

Civil Defence National Emergencies (Information Sharing) Code 2013

Including notes and Amendment No 1 (Temporary)

This edition of the code includes notes which are set out in italics. This material is not part of the code but is included to assist users of the code.



Privacy Commissioner
Te Mana Matapono Matatapu

Civil Defence National Emergencies (Information Sharing) Code 2013

I, MARIE SHROFF, Privacy Commissioner, having given notice under section 48(1) of the Privacy Act 1993 of my intention to issue a code of practice and having satisfied the other requirements of the subsection, now issue under section 46 of the Act the Civil Defence National Emergencies (Information Sharing) Code 2013.

Issued by me at Wellington on 4 March 2013

The SEAL of the Privacy Commissioner was	)	
affixed to this Code of Practice by the	)	[L.S.]
Privacy Commissioner	)	

Marie Shroff
Privacy Commissioner

***Note:** This code is deemed to be a regulation for the purposes of the Regulations (Disallowance) Act 1989 – Privacy Act, s.50.*

1. Title

This code of practice may be referred to as the Civil Defence National Emergencies (Information Sharing) Code 2013.

2. Commencement

This code will come into force on 15 April 2013.

***Note:** Amendment No 1 (Temporary) also commenced 15 April 2013 (and expires 14 April 2014).*

3. Application to a state of national emergency

- (1) To assist with the effective management of the response to a national emergency, this code applies in relation to any emergency in respect of which a state of national emergency is in force.
- (2) To assist with the recovery from a national emergency, this code continues to apply in relation to such an emergency for a further 20 working days after the date on which a state of national emergency expires or is terminated.

4. Interpretation

In this code:

emergency has the same meaning as in section 4 of the Civil Defence Emergency Management Act 2002

state of national emergency means a state of national emergency declared under section 66 of the Civil Defence Emergency Management Act 2002

permitted purpose has the meaning set out in [clause 5].

***Note:** The Civil Defence Emergency Management Act defines **emergency** to mean 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 the 2002 Act.

***Note:** Amendment No 1 corrected an error in the definition of permitted purpose and substituted reference to clause 5 for the incorrect reference to clause 4.*

***Note:** Several terms used in the code are defined in the Privacy Act including e.g. agency, collect, enactment, individual, information privacy principle, news medium, personal information, public sector agency – Privacy Act, s.2.*

5. Meaning of permitted purpose

- (1) A **permitted purpose** is a purpose that directly relates to the government or local government management of response to, and recovery from, an emergency in relation to which a state of national emergency exists.
- (2) Without limiting subclause (1), any of the following is a **permitted purpose** in relation to an emergency:
 - (a) identifying individuals who:
 - (i) are or may be injured, missing or dead as a result of the emergency;
 - (ii) are or may be otherwise involved in the emergency;
 - (b) assisting individuals involved in the emergency to obtain services such as repatriation services, medical or other treatment, health services, financial and other humanitarian assistance;
 - (c) assisting with law enforcement in relation to the emergency;
 - (d) coordination and management of the emergency;
 - (e) ensuring that people who are **responsible** for individuals who are, or may be, involved in the emergency are appropriately informed of matters that are relevant to:
 - (i) the involvement of those individuals in the emergency; or
 - (ii) the response to the emergency in relation to those individuals.
- (3) For the purposes of subclause (2), a person is **responsible** for an individual if the person is:

- (a) a parent of the individual;
- (b) a child or sibling of the individual and at least 18 years old;
- (c) a spouse, civil union partner or de facto partner of the individual;
- (d) a relative of the individual, at least 18 years old and a member of the individual's household;
- (e) a guardian of the individual;
- (f) exercising an enduring power of attorney granted by the individual that is exercisable in relation to decisions about the individual's health;
- (g) a person who has an intimate personal relationship with the individual;
or
- (h) a person nominated by the individual to be contacted in case of emergency.

Note: This clause is based upon Privacy Act 1988 (Australia), Part VIA, in particular, s.80H.

6. Authority for collection, use and disclosure of personal information

- (1) In relation to an emergency, an agency may collect, use or disclose personal information relating to an individual if the agency believes on reasonable grounds that:

- (a) the individual concerned may be involved in the emergency; and
- (b) the collection, use or disclosure is for a permitted purpose in relation to the emergency; and
- (c) in the case of a disclosure of personal information - the disclosure is to:
 - (i) a public sector agency; or
 - (ii) an agency that is, or is likely to be, involved in managing, or assisting in the management of, the emergency; or
 - (iii) an agency that is directly involved in providing repatriation services, medical or other treatment, health services or financial or other humanitarian assistance services to individuals involved in the emergency; or
 - (iv) a person who is **responsible** for the individual (within the meaning of [clause 5(3)]); and

Note: Amendment No 1 corrected an error in paragraph (iv) and substituted reference to clause 5(3) for the incorrect reference to clause 4(3).

- (d) in the case of a disclosure of personal information – the disclosure is not to a news medium.

Note: This subclause is based upon Privacy Act 1988 (Australia), Part VIA, in particular, s.80P.

Note: Questions of disclosure of personal information to a news media organisation are not affected by this code and are subject to any normal legal considerations under the Privacy Act or applicable law such as the Official Information Act 1982. This code applies no additional restrictions to such disclosures nor does it relax normal constraints.

- (2) The authority in subclause (1) is in addition to, and does not restrict, any other authority for collection, use or disclosure contained in the information privacy principles, any code of practice or other enactment.
- (3) The authority in subclause (1) is not limited to collection, use and disclosure of personal information by agencies within the district directly affected by the emergency.

Explanatory note

This code modifies the application of the applicable information privacy principles by providing that, where the code applies, agencies are authorised in certain circumstances to collect, use or disclose personal information for certain permitted purposes related to the government response to a national emergency.

The code comes into effect in relation to any emergency for which a state of national emergency is in effect. The code continues in effect after the expiry of a state of emergency for a further 20 working days in relation to the emergency.

Civil Defence National Emergencies (Information Sharing) Code 2013 Amendment No 1 (Temporary)

I, MARIE SHROFF, Privacy Commissioner, now issue under section 51 of the Privacy Act 1993 the Civil Defence National Emergencies (Information Sharing) Code 2013 Amendment No 1 (Temporary).

Issued by me at Wellington on 5 March 2013

The SEAL of the Privacy Commissioner was)
affixed to this Amendment to the Civil Defence)
National Emergencies (Information Sharing))
Code 2013 by the Privacy Commissioner)

Marie Shroff
Privacy Commissioner

1. Title

This amendment is the Civil Defence National Emergencies (Information Sharing) Code 2013 Amendment No 1 (Temporary).

2. Commencement

This amendment will:

- (a) come into force on 15 April 2013; and
- (b) expire on 14 April 2014.

3. Amendment to clauses 4 and 6(1)

Clause 4 and clause 6(1) are amended in the following manner:

Reference	Delete	Replace with
Clause 4 (within the definition of permitted purpose)	clause 4	clause 5
Clause 6(1)(c)(iv)	clause 4(3)	clause 5(3)

Note: This amendment corrects numbering errors in two cross-references.

Legislative history

12 April 2012 – Public notice of intention to issue code.
 4 March 2013 - Code issued
 5 March 2013 – Amendment No 1 (Temporary) issued.
 7 March 2013 – Notice in New Zealand Gazette
 15 April 2013 - Code commencement