Declarations

Director’s Guidelines for the CDEM Sector (DGL13/12)

Resilient New Zealand
Aotearoa Manahau
Declarations
Director's Guidelines for the CDEM Sector (DGL13/12)

March 2012

Authority
This guideline has been issued by the Director of the Ministry of Civil Defence & Emergency Management pursuant to s9(3) of the Civil Defence Emergency Management (CDEM) Act 2002. It provides assistance to CDEM Groups in the development of plans, CDEM Groups are required to take account of this guideline in their planning (s53(2)).

Published by the Ministry of Civil Defence & Emergency Management

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Contents

Foreword ............................................................................................................................................................ 4

Key provisions in the Civil Defence Emergency Management Act 2002 related to declaring a state of emergency .............................................................................................................................................. 5

  Authorisation to declare a state of local emergency ........................................................................... 5
  Who may declare a state of local emergency? ................................................................................. 5
  When may a state of local emergency be declared? ................................................................... 6
  The location of a state of local emergency ................................................................................... 6
  A state of national emergency ...................................................................................................... 6
  Forms for declaring, extending, and terminating a state of emergency ...................................... 7
  Commencement .............................................................................................................................. 7
  Duration of a state of emergency .................................................................................................. 7
  Extension ......................................................................................................................................... 7
  Termination ....................................................................................................................................... 7
  Emergency powers available under a state of emergency .......................................................... 8
  Timing of declaration? .................................................................................................................. 9
  Gazette the declaration of a state of emergency ............................................................................ 9

Annex 1: A guide to declaring, extending and terminating a state of local emergency ................. 10

Annex 2: Checklist for consideration of a state of emergency ..................................................... 13

Annex 3: Forms ........................................................................................................................................ 14

  Annex 3: Form 8, Schedule 2, CDEM Regulations 2003 (effective 25 March 2012) ............. 14
  Annex 3: Form 9, Schedule 2, CDEM Regulations 2003 (effective 25 March 2012) ............. 15

Annex 4: Key definitions .................................................................................................................. 17
Declarations [DGL13/12]

Foreword

Declaring a state of emergency is a critical part of New Zealand’s response arrangements. It is the declaration of a state of emergency that provides Controllers and others with extra-ordinary powers designed to deliver an effective and swift response. When to declare however is often a matter of judgement and dependent on the developing situation and scale, the forecasted trajectory, the need for the special powers prescribed in the legislation, and the need to assure the public that the seriousness of the situation is understood fully and initiatives are in place to manage the response.

It is important that those who have the authority to make a declaration are aware not only of the factors that should be considered in deciding on a declaration, but also the procedures to be used and the limitations that apply to a declaration. This guideline explains why declarations of states of emergency should be made, who should make them and how they should be made. It also explains and clarifies some of the issues involved in declaring a state of emergency. It incorporates amendments to the CDEM Act 2002.

The audience for this document is the emergency management practitioners and political leaders that have a statutory role in the declaration process. However members of the emergency services and government agencies who provide support to a CDEM response may also find it informative.

John Hamilton

Director of Civil Defence Emergency Management
Key provisions in the Civil Defence Emergency Management Act 2002 related to declaring a state of emergency

Authorisation to declare a state of local emergency

• Authorisation to declare a state of emergency is contained in two separate sections in the Act (Section 25 and Section 68) and both need to be read together.

• Relating to the appointment of persons authorised to declare — Section 25.

• Providing for the making of declarations — Section 68.

• Both sections provide for the identification and authorisation of persons who may make a declaration.

Who may declare a state of local emergency?

• Any elected member of a local authority or an elected member of a community board in a CDEM Group area may be appointed by the Group as a person authorised to declare a state of local emergency.

• The following provisions provide this effect,
  ◦ A CDEM Group must appoint at least 1 person as a person authorised to declare a state of local emergency for its area — Section 25(1).
  ◦ The appointees are to be chosen from the representatives of the members of the Group — Section 25(2).
  ◦ If a Group appoints more than 1 person, then the Group plan must state the status, conditions and limitations for them to declare — Section 25(3).
  ◦ If no appointed person is or is likely to be able to declare a representative of any member of the Group may declare — Section 25(4).
  ◦ A mayor, or deputy in the absence of the mayor may declare for their district, irrespective of whatever appointments the Group may have made — Section 25(5).

• The Minister may also declare a state of local emergency under Section 69.

• Note: The arrangements for declaring a state of emergency in the area of the Group are required to be included in the CDEM Group Plan by Section 49(2)(f). Representatives appointed by the Group are expected to be identified by office.

1 “Representative” is defined to mean unless the context otherwise requires, “an elected member of a local authority, including an elected member of a community board.”
Key provisions in the Civil Defence Emergency Management Act 2002 related to declaring a state of emergency

When may a state of local emergency be declared?

• An authorised person may declare that a state of emergency exists in the area for which the person is appointed if at any time it appears to the person that an emergency has occurred or may occur within the area, or in support of another area where a state of emergency is in force — Section 68.

• If it appears to the Minister of Civil Defence that an emergency has occurred or may occur in the area of any CDEM Group, and a state of local emergency has not been declared by an authorised person (elected local representative) the Minister may declare a state of local emergency — Section 69.

• It is important to note that a state of emergency is not required to be in place for appropriate government financial support to be provided.

• **Note:** The fact that an emergency exists does not necessarily warrant a declaration of a state of emergency. The primary consideration for declaring a state of emergency is whether the special powers provided by the Act under a state of emergency are required or deemed to be required to best manage the emergency.

The location of a state of local emergency

• A state of local emergency may be declared for the whole area of the CDEM Group concerned, or one or more districts or wards within the area — Section 68.

• If a state of local emergency is declared for the whole CDEM Group area or an entire district, any other state of local emergency then in force within that area or district ceases to have effect. Only one state of local emergency can exist in one location at any one given time — Section 68 and Section 69.

A state of national emergency

• The Minister may declare that a state of national emergency exists over the whole of New Zealand or any areas or districts — Section 66(1).

• If a declaration of a state of national emergency is made, any other state of emergency then in force in the area to which the state of national emergency applies ceases to have effect — Section 66(3).
Forms for declaring, extending, and terminating a state of emergency

- A person who declares a state of emergency, or extends or terminates a state of emergency, must do so by a declaration in the appropriate form prescribed in regulations made under Section 115, or a form of similar effect — Section 73(1).
- Forms are attached at the back of this document.

Commencement

- A state of emergency comes into force at the time and on the date that a declaration of the state of emergency is made. The declaration is not valid if these details are missing from the declaration form or the form is incomplete in any way — Section 70(2).

Duration of a state of emergency

- A state of emergency expires 7 days (7x24hrs) after the time and date on which the state of emergency came into force — Section 70(3).
- A state of emergency may be extended or terminated prior to its expiry time.

Extension

- An extension of a state of emergency comes into force immediately before the existing declaration of the state of emergency (or the last extension) expires — Section 71(3).
- An extension of a state of emergency expires 7 days after the time and date on which the extension of the state of emergency comes into force — Section 71(4).

Termination

- A state of emergency will expire after 7 days after it comes into force, unless extended or terminated at an earlier time.
- The termination takes effect immediately on the making of the declaration terminating it — Section 72(2).

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2 Refer to ‘Key Definitions’ of this document for further description of seven days.
Emergency powers available under a state of emergency

- **Section 78** — Power of entry to obtain information in urgent cases
- **Section 84** — Minister’s power of direction
- **Section 85** — Emergency powers of CDEM Groups (to undertake a wide range of CDEM activities)
  - Carry out works, clearing roads and other public places, removing or disposing of, or securing or otherwise making safe, dangerous structure
  - Provide for rescue.
  - Set up first aid posts.
  - Provide for the relief of distress, including emergency food, clothing and shelter.
  - Conservation and supply of food, fuel and essential supplies.
  - Prohibit or regulate land, air and water traffic.
  - Undertake emergency measures for disposal of the dead persons or animals.
  - Disseminate information and advice to public.
  - Enter into employment arrangements.
  - Provide equipment, accommodation, and facilities.
- **Section 86** — Evacuation of premises and places
- **Section 87** — Entry on premises
- **Section 88** — Closing roads and public places
- **Section 89** — Removal of aircraft, vessels, vehicles, etc
- **Section 90** — Requisitioning powers
- **Section 91** — Power to give directions
- **Section 92** — Power to carry out inspections, etc
- **Section 94** — Contracts in urgent cases.
- **Section 111** — Restricted application of the Resource Management Act 1991 to emergency works

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3 Emergency powers are available to the Minister of Civil Defence, Director of CDEM, a Controller, a CDEM Group, a member of the police, or a person authorised by a CDEM Group or a member of the police.
Key provisions in the Civil Defence Emergency Management Act 2002 related to declaring a state of emergency

Timing of declaration?

The timing of the declaration will depend on the nature of the event and the information available. However, the following factors need consideration:

- **Early rather than late**: an early declaration, or one made in anticipation of an emergency can reduce the negative impacts, e.g. early closure of schools mean children will not be stranded, workers are likely to remain at home to prepare their households and response agencies will have time to organise their actions.

- **In daylight rather than darkness**: people are better able to cope with crisis situations in daylight, and coordination is easier and safer.

- **Immediate notification**: the declaration must be immediately notified to emergency services, media and the public especially those involved or affected, by whatever means are available including the broadcast and news media (not simply to the CDEM organisation).

Gazette the declaration of a state of emergency

- The declaration must be notified to the public immediately and published in the Gazette as soon as practicable. Ideally publication in the Gazette will occur within 20 working days of the date of termination or expiration of the declaration – Section 73(3).

A copy of the signed declaration form(s) must be sent to:

New Zealand Gazette Office  
Department of Internal Affairs  
PO Box 805  
Wellington 6140

Or Fax: (04) 470 2932  
Or Email: gazette@parliament.govt.nz in Portable Document File (PDF) format.
Annex 1: A guide to declaring, extending and terminating a state of local emergency

Chart 1: Process for declaring a state of local emergency

Advice may be provided by:
- CDEM Controller
- Emergency Services
- MCDEM

An authorised person within a CDEM Group appointed for the purpose under section 25 of the CDEM Act 2002 considers that: An emergency has occurred, or an emergency may occur in the area of their CDEM Group.

Authorised person decides to declare a state of local emergency over the whole area of the affected CDEM Group, or 1 or more districts or wards within the area.

Authorised person signs ‘Form 8 – Declaration of a state of local emergency’ (as prescribed in the CDEM Regulations 2003).

Authorised person notifies the CDEM Controller that a state of emergency has been declared.

Authorised person and the CDEM Controller notify the media and public of the state of emergency.

Declaration of the state of local emergency is published in the Gazette as soon as practicable.

Note: An authorised person is a person authorised to make a declaration under section 25 of the CDEM Act 2002.
Annex 1: A guide to declaring, extending and terminating a state of local emergency

Chart 2: Process for extending a state of local emergency

A state of local emergency is in place

The CDEM Controller updates the authorised person on the response to the emergency

The authorised person considers that:
- a) the state of emergency should be extended; and
- b) the state of emergency has not already been extended.

The authorised person decides to extend the state of local emergency

Authorised person signs ‘Form 9 – Declaration extending state of local emergency’ (as prescribed in the CDEM Regulations 2003)

An extension does not come into force until immediately before the expiry of the original declaration (if this is the first extension) or the last extension.

An extension expires 7 days after the time and date on which it comes into force, unless extended or terminated at an earlier time.

Authorised person notifies the CDEM Controller that the state of emergency has been extended.

CDEM Controller to notify MCDEM, the National Controller and other appropriate agencies

Authorised person and the Controller notify the media and public

Extension of the state of local emergency is published in the Gazette as soon as practicable.

Note: An authorised person is a person authorised to make a declaration under section 25 of the CDEM Act 2002.
Chart 3: Process for terminating a state of local emergency

A state of local emergency is in place

The Controller updates the authorised person on the response to the emergency

The authorised person considers that:

a) the state of emergency should be terminated; and
b) the state of emergency has not already been terminated.

The authorised person decides to terminate the state of local emergency

Authorised person signs ‘Form 10 – Declaration terminating state of local emergency’ (as prescribed in the CDEM Regulations 2003)

Authorised person notifies the CDEM Controller that the state of emergency has been terminated.

The termination comes into force immediately on the making of the declaration terminating it.

Termination of the state of local emergency is published in the Gazette as soon as practicable.

Advice may be provided by:

• CDEM Controller
• Emergency Services
• MCDEM

Note: An authorised person is a person authorised to make a declaration under section 25 of the CDEM Act 2002.
## Annex 2: Checklist for consideration of a state of emergency

When considering a declaration, extension or termination of a state of local emergency the checklist below will aid in the decision making process. Always start by considering whether an emergency exists and the emergency powers provided by the Act are required or may be required.

### Checklist for commencing, extending or terminating a state of emergency

<table>
<thead>
<tr>
<th>Considerations (This is not a declaration form)</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Is the situation within the definition of an emergency as stated in the CDEM Act 2002?</td>
<td>Result of happening defined under ‘emergency’ in CDEM Act 2002 (s4).</td>
<td>Cause or may cause loss of life or injury or illness or distress or in any way endangers the safety of the public and property.</td>
</tr>
<tr>
<td>Is there a need to evacuate?</td>
<td>No. of people:</td>
<td>Duration:</td>
</tr>
<tr>
<td>Information only</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Are lifeline utilities having or likely to have difficulties functioning?</td>
<td>Energy</td>
<td>Transport</td>
</tr>
<tr>
<td>Are the ‘Social Utilities’ having or likely to have difficulties in functioning?*</td>
<td>Food Retailers</td>
<td>Medical Services</td>
</tr>
<tr>
<td>Are the emergency powers provided by the CDEM Act 2002 required or likely to be required (s85 – s94)?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Have the emergency services been consulted?</td>
<td>Police</td>
<td>Fire Service</td>
</tr>
<tr>
<td>Have the Controller and Emergency Management Officer been consulted?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Have Local Authority Utility Managers been consulted?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Has the MCDEM EM Advisor been consulted?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Will a state of emergency add value to the response?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Declaration for: (please circle)

<table>
<thead>
<tr>
<th>Commencement</th>
<th>Extension</th>
<th>Termination</th>
</tr>
</thead>
<tbody>
<tr>
<td>State area covered</td>
<td>Ward:</td>
<td>District:</td>
</tr>
<tr>
<td>Signed by:</td>
<td>Controller:</td>
<td>CDEMO:</td>
</tr>
<tr>
<td>Date:</td>
<td>Time:</td>
<td></td>
</tr>
</tbody>
</table>

*Especially Pandemic emergencies*
Declarations [DGL13/12]

Declaration of state of local emergency
Section 68, Civil Defence Emergency Management Act 2002

I, ________________________________________________
[full name]
declare that a state of local emergency exists in ________________________________________________
[specify names of Civil Defence Emergency Management Group area, districts, or wards]

owing to ________________________________________________
[describe emergency]

The state of local emergency comes into force immediately on the making of this declaration, and expires 7 days after the time and date on which it comes into force (unless extended or terminated at an earlier time).

Declared by: ____________________________________________
[signature]

Designation: [Select the applicable designation]

☐ Person appointed and authorised by the Civil Defence Emergency Management Group to declare a state of local emergency for its area.

☐ Representative of a member of the Civil Defence Emergency Management Group [select this designation where no appointed person is or is likely to be able to exercise the power to declare a state of local emergency].

☐ Mayor of the district for which the state of local emergency is declared.

☐ Elected member of the district for which the state of local emergency is declared (designated to act on behalf of the mayor when the mayor is absent).

Time and date of declaration: ____________________________________________

Notes

1. Calculating “7 days after the time and date on which the state of emergency comes into force”: If a state of local emergency came into force at 9.35am on 1 January, it would expire at 9.35am on 8 January. If a state of local emergency came into force at 9.35am on a Friday, it would expire at 9.35am on the following Friday.

2. This declaration must be —
   a) notified to the public immediately by any means of communication that are reasonably practicable in the circumstances; and
   b) published in the Gazette as soon as practicable. It is recommended that publication in the Gazette occur within 20 working days after the state of emergency is terminated.
Annex 3: Form 9, Schedule 2, CDEM Regulations 2003 (effective 25 March 2012)

Declaration extending state of local emergency
Section 71, Civil Defence Emergency Management Act 2002

[full name]

extend the state of local emergency declared at [specify time and date, and include times and dates when any extensions took effect]

for [specify names of Civil Defence Emergency Management Group area, districts, or wards]

owing to [describe emergency]

The state of local emergency is extended for 7 days. It will take effect immediately from the time the initial declaration of the state of emergency (or the last extension) was to expire.

Declared by: [signature]

Designation: [Select the applicable designation]

☐ Person appointed and authorised by the Civil Defence Emergency Management Group to declare a state of local emergency for its area.

☐ Representative of a member of the Civil Defence Emergency Management Group [select this designation where no appointed person is or is likely to be able to exercise the power to declare a state of local emergency].

☐ Mayor of the district for which the state of local emergency is declared.

☐ Elected member of the district for which the state of local emergency is declared (designated to act on behalf of the mayor when the mayor is absent).

Time and date of declaration: 

Notes

1. Calculating the extension of "7 days" for a declaration extending the state of emergency: If the extension came into force at 9.35am on 1 January, it would expire at 9.35am on 8 January. If the extension came into force at 9.35am on a Friday, it would expire at 9.35am on the following Friday.

2. If this is a second or subsequent extension of a state of emergency, specify the time and date when each previous extension took effect, as well as the time and date when the state of emergency was first declared.

3. This declaration must be—
   a) notified to the public immediately by any means of communication that are reasonably practicable in the circumstances; and
   b) published in the Gazette as soon as practicable. It is recommended that publication in the Gazette occur within 20 working days after the state of emergency is terminated.
Annex 3: Form 10, Schedule 2, CDEM Regulations 2003 (effective 25 March 2012)

Declaration terminating state of local emergency
Section 72, Civil Defence Emergency Management Act 2002

I, ___________________________.

[full name]

terminate the state of local emergency declared at ___________________________.

[specify time and date, and include times and dates when any extensions took effect]

for ___________________________.

[specify names of Civil Defence Emergency Management Group area, districts, or wards]

owing to ___________________________.

[describe emergency]

The termination of the state of local emergency takes effect immediately on the making of this declaration.

Declared by: ___________________________

[signature]

Designation: [Select the applicable designation]

☐ Person appointed and authorised by the Civil Defence Emergency Management Group to declare a state of local emergency for its area.

☐ Representative of a member of the Civil Defence Emergency Management Group [select this designation where no appointed person is or is likely to be able to exercise the power to declare a state of local emergency].

☐ Mayor of the district for which the state of local emergency is declared.

☐ Elected member of the district for which the state of local emergency is declared (designated to act on behalf of the mayor when the mayor is absent).

Time and date of declaration: ___________________________

Notes

1. If any extension of the state of emergency was made, specify the time and date when each extension took effect, as well as the time and date when the state of emergency was first declared.

2. This declaration must be—
   a) notified to the public immediately by any means of communication that are reasonably practicable in the circumstances; and
   a) published in the Gazette as soon as practicable. It is recommended that publication in the Gazette occur within 20 working days after the state of emergency is terminated.
Annex 4: Key definitions

“emergency” means a situation that —

(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.”

Area, in relation to a Civil Defence Emergency Management Group, means the area that encompasses all the districts of the local authorities that are members of the Group.

Representative means an elected member of a local authority, including an elected member of a community board.

7 Days (Sections 70 – 71)

For the purposes of declarations, “7 days after the time and date on which the state of emergency comes into force” means a period that -

(a) begins immediately after the time of the day on which the state of emergency comes into force; and

(b) ends immediately before the same time of day on the date that is 7 days after the day on which the state of emergency comes into force.

Example:

If a state of emergency came into force at 9.35 am on 1 January, it would expire at 9.35 am on 8 January. If the state of emergency came into force at 9.35 am on a Friday, it would expire at 9.35 am on the following Friday.

4 CDEM Act 2002, section 4, Interpretations.