



# **Civil Defence Emergency Management Amendment Act 2016 Amendment Act 2016**

Public Act    2016 No 92  
Date of assent    29 November 2016  
Commencement    see section 2

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**The Parliament of New Zealand enacts as follows:****1 Title**

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

**2 Commencement**

This Act comes into force on the day and at the time that it receives the Royal assent.

This Act received the Royal assent at 9.59 pm on Tuesday 29 November 2016.

**3 Principal Act**

This Act amends the Civil Defence Emergency Management Amendment Act 2016 (the **principal Act**).

**4 Section 2 replaced (Commencement)**

Replace section 2 with:

**2 Commencement**

- (1) Section 19(2) and (5) come into force on 1 June 2018.
- (2) The rest of this Act comes into force on the day and at the time that the Civil Defence Emergency Management Amendment Act 2016 Amendment Act 2016 receives the Royal assent.

**5 Section 4 amended (Interpretation)**

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

**owner**, in relation to a structure, includes (but is not limited to) a person who owns part of the structure

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

In section 25, new section 83, replace “60 or 76” with “60, 76, 91(2), or 94N(2)”.

**7 New sections 26A and 26B inserted**

After section 26, insert:

**26A Section 91 amended (Power to give directions)**

In section 91, insert as subsections (2) to (8):

- (2) While a state of emergency is in force, a Controller or a constable, or any person acting under the authority of a Controller or constable, may direct—

- (a) the owner of a structure (or the owner's agent) to obtain an assessment of the effect of the emergency (and any related subsequent events) on the structure;
  - (b) the owners of structures of a particular type (or the owners' agents) to obtain assessments of the effect of the emergency (and any related subsequent events) on the structures of that type that they own.
- (3) A person may not give a direction under subsection (2) unless the person has had regard to whether the structure or type of structure may, in the circumstances, pose a risk of injury or a risk to the safety of life or the safety of other property.
- (4) A direction given under subsection (2) must—
- (a) state the purpose of the assessment and specify the assessment that is required; and
  - (b) specify a reasonable time within which the assessment must be concluded; and
  - (c) require the owner (or the owner's agent) to give a copy of the assessment to the person who gave the direction.
- (5) An owner (or owner's agent) who is given a direction under subsection (2) must—
- (a) obtain the assessment, which must be conducted in accordance with the direction and at the owner's expense; and
  - (b) give a copy of the assessment to the person who gave the direction.
- (6) The owner (or the owner's agent) may appeal to the District Court on the grounds that the direction is unreasonable.
- (7) Section 77(2) and (3) applies in relation to an appeal under subsection (6) with any necessary modifications, and section 77(4) does not apply.
- (8) Any relief that may be granted under subsection (6) is limited to the reasonable costs associated with obtaining the assessment.

**26B New section 91A inserted (Notice requirements)**

After section 91, insert:

**91A Notice requirements**

- (1) A person who gives a direction under section 91(2)(a) or (b)—
- (a) must use reasonable endeavours, in accordance with section 114, to notify—
    - (i) each owner (or each owner's agent) and each occupier of the structure of the direction; and
    - (ii) each owner (or each owner's agent) and each occupier of any adjacent structure or adjoining land of the direction; and

- (b) must attach a copy of the notice to a prominent place on, or adjacent to, the structure.
- (2) A person who gives a direction under section 91(2)(b) must also give public notice of the direction that is reasonable in the circumstances.
- (3) A notice given under this section must—
  - (a) state the reasons for giving the direction; and
  - (b) describe the matter to which the direction applies; and
  - (c) state when the assessments are to be carried out; and
  - (d) state where any further information may be viewed; and
  - (e) be published in the *Gazette* as soon as practicable.

### **8 Section 27 amended (New Parts 5A and 5B inserted)**

- (1) In section 27, new section 94N, insert as subsections (2) to (8):
- (2) A Recovery Manager or a constable may direct—
  - (a) the owner of a structure (or the owner's agent) to obtain an assessment of the effect of the emergency (and any related subsequent events) on the structure;
  - (b) the owners of structures of a particular type (or the owners' agents) to obtain assessments of the effect of the emergency (and any related subsequent events) on the structures of that type that they own.
- (3) A person may not give a direction under subsection (2) unless the person has had regard to whether the structure or type of structure may, in the circumstances, pose a risk of injury or a risk to the safety of life or the safety of other property.
- (4) A direction given under subsection (2) must—
  - (a) state the purpose of the assessment and specify the assessment that is required; and
  - (b) specify a reasonable time within which the assessment must be concluded; and
  - (c) require the owner (or the owner's agent) to give a copy of the assessment to the person who gave the direction.
- (5) An owner (or owner's agent) who is given a direction under subsection (2) must—
  - (a) obtain the assessment, which must be conducted in accordance with the direction and at the owner's expense; and
  - (b) give a copy of the assessment to the person who gave the direction.
- (6) The owner (or the owner's agent) may appeal to the District Court on the grounds that the direction is unreasonable.

- (7) Section 77(2) and (3) applies in relation to an appeal under subsection (6) with any necessary modifications, and section 77(4) does not apply.
- (8) Any relief that may be granted under subsection (6) is limited to the reasonable costs associated with obtaining the assessment.

(2) In section 27, after new section 94N, insert:

**94NA Notice requirements**

- (1) A person who gives a direction under section 94N(2)(a) or (b)—
  - (a) must use reasonable endeavours, in accordance with section 114, to notify—
    - (i) each owner (or each owner’s agent) and each occupier of the structure of the direction; and
    - (ii) each owner (or each owner’s agent) and each occupier of any adjacent structure or adjoining land of the direction; and
  - (b) must attach a copy of the notice to a prominent place on, or adjacent to, the structure.
- (2) A person giving a direction under section 94N(2)(b) also must give public notice of the direction that is reasonable in the circumstances.
- (3) A notice given under this section must—
  - (a) state the reasons for giving the direction; and
  - (b) describe the matter to which the direction applies; and
  - (c) state when the assessments are to be carried out; and
  - (d) state where any further information may be viewed; and
  - (e) be published in the *Gazette* as soon as practicable.

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

Replace section 28(1) with:

- (1) In section 96(1), replace “76” with “76, 91, 94I(1), or 94N”.

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

Replace section 33 with:

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

In section 102, replace “91(a)” with “91 or 94N”.

**11 Schedule 1 amended**

- (1) In Schedule 1, new Schedule 1AA, before clause 1, insert:

**Part 1****Provisions relating to this Act as enacted**

- (2) In Schedule 1, new Schedule 1AA, after clause 3, insert:

**4 Appointment of persons to give notice of local transition period**

- (1) Despite section 25(1)(b) (as inserted by section 13 of the Civil Defence Emergency Management Amendment Act 2016), a Civil Defence Emergency Management Group may (but is not required to) appoint a person to give notice of a local transition period for its area during the period—
- (a) beginning with the date on which this clause commences; and
  - (b) ending with the close of 31 May 2017.
- (2) During the period specified in subclause (1), “must” must be read as “may” in clause 18B(c) of the national civil defence emergency management plan as set out in the Schedule of the National Civil Defence Emergency Management Plan Order 2015 (as inserted by section 43 and Schedule 3 of the Civil Defence Emergency Management Amendment Act 2016).

**5 Appointment of Group Recovery Managers**

- (1) Despite section 29(1) (as inserted by section 17 of the Civil Defence Emergency Management Amendment Act 2016), a Civil Defence Emergency Management Group may (but is not required to) appoint a Group Recovery Manager for its area during the period—
- (a) beginning with the date on which this clause commences; and
  - (b) ending with the close of 31 May 2017.
- (2) During the period specified in subclause (1), “must” must be read as “may” in clause 18B(a) of the national civil defence emergency management plan as set out in the Schedule of the National Civil Defence Emergency Management Plan Order 2015 (as inserted by section 43 and Schedule 3 of the Civil Defence Emergency Management Amendment Act 2016).

**6 Form of certain notices**

- Despite sections 94E(5)(c) and 94F(1)(c) and (2)(c) (as inserted by section 27 of the Civil Defence Emergency Management Amendment Act 2016), a notice referred to in either of those sections may be in a form that the person giving the notice considers appropriate if the notice is given during the period—
- (a) beginning with the date on which this clause commences; and
  - (b) ending with the close of 31 May 2017.

**7 Repeals**

- (1) Clauses 4, 5, and 6 are repealed on 1 June 2017.
- (2) This clause is repealed on 2 June 2017.

### **Legislative history**

29 November 2016

Introduction (Bill 211–1), first reading, second reading,  
committee of the whole House, third reading

29 November 2016

Royal assent

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