



# The Emergency Management Bill

## Overview of proposed changes

The Government is committed to ensuring New Zealand's emergency management system is geared towards inclusive, community-led responses to emergency events, as well as continuing work with iwi and Māori in emergency management.

The emergency management system needs changes so that:

- communities are better prepared to respond to and recover from emergencies
- iwi and Māori participation is recognised, enabled, and valued
- the impacts of emergencies on people, the economy, and the environment are reduced
- the emergency management system is well-coordinated, high-performing, and enjoys widespread trust and confidence.

An Emergency Management Bill has been introduced to replace the two decades old Civil Defence Emergency Management Act 2002 (CDEM Act). Information about the Bill, and its progress, can be found on [parliament.govt.nz](http://parliament.govt.nz) (search for "Emergency Management Bill").

When passed, the Emergency Management Bill will create an updated legal and regulatory framework within which Aotearoa New Zealand can prepare for, deal with, and recover from local, regional and national emergencies.

The Bill is not a fundamental transformation of the emergency management system, but instead makes practical improvements to ensure the system can meet current and future needs.

Some of the key measures in the Emergency Management Bill include:

- clarifying roles and responsibilities across the emergency management system (pages 2-3)
- recognising and enhancing the role of Māori in emergency management (pages 3-4)
- enhancing the resilience and accountability of critical infrastructure (page 5)
- enabling equitable outcomes for communities disproportionately impacted by emergencies (page 6)
- improving operational effectiveness (page 6)
- updating the legal and regulatory frameworks for the emergency management system (pages 7 -8)
- replacing the term 'civil defence emergency management' with 'emergency management'.

These measures are explained in more detail in this factsheet.

These proposed changes will set the system up to be more responsive, and set a solid foundation for adaptations that might be required in the future.

The Bill does not change the current emergency powers available under a state of emergency, and while the Bill changes the name of 'Civil Defence Emergency Management Groups' to 'Emergency Management Committees', it does not remove the existing key local and regional roles and responsibilities.

# Clarifying roles and responsibilities across the emergency management system

## Clarifying the roles and responsibilities of Emergency Management Committees and local authorities

*Clauses 29 and 37*

To improve role clarity, the Bill specifies the distinct and separate functions of local authorities, and Emergency Management Committees (currently Civil Defence Emergency Management (CDEM) Groups).

Lack of clarity about roles and responsibilities of CDEM Groups and local authorities has impacted the effectiveness of the emergency management system.

The Bill clarifies that:

- Emergency Management Committees are responsible for regional co-ordination and governance
- local authority members are responsible for delivering local emergency management in their communities, and for participating in the Emergency Management Committees.

## Clarifying the administering authority process

*Clause 35*

The Bill enables greater flexibility for who can act as an administering authority for Emergency Management Committees (currently CDEM Groups).

The Bill further clarifies the processes by which Emergency Management Committees can agree their administering authority.

For example, the Bill removes the current requirement that the administering authority can only be changed if the Minister agrees.

## Clarifying the roles of the Chief Executive of the National Emergency Management Agency (NEMA), and Director of Emergency Management

*Clause 5*

The Bill sets out that the Chief Executive of the responsible department (currently NEMA) holds the role of Director of Emergency Management.

The current legal arrangements for the national statutory role holders require updating to account for NEMA's creation (in 2019) as an autonomous departmental agency with a chief executive.

Consistent with the current arrangements, the Director would be able to delegate response and recovery functions and powers to the National Controller, and National Recovery Manager as appropriate.

## Confirming the roles of lead and support agencies

*Clause 146*

The Bill includes regulation making powers to confirm the roles and responsibilities of lead and support agencies.

The current uncertainty contributes to misunderstanding of roles and responsibilities before, during, and following emergencies.

The regulations enabled by the Bill will also:

- establish the mechanisms and criteria by which lead and support agencies are allocated
- provide for the governance of lead and support agencies for their emergency management activities
- specify the triggers and thresholds that determine the lead agency for a specific event.

Roles and responsibilities will be determined via consultation. The Bill requires the Minister for Emergency Management to consult with other relevant Ministers and agency chief executives when developing new regulations for lead and support agencies.

## **Publication of Emergency Management Committee Plans**

*Clause 72(2)*

The Bill makes it explicit that Emergency Management Committee Plans (formerly CDEM Group Plans) must be published on a publicly available internet site.

The Bill also introduces updated principles to guide which documents can be incorporated by reference as part of Emergency Management Committee Plans.

This will improve consistency of what information is published, and ensure that all documents that

form part of Emergency Management Committee Plans are easily accessible to the public.

The current CDEM Act does not explicitly set out requirements for the publication of CDEM Group Plans. It is also unclear which documents are reasonable to incorporate by reference.

## **Ambulance services**

*Clauses 5 and 33(1)*

The Bill includes ambulance services in the definition of 'emergency services' to reflect their core role in emergencies.

Ambulance services play a vital role in responding to emergency events, but are not included within the definition of emergency services in the current CDEM Act.

The Bill also introduces a permanent position for a chief executive or senior officer of an ambulance service on an Emergency Management Co-ordinating Executive.

# **Recognising, enhancing, and valuing Māori participation in emergency management**

## **Māori members on Emergency Management Committees and Co-ordinating Executive**

*Clauses 26, 33 and 144*

The Bill includes a requirement to have one or more Māori members on both Emergency Management Committees, and Emergency Management Co-ordinating Executives (currently the CDEM Group and Co-ordinating Executive Group).

The Bill enables regulations to prescribe locally appropriate appointment mechanisms for members, which will be developed with Māori and local government.

However, where decisions cannot be agreed or are not made, the Bill includes a Ministerial backstop for appointments to be made.

## **National Māori Emergency Management Advisory Group**

*Clauses 20 and 21*

The Bill enables the appointment of a National Māori Emergency Management Advisory Group.

This Group will advise the Director of Emergency Management (Chief Executive of NEMA) on Māori interests, and knowledge relevant to emergency management.

This includes advising on NEMA's role as it relates to the delivery of positive outcomes for Māori through the emergency management system.

## **Treaty of Waitangi / Te Tiriti o Waitangi clause**

### *Clause 4*

The Bill includes a descriptive Treaty of Waitangi / Te Tiriti o Waitangi clause.

The clause expressly references the Crown's Treaty responsibilities and describes how these are given effect to in the emergency management context.

It also gives effect to proposals which aim to strengthen the role of Māori.

## **Emergency Management Committees are not a Person Conducting a Business or Undertaking (PCBU)**

### *Clause 32*

To ensure the Māori members of Emergency Management Committees (currently CDEM Groups) have the same protection from liability as elected members, the Bill clarifies that an Emergency Management Committee is not a PCBU for the purposes of the Health and Safety at Work Act 2015 (HSWA).

Currently, members of territorial authorities elected in accordance with the Local Electoral Act 2002 are excluded from liability. However, this would not extend to the proposed Māori members.

If Emergency Management Committees are not PCBUs, then all members will be treated the same and will, therefore, not be exposed to liability.

## **Requirement for Emergency Management Committees to recognise and plan for the needs and contribution of Māori**

### *Clause 29(1)*

The Bill establishes new responsibilities for Emergency Management Committees (currently CDEM Groups) to recognise and plan for the needs and contribution of iwi and Māori in their area.

Emergency Management Committees will be required to collaborate with Māori and iwi in the

development of Emergency Management Committee plans.

The Bill requires Emergency Management Committees to establish systems and processes to ensure they have the capacity and capability to engage with iwi and Māori.

## **Inclusion of Māori in the National Emergency Management Plan**

### *Clause 67(1)*

The Bill introduces a requirement for the National Emergency Management Plan (currently the National Civil Defence Emergency Management Plan Order 2015) to include the role of Māori in emergency management.

Iwi and Māori play an important role in the emergency management system, and this needs to be reflected in the National Emergency Management Plan.

## **Permanent legislative authority to reimburse iwi and Māori organisations**

### *Clause 149*

The Bill updates the permanent legislative authority so that iwi and Māori organisations can be reimbursed directly for welfare costs incurred during an emergency.

This will reduce the burden of administration, and increase the security and confidence of iwi and Māori organisations to continue performing essential activities in an emergency.

Iwi and Māori carry out vital work in ensuring the welfare of their people, and those in the communities surrounding them. Iwi and Māori entities often incur similar costs as local authorities in an emergency response, and are currently unable to access reimbursements directly from Government. Instead, they are required to lodge claims with local authorities, who in turn, request reimbursement from the Government.

# Increasing the resilience of critical infrastructure

## Updating terminology and definition of Critical Infrastructure

### Clause 5

The Bill replaces the terminology ‘Lifeline Utilities’ with ‘Critical Infrastructure’, which is more fit for purpose and reflects international practice.

The Bill also includes a definition of ‘Critical Infrastructure’ that encompasses services that are essential for everyday life and is aligned with international best practice.

## Specifying critical infrastructure sectors and entities

### Clauses 50 and 51

The Bill will enable specifying the critical infrastructure sectors and entities via a notice made by the Minister in the *New Zealand Gazette*.

This change from using an Order in Council that allows for increased responsiveness to changes within the sector.

The Bill sets out the criteria for recognition of critical infrastructure entities and sectors.

## Requirement for critical infrastructure entities to develop response plans

### Clause 54(1)

The Bill introduces a new requirement for critical infrastructure entities to develop, or contribute to the development of, sector-specific plans for responding to and recovering from emergencies.

This will enable effective and efficient response during major disruption to services.

Currently the only supporting plan that exists is the National Fuel Plan.

## Critical infrastructure planning emergency levels of service

### Clause 57

The Bill introduces a requirement for critical infrastructure entities to establish and publicly state their planning emergency levels of service.

The current duty for lifeline utilities to “ensure that [they are] able to function to the fullest possible extent, even though this may be at a reduced level, during and after an emergency” is vague and not measurable.

The Bill also includes a five-year review requirement, and an empowering clause for regulations setting out further detail.

## Critical infrastructure annual compliance reporting

### Clause 58

The Bill introduces a requirement for critical infrastructure entities to report annually to the Director of Emergency Management and their regulatory agencies.

Currently, critical infrastructure entities are not required to report on how well their organisations are meeting their obligations under the CDEM Act.

## Enabling equitable outcomes

### *Clause 76*

The Bill requires Emergency Management Committees (currently CDEM Groups) to engage with representatives of communities likely to be disproportionately impacted by emergencies in the development of their Emergency Management Committee Plan.

This will require Emergency Management Committees to identify and then engage with

communities in their area that are likely to be disproportionately impacted by emergencies.

This will ensure that the needs of people and communities disproportionately impacted by emergencies are included at the outset.

Emergencies amplify existing inequalities across a number of indicators. This change represents a way to better provide for the needs of communities disproportionately impacted by emergencies.

## Improving operational effectiveness of the emergency management system

### **Concurrent Emergencies**

#### *Clause 93*

The Bill includes a clause to enable management of concurrent local and national emergencies.

There has been an increasing number of emergency events in recent years, but the CDEM Act does not provide explicit guidance for the management of concurrent events.

The Bill will enable local states of emergencies and transition periods to remain in force concurrently with national states of emergencies or national transition periods.

The Bill also includes a clause to ensure Local or Area Controllers do not contradict priorities set by the Director, National Controller, or National Recovery Manager.

Secondary legislation and emergency management rules will set out the operational approach to the management of concurrent emergencies.

### **Emergency Management Committees can meet via audio or audio-visual link during a state of emergency**

#### *Schedule 2(5)*

The Bill will allow representatives of Emergency Management Committees to attend meetings of the Committee via an audio or audio-visual link during a state of emergency.

Meeting in person during an emergency can be impractical or unsafe, and can result in delayed decision-making.

The current inability for a CDEM Group to meet in person has been an issue in several past emergencies, such as the Kaikōura/Hurunui earthquakes and COVID-19.

# Updating the legal and regulatory framework

## National Emergency Management Plan no longer an Order in Council

The prescriptive form of the current legislation has created issues in terms of enabling the responsiveness and durability of systems, processes, roles, and responsibilities.

The Bill empowers the Minister for Emergency Management to approve a new or revised National Emergency Management Plan.

The current CDEM Act requires the National CDEM Plan to be made by Order in Council. However, as the primary role of the National Plan is to explain and draw together arrangements that exist across the legislation system, it does not require legislative effect.

This change will enable greater responsiveness and ensure that the Plan can be kept up to date. The National Emergency Management Plan will be published in the *New Zealand Gazette*, and on a publicly available internet site.

## Director's power to make rules

The Bill empowers the Director of Emergency Management (the Chief Executive of NEMA) to make rules prescribing matters of detail and procedure in relation to the emergency management system.

Rules would be made as required to cover administrative, operational, and technical matters during 'peacetime' only - such as specifying forms, setting qualification standards, and prescribing requirements for maintaining and operating warning systems.

The Director could not, for example, prescribe rules to modify emergency powers available under a state of emergency.

The emergency management rules would be made by the Director following a process that includes consultation with partners and

stakeholders (including iwi and Māori, and local authorities).

The key advantage of the rules approach is that it helps ensure that the legal framework keeps up-to-date with technical and operational advances in emergency management. For example, as technical standards for warning systems change the Director will be able to update the rules expediently.

This rules-based approach is already being used in other sectors. For example, the relevant chief executives are empowered to make rules under the Customs and Excise Act 2018 and the Education and Training Act 2020.

## Climate change and definition of emergencies

### *Schedule 2(3)*

The Bill includes the Climate Change Response Act 2002 in the list of relevant legislation for Emergency Management Committees to promote and raise public awareness of, and to monitor and report on compliance with provisions relevant to the purpose of the Bill.

To reflect the impact of climate change and work currently happening across government, the inclusion of this relevant legislation in the Bill serves as an acknowledgement of the effects of climate change as an exacerbator of hazards and risks.

## Offences and Penalties

### *Clauses 125 to 132*

The Bill updates the offences and penalties regime to ensure it is fit for purpose.

The penalties set out in the CDEM Act have not been updated since 2002, and there is scope for the maximum amounts to be increased in line with other legislation.



The Bill introduces an infringement offence regime, which will provide an additional tool for requiring compliance in emergency situations.

To ensure flexibility, the Bill also empowers regulations to prescribe the infringement offence regime.

## **Naming conventions: shifting from 'civil defence emergency management' to 'emergency management'**

*Clauses 4(2) and 5(2) of Schedule 1*

The Bill provides an opportunity to update naming conventions in the current CDEM Act to better reflect the modern understanding of emergency management.

The Bill replaces the term '*civil defence emergency management*' in the Act with '*emergency management*'. This better reflects the broad and integrated nature of the emergency management sector.

The change from civil defence to emergency management is consistent with international practice and reflects a progressive change already underway in New Zealand.

Civil defence is a trusted national brand with wide recognition across New Zealand, so the concept will be retained for frontline facing activities.

## **Implementation**

A phased implementation approach will be used to minimise the impacts, especially for local government and critical infrastructure entities, of the changes on operational activity, and to enable the changes to be delivered effectively.

This includes transitional arrangements to ensure that new Emergency Management Committee Plans are not required immediately upon commencement of the Bill.

Other changes, such as appointing Māori members, establishing an Administering Authority, developing new Standard Operating Procedures,

The Bill also updates other terminology:

- *Civil Defence Emergency Management Group* becomes *Emergency Management Committee*.
- *Co-ordinating Executive Group* becomes *Emergency Management Co-ordinating Executive*.
- *Group Controllers* become *Area Controllers*.

## **Removing Minister's and Emergency Management Committees' duties when creating regulatory instruments**

The CDEM Act imposes duties on the Minister for Emergency Management and CDEM Groups to be complied with when creating specific types of regulatory instruments. For example, the duty to complete a cost benefit analysis.

These duties no longer need to be set out in an Act. It is unusual for Acts to deal with policy methodologies, including cost benefit analyses. Since 2002, for central Government agencies, requirements such as those set out in section 65 have been incorporated within regulatory impact analyses. Accordingly, the duties in section 65 of the CDEM Act are not carried over in the Bill.

and negotiating cost sharing agreements, will also have a phased implementation.

These changes will be further developed and brought into force via other regulatory instruments such as Regulations, the National Emergency Management Plan or Rules.

The Bill includes delayed commencement of some provisions for two years to give existing lifeline utilities time to comply with the new legal requirements relating to critical infrastructure 'planning emergency levels of service' and annual compliance reporting.