



The Civil Defence Emergency Management (CDEM) Act 2002:

- Provides for a state of local emergency to be declared.
- Provides for certain people to be authorised to declare a state of local emergency.
- Provides powers to the CDEM Group (and Controllers) when a state of emergency is in force.

Who is authorised to declare a state of local emergency (Section 25)?

The CDEM Group must appoint at least one person, who is an elected representative of the Group to declare a state of local emergency for their area.

As a Group, you can appoint more than one person to have the authority to declare. If this is the case, it must be stated:

- whether the appointees have equal status to make a declaration,
- or whether they are only authorised in the absence of the other named person.

You must also include any conditions or limitations to the appointment. If no appointment has been made, or is likely to be made, an elected representative of the Group can declare.

A Mayor can declare a state of local emergency for their territorial district, and if the Mayor is absent, an elected member of that territorial authority designated on behalf of the mayor may declare.

CDEM Group Plans must set out the arrangements for declaring a state of emergency. This is so that it is clear who primarily declares, in what circumstances, and what the arrangements are in case of absence. This will avoid multiple declarations of states of emergency over the same area. The Minister of Civil Defence can also declare a state of local emergency if it appears to the Minister that it is required.

When can a declaration of state of local emergency be given?

A declaration of a state of local emergency is made when an emergency has occurred or may occur within the area. As defined by the CDEM Act 2002, an emergency:

- (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.

A state of local emergency provides access to powers that would not normally be available. You should talk to your Local Controller and consider whether emergency powers are required or will likely be required (e.g. the need to evacuate people from their homes). You can also declare a state of local emergency in anticipation of the event occurring in order to heighten awareness or if you think special powers will need to be available quickly (e.g. evacuations).

Resources and help are generally offered from other areas / districts not directly affected by the emergency without having to declare a state of local emergency in that area. If there is a need to acquire additional resources, an authorised person can declare a state of local emergency over these non-affected areas.

Who needs to be involved in the decision?

The decision to declare (or not) will be based on the best information available. That includes the situation after an event and/or the likelihood of an emergency happening. You should discuss the need for a declaration with:

- your Group Controller - in case the CDEM Group appointee is preparing to declare for the same area,
- your Local Controller - who can help with information to determine if the event meets the definition of emergency; and
- the MCDEM Regional Emergency Management Advisor (REMA) - who can advise of national level support
- Other members of the CDEM Group e.g. neighbouring mayors as appropriate.

Your Local Controller can assist you with gaining information from other sources to help you make an informed decision and understand any relevant matters including talking to:

- Emergency Management Officers (EMO)
- Local Authority Utility Managers
- New Zealand Police
- Fire and Emergency New Zealand
- Providers of health and disability services (i.e. Health / Ambulance)
- Other agencies as necessary e.g. Ministry of Primary Industries for Myrtle Rust, Ministry of Health for pandemic situations.

If you are appointed or authorised to make a declaration, we recommend making a list of contact numbers of those you may need to contact in your mobile phone and have a list readily available.

What needs to be considered about the area affected?

Geographic scope: - As states of emergency provide for powers that are not normally available, declarations should be limited to the area(s) affected. For example, a declaration is not needed for the entire area of the Group if the emergency only affects one or two districts or wards.

As the Mayor of a territorial authority, or the person designated to act on their behalf in their absence, you can declare a state of local emergency that covers the district of your territorial authority.

A person appointed by the CDEM Group can declare for the whole of the area of the Group, or for one or more districts or wards within the area.

If a state of local emergency is declared for a ward, but it is decided that a state of local emergency should be extended to cover a larger area including neighbouring wards or districts, then a new declaration is required. There is no requirement to terminate the original state of local emergency as it will be replaced by the new declaration.

Several states of local emergency can be declared concurrently within a Group area (e.g. two different territorial authorities can declare) but they cannot cover the same geographical area.

What if the Minister declares a state of national emergency?

If the Minister declares a state of national emergency, any other declarations in force in the area or district ceases to have effect. Likewise, a declaration of a state of local emergency cannot be given for any area of New Zealand while a state of national emergency is in force for that area.

A declaration of a state of national emergency is a rare occurrence, and generally the local Mayor/CDEM Group would be contacted prior to such a decision.

What if the emergency is during local government elections?

Only elected representatives of the members of the Group are able to declare a state of local emergency. Following a local election there may be no one available to declare, as members cannot act as an elected representative until they are sworn in (clause 14, Schedule 7 of the Local Government Act 2002).

Therefore, if an emergency arises following a local election, but before members are sworn in and emergency powers are needed, a state of local emergency can be declared by:

- The Minister of Civil Defence under section 69; or
- In circumstances that provide a period of warning, such as an impending adverse weather event, a council meeting may be called as soon as practicable to have the new council sworn in (clause 21(3), Schedule 7, Local Government Act 2002), allowing the Mayor to declare a state of local emergency under s25(5) of the CDEM Act 2002.

When does a declaration of state of local emergency come into force?

Schedule 2 of the CDEM Regulations 2003 provides forms for declaring a state of local emergency, which must be used to declare a state of local emergency. The form must specify the time and date on which the declaration is made; this is the date and time that it comes into force. The declaration form also needs to set out the area of the emergency (i.e. districts or wards) and describe the emergency.

It is recommended that you carry a declaration of a state of local emergency form with you (or version you can complete on your phone/tablet/computer) so if you are not in an office you can complete the form online.

How long does a declaration of state of local emergency last?

A state of local emergency expires seven days after the time and date on which the state of local emergency came into force. Therefore if a state of local emergency comes into force at 0935 on 1 January, it would expire at 0935 on 8 January.

How is a declaration of state of local emergency extended?

You can terminate a state of emergency before the expiry date or you can extend it. As with the initial declaration, receiving the best available advice is recommended before terminating or extending a state of local emergency. There are separate forms and processes to consider for terminating and extending a state of emergency.

The Controllers cannot exercise powers under the CDEM Act 2002 if there is no state of local emergency in place.

What are the publication requirements?

You must immediately notify the public of the declaration of a state of local emergency by any means of communication that are reasonably practicable in the circumstances.

The declaration of state of a local emergency, and declaration extending or terminating a state of local emergency must be published in the *Gazette* as soon as practicable.

Gazette publication

A copy of the signed notice form(s) must be sent to the New Zealand Gazette Office.

See <https://gazette.govt.nz/how-to-submit> for details on how to submit a notice for publication in the *Gazette*.

Director's Guidelines on Declarations

There is a Director's Guidelines on Declarations, which the CDEM Group Plan must take account of. Process for declaring a state of local emergency (s70).