

STATE OF EMERGENCY - POWERS

The powers under the Civil Defence Emergency Act 2002 (CDEMA) during a State of Emergency are wide ranging. A National State of Emergency was declared following the Christchurch earthquake, and has been extended. While it is in place, it affects some usual operations. Further extensions of the statutory 7 day state of emergency are likely. The powers in the CDEMA include:

Minister direction

When a state of emergency is in force, section 84 of the Civil Defence Emergency Management Act 2002 provides that the Minister may direct the Director or any Civil Defence Emergency Management Group or person to perform or exercise (or cease to perform or exercise) any of the functions, duties or powers conferred on that person or Group under this Act. The Minister's powers, therefore, are vast.

Controller or Member of the Police

Section 91 of the CDEMA deals with powers of a Controller or a member of the police, or any person acting under the authority of a Controller or member of the police while a state of emergency is in force. Those persons may direct any person to stop any activity that may cause or substantially contribute to an emergency and request any person, either verbally or in writing, to take any action to prevent or limit the extent of the emergency.

Civil Defence Emergency Management Groups

Section 12 provides that local authorities are to establish Civil Defence Emergency Management Groups.

Civil Defence Emergency Management Groups and their members have a number of functions including:

- In relation to relevant hazards and risks:
 - Identify, assess, and manage those hazards and risks.
 - Consult and communicate about risks.
 - Identify and implement cost- effective risk reduction.
- Respond to and manage the adverse effects of emergencies in its area.
- Carry out recovery activities.
- Any other functions that are conferred or imposed by or under this Act or any other enactment.

Pursuant to section 18, 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. Without limiting this, the Group may exercise any other powers that are necessary to give effect to any civil defence emergency management plan.

Directions relating to the Christchurch earthquake have been issued by the National Controller. Intentional failure to follow a direction is an offence under the CDEMA. Any person committing an offence is liable for a fine up to \$5000.00 or 3 months jail upon conviction, or both. Body corporates, including companies, are liable for fines up to \$50,000.00.

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