

# Departmental Disclosure Statement

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Civil Defence Emergency Management Amendment Act 2016 Amendment Bill
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The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Department of the Prime Minister and Cabinet (DPMC).

DPMC certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

29 November 2016.

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## Part One: General Policy Statement

This Bill amends the recently enacted Civil Defence Emergency Management Amendment Act 2016 (the **principal Act**). The principal Act provides for a transition from the response to an emergency to the initial recovery period by ensuring that appropriate and effective statutory powers and arrangements are available.

The amendments bring forward the commencement date of most provisions of the principal Act to allow those provisions to be used to support recovery from the Hurunui/Kaikōura earthquake sequence. The same provisions will also be able to be used to respond to another emergency (for example, a flood) should there be a need for a Recovery Manager with statutory powers.

The Bill also has a set of transitional provisions that provide that Civil Defence Emergency Management Groups may, but are not required to, appoint a Group Recovery Manager or a person to give notice of a local transition period during the period beginning with the commencement of this Bill and ending with 31 May 2017 (Groups must have a Recovery Manager in place from 1 June 2017). This recognises that under the principal Act (as it currently stands) these appointments could be made at any time within the 180-day-period beginning with the day on which the principal Act received the Royal assent.

In addition, the Bill provides that a Controller or constable under a state of emergency, or a Recovery Manager or constable under a transition notice, may direct owners of structures or types of structures to obtain an assessment of the effect of the emergency (and any related subsequent events) on those structures. The person giving the direction must not do so unless the person has had regard to whether the structure concerned may pose a risk of injury or a risk to the safety of life or the safety of other property. The tests that generally apply to the use of powers by a Recovery Manager apply to this power too (for example, the public interest test). There is also an ability to appeal a direction to the District Court on the grounds that the direction is unreasonable.

## Part Two: Background Material and Policy Information

### Published reviews or evaluations

<b>2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?</b>	<b>NO</b>
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### Relevant international treaties

<b>2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?</b>	<b>NO</b>
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### Regulatory impact analysis

<b>2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?</b>	<b>YES</b>
Regulatory Impact Statement: Emergency legislation to assist recovery in the areas affected by the Kaikoura earthquake sequence from 14 November 2016, Department of Prime Minister and Cabinet, November 2016. The RIS can be accessed at <a href="http://www.treasury.govt.nz/publications/informationreleases/ris">http://www.treasury.govt.nz/publications/informationreleases/ris</a>	

<b>2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?</b>	<b>NO</b>
Given the urgency associated with the Bill, the Treasury's Regulatory Impact Assessment Team were unable to provide an independent opinion on the quality of the regulatory impact statement prior to the date of this Disclosure Statement.	

<b>2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?</b>	<b>NO</b>
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### Extent of impact analysis available

<b>2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?</b>	<b>NO</b>
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<b>2.5. For the policy to be given effect by this Bill, is there analysis available on:</b>	
(a) the size of the potential costs and benefits?	<b>NO</b>
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	<b>NO</b>

<b>2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:</b>	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	<b>YES</b>

<b>(b) the nature and level of regulator effort put into encouraging or securing compliance?</b>	<b>YES</b>
<p>Regulatory Impact Statement: Emergency legislation to assist recovery in the areas affected by the Kaikoura earthquake sequence from 14 November 2016, Department of Prime Minister and Cabinet, November 2016. The RIS can be accessed at <a href="http://www.treasury.govt.nz/publications/informationreleases/ris">http://www.treasury.govt.nz/publications/informationreleases/ris</a></p>	

## Part Three: Testing of Legislative Content

### Consistency with New Zealand's international obligations

<b>3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?</b>
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DPMC considers that the policy given effect to by this Bill is likely consistent with New Zealand's international obligations. However, given the urgency associated with the Bill, there was insufficient time to consider New Zealand's international obligations in any detail.
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### Consistency with the government's Treaty of Waitangi obligations

<b>3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?</b>
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DPMC's analysis did not identify any inconsistencies with the principles of the Treaty of Waitangi.
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### Consistency with the New Zealand Bill of Rights Act 1990

<b>3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?</b>	<b>YES</b>
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Advice provided to the Attorney-General by the Ministry of Justice is generally expected to be available on the Ministry of Justice's website upon introduction of a Bill at <a href="http://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/bill-of-rights-compliance-reports/">http://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/bill-of-rights-compliance-reports/</a> .
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### Offences, penalties and court jurisdictions

<b>3.4. Does this Bill create, amend, or remove:</b>	
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<b>(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?</b>	<b>NO</b>
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<b>(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?</b>	<b>YES</b>
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Under clause 6 and 7 of the Bill, building owners have the ability to appeal to the District Court a direction to undertake a building assessment. The filing of an appeal does not automatically operate as a stay.
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<b>3.4.1. Was the Ministry of Justice consulted about these provisions?</b>	<b>YES</b>
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A copy of the Bill was provided to the Ministry of Justice for the purpose of the Bill of Rights vet.
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### Privacy issues

<b>3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?</b>	<b>NO</b>
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## External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	YES
<p>There has been limited time for formal consultation. DPMC undertook brief consultation and provided a draft Bill to the following agencies: the Ministry for the Environment, the Departments of Conservation, Internal Affairs; the Earthquake Commission; the Inland Revenue Department; Maritime New Zealand; the Ministries for the Environment, Primary Industries; the Ministries of Business, Innovation and Employment, Culture and Heritage, Defence, Education, Health, Justice, Social Development, and Transport; the New Zealand Defence Force; the New Zealand Fire Service; the New Zealand Police; the State Services Commission; Te Puni Kōkiri; and the Treasury.</p> <p>Affected parties were previously consulted on during the development of the Civil Defence Emergency Management Amendment Act 2016 (which this Bill brings forward commencement of).</p>	

## Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	YES
<p>Operational staff at the Ministry of Business, Innovation &amp; Employment received a draft copy of the Bill in relation to building assessments and changes were made to the relevant provisions following their feedback.</p>	

## Part Four: Significant Legislative Features

### Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO
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### Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO
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### Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO
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### Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

### Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO
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### Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO
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### Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO
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4.8. Does this Bill create or amend any other powers to make delegated legislation?	NO
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### Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO
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