



Powers of a Recovery Manager during Transition

The amendments to the Civil Defence Emergency Management Act 2002 provides:

- Group Recovery Managers as a statutory roles
- Requires a Civil Defence Emergency Management (CDEM) Group to formally appoint a 'suitably qualified and experienced person' to be a Group Recovery Manager (s29)
- Groups may also appoint one or more Local Recovery Managers (s30)
- provides for Recovery Managers and constables to use powers during transition periods (Part 5B). However, there are differences with the powers of the CDEM Group or Controllers available during a state of emergency. For example, there is no requisitioning power available during a transition period.

Recovery Managers are responsible for directing, co-ordinating the use of personnel, material, information, services and other resources during a local transition period (s30A(1)).

Powers during a transition period

Under the Act the Group Recovery Manager – NOT the CDEM Group - has access to the powers contained in Part 5B. The CDEM Group retains overarching responsibility for the conduct of the Group Recovery Manager through their appointment.

Powers **can only be used** if they meet **three legal tests**. The action must in the Recovery Managers opinion be 'in the public interest', 'necessary or desirable to ensure a timely and effective recovery' AND 'proportionate in the circumstances' (s94G(3)).

CDEM Groups may appoint one or more Local Recovery Managers and delegate the functions, duties and powers of the Group Recovery Manager to the Local Recovery Managers to exercise in the area that the Group Recovery Manager is appointed (s30(1)).

If during a transition period a Group Recovery Manager needs to direct a Local Recovery Manager then that direction must be followed (s30(2)).

Under s94J the Minister may direct the CDEM Group, the Director of Civil Defence Emergency Management or a person (notably a Recovery Manager or constable) in performing any functions or duties and the exercising of any powers during a transition period.

Summary of powers

The list of powers reflects the activities that CDEM Groups, councils and communities may require Recovery Managers to exercise in order to aid recovery, once a state of emergency has ended.

Some of the powers are also available to a constable as defined by the Act and s4 of the Policing Act 2008.

Powers during transition periods	Comment
94H – general powers including ability to carry or require to be carried out: works, clearing of roads/public places, examining and marking, making safe structures and materials Plus, providing for conservation and supply of food, fuel and other essential supplies and disseminating information and advice.	Equivalent to section 85(1) (a) but also incorporates part of s92 to enable the ability to 'examine and mark' property, animal and other things. Also mirrors section 85(1)(e) and (h), as the activities of providing welfare services and public information commonly continue post state of emergencies.
94I - power to require information	Provides the Recovery Manager with the power to require any person to give information that is in the possession of the person asked to give the information. The appeal rights (s77), disposal of information (s81) and Restrictions on disclosure of information (s83) also apply to this provision.
94K – power to direct evacuation	Similar to section 86 under state of emergency
94L – entry on premises and places	Similar to section 87 under state of emergency
94M – closing roads and public places	Similar to section 88 under state of emergency

This information should be read in conjunction with the legislation.

Powers during transition periods	Comment
94N(1) – giving direction to any person	Similar to existing section 91 under state of emergency. But the text reflects that the change in circumstances of the recovery phase and “activities substantially contribute to the consequence of an emergency” rather than “contribute to the emergency”.
94N(2) to (8)	<p>Enables a Recovery Manager or constable to direct the owner of a structure, or the owners of structures of a particular type, to obtain an assessment of the effects of the emergency (or subsequent events) on the structure.</p> <p>Regard needs to be had as to risk the structure poses to people and other property.</p> <p>There is also criteria for what a direction must include – including the scope of the assessment, the reasonable time in which the assessment must be concluded, and requirement to give the assessment to the person who directed it.</p>
94NA	Sets out the notice requirements for directing an assessment of a structure under 94N(2).

Reporting (new section 94P)

Unlike state of emergencies, there are specific reporting requirements if any power is used during transition periods. Reporting requirements include:

- a written report from the Recovery Manager to the Director of CDEM and a copy to the CDEM Group within seven days of the transition period ending
- detail on the powers used, by who and the reasons for use
- making the report public – as the CDEM Group must put it on its website.

It is recommended that Recovery Managers (and those exercising powers) keep an updated record of powers that have been exercised, the reasons for exercising the powers and how the statutory tests in 94G(3) were considered.

Application of RMA

Section 111 of the Resource Management Act 1991 has also been amended to clarify that the emergency works provisions also apply to a transition period (s111).

Delegating functions

A Recovery Manager may authorise another person to perform their functions BUT there are limitations and conditions (new section 30A(3)–(5)).

Compensation

The compensation provisions in s108-109 have also been updated to include reference to Recovery Managers.