committees” and insert in its appropriate alphabetical order the item “Civil Defence Emergency Management Groups established under the Civil Defence Emergency Management Act 2002”.

Patents Act 1953 (1953 No 64)

Repeal section 58(b) and substitute:

Patents Act 1953 (1953 No 64)—continued

“(b) to assist in the exercise of powers and the implementation of civil defence emergency management during a state of emergency declared under the Civil Defence Emergency Management Act 2002.”

Petroleum Demand Restraint Act 1981 (1981 No 12)

Repeal section 26(c) and substitute:

“(c) the Civil Defence Emergency Management Act 2002; or”.

Plant Variety Rights Act 1987 (1987 No 5)

Omit from section 17(2) the words “a national emergency” and substitute the words “a state of national emergency declared under the Civil Defence Emergency Management Act 2002”.

Public Finance Act 1989 (1989 No 44)

Repeal section 13(1)(a) and substitute:

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

Resource Management Act 1991 (1991 No 69)

Insert, after section 330A:

“330B Emergency works under Civil Defence Emergency Management Act 2002

- “(1) If any activity is undertaken by any person exercising emergency powers during a state of emergency declared under the Civil Defence Emergency Management Act 2002, the provisions of sections 9, 12, 13, 14, and 15 of this Act do not apply to any activity undertaken by or on behalf of that person to remove the cause of, or mitigate any actual or adverse effect of, the emergency.
- “(2) If an activity is undertaken to which subsection (1) applies, the person who authorised the activity must advise the appropriate consent authority, within 7 days, that the activity has been undertaken.
- “(3) If such an activity, but for this section, would contravene any of sections 9, 12, 13, 14, and 15 of this Act and the adverse effects of the activity continue, the person who authorised the activity must apply in writing to the appropriate consent authority for any necessary resource consents required in respect of the activity, within 20 working days of the notification under subsection (2).

Resource Management Act 1991 (1991 No 69)—continued

- “(4) If the application is made within the time stated in subsection (3), the activity may continue until the application for a resource consent and any appeals have been finally determined.
- “(5) A person does not commit an offence under section 338(1)(a) of this Act by acting in accordance with this section.”

Transport Services Licensing Act 1989 (1989 No 74)

Repeal item 3(a) in the First Schedule and substitute:

- “(a) carried on exclusively for the purpose of providing relief or assistance during a state of emergency declared under the Civil Defence Emergency Management Act 2002 where—
- “(i) the service has been requested or ordered by a Controller under the Civil Defence Emergency Management Act 2002; and
- “(ii) the service is under the control of that Controller:”.

Legislative history

9 November 2000	Introduction (Bill 79–1)
12 December 2000	First reading and referral to the Government Administration Committee
1 June 2001	Reported from Government Administration Committee (Bill 79–2)
8 October 2002	Second reading, committee of the whole House, third reading
17 October 2002	Royal assent

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