



Giving Notice of a Local Transition Period

The Civil Defence Emergency Management Amendment Act 2016 amends the Civil Defence Emergency Management Act 2002 to:

- provide for local transition periods to assist recovery. This enables the use of powers that are not normally available to Recovery Managers (new sections 94A to 94P)
- give CDEM Groups responsibility for appointing people to give the notice for a local transition period (amended section 25)
- provide for a Mayor or an elected member of a territorial authority (if mayor is absent) to give notice of a local transition period

Specifically, the CDEM Group:

- **must appoint** at least one person (a representative of the Group) to give notice of local transition periods for the Group's area – this mirrors state of emergency requirements (section 25)
- **must appoint** a suitably qualified and experienced person to be a Group Recovery Manager
- may appoint one or more Local Recovery Managers (section 30)

Mayor

A Mayor may give notice of a local transition period for the territorial district. If the Mayor is absent, an elected member of a territorial authority may give notice of a local transition period – this mirrors state of emergency requirements (section 25(5))

What matters must be considered prior to a notice of a transition period? (new section 94B)

- There are legal tests to meet.
- It must appear to the person giving the notice that a transition period is required.
- A notice must be 'in the public interest' and 'necessary or desirable to ensure a timely and effective recovery' (see section 94B(2) for a local transition period).
- Have regard to the area, district or wards affected and whether the focus is moving from response to recovery and whether a state of emergency is about to expire or be terminated.
- If no state of emergency has been declared, approval from the Minister of Civil Defence is required to issue a notice of local transition period.
- There is the option (similar to declaring a local state of emergency) of a notice of a local transition period covering areas not directly affected by an emergency.

This may be necessary if affected districts or wards require the assistance of neighbouring districts or wards (section 94B(9)).

What if the area affected is two or more local CDEM Groups' area?

- Same situation as applies now, if local states of emergency cover more than one CDEM Group: affected CDEM Groups (and/or Mayors) coordinate but give their own respective transition notices.
- If a significantly large or complex situation exists a notice of a national transition period may be given by the Minister.

How do you change from state of emergency to transition period?

If there is to be a transition period, generally it will begin when the state of emergency will end, or be terminated. The Act provides for different scenarios to enable a smooth changeover (refer section 94C). Moving to a transition period generally reflects that it is no longer considered necessary to have a state of emergency in place.

A local transition period comes into force at the time and date specified in the notice for transition. This could be either at the expiry or termination of the state of emergency or the date on the transition notice (section 94C(1) and 94C(2))

There are no provisions to allow the carry over of powers or actions from the Controller or a constable under a state of emergency to a local transition period. The Recovery Manager will need to consider the need for any use of powers (including continuing things like placarding and limitation on access) under a local transition period.

Note: if a state of emergency is declared it automatically overrides any transition period (section 94E(7)).

How long does a local transition period last?

- They last 28 days (unless extended or terminated earlier) (new section 94C).
- Extensions - a local transition period can be extended for a further 28 days by a person authorised to do so – i.e. appointed by section 25, the Mayor or Minister (new Section 94D).
- Terminating - a local transition period can be terminated by a person authorised to do so – i.e. appointed by section 25, the Mayor or Minister (new Section 94E).

- A notice must be in a prescribed form under the Civil Defence Emergency Management Regulations 2003, or a form of similar effect. There are requirements for the content of notices in section 94E and 94F that must also be met.
- There are also publishing requirements for giving a notice, extending it (new section 94F) and terminating it (section 94E(4)).

Requirements for Extensions

A local transition period can be extended more than once. However, if it is extended for a third or further time, the Minister must be notified, allowing him or her to inform the House of Representatives (section 94D(7) and (8)).

What are the required contents for a transition notice?

Section 94F sets out the content of transition notice and the publication requirements.

The Civil Defence Emergency Management Regulations 2003 provide forms for giving notice of extending or terminating a transition period. These can be used or a form of similar effect.

What areas can a local transition period apply?

A local transition period can apply to 1 or more districts or wards within an area (Section 94B(1)).

Under section 94B(8) a local transition notice can be given over the whole area of a CDEM Group or a district within an area of a CDEM Group, which means any other local transition period in place ceases to have effect.

Section 94B(9) provides for giving 'further notice' of a local transition period for another district or ward in the area of the CDEM Group not affected by the emergency if it appears to the person giving notice that the resources of that other district or ward are needed to assist the first area.

When does a local transition period come into force?

Where a notice of local transition period is given (94B)), for which a state of emergency has been declared the transition period comes into force (94C(1))—

- (a) on the termination of the state of emergency under section 72(1); or
- (b) on the expiry of the state of emergency under section 70(3) or 71(4), if the transition notice states that the transition period comes into force on the expiry of the state of emergency.

Section 94C(2) In any other case (for example when there was no state of emergency), a transition period comes into force at the time and on the date the notice of transition is given.

Section 72(3) In addition, a state of local emergency is terminated when a notice of a local transition period given by the Minister under section 94B(3) comes into force.

Are there requirements to publish a local transition period?

Section 94F(4) A person who gives notice of a transition period should as soon as practicable notify the public by publishing the notice —

- in 1 or more newspapers circulating in the areas, districts, or wards to which the notice relates; and
- on an Internet site to which the public has free access; and

The person must also ensure that the notice is published in the Gazette as soon as practicable.

What is the broad process for giving notice of a local transition period?

1. Make sure only those who are appointed or otherwise authorised to give a local transition notice do so? (section 25)
2. Consider where the local transition period may be needed.
3. The person appointed or otherwise authorised to give notice of a local transition period must go through the tests in section 94B.
4. Where there has been no proceeding state of emergency, the person needs to seek ministerial approval to give notice of a local transition period. They can do this by writing to the Minister.
5. After going through the tests the person should complete a form to give notice of a local transition period (see section 94F and Schedule 1AA(6)) and give the notice. The person will need to consider when the notice of a local transition period should commence and take the necessary action to either terminate the state of emergency or wait until the expiry of a state of emergency.
6. Once the person has signed the notice, they should publish the notice as per section 94F.
7. The person should also regularly review if they need to continue to have a local transition period. If not, it can be terminated earlier than the 28 days. If it is needed, it can also be extended (section 94D).

High level flow charts setting out the key provisions are also available at www.civildefence.govt.nz