

DRAFT FOR CONSULTATION

New provisions are underlined

Deleted provisions are ~~struckthrough~~



Privacy Commissioner
Te Mana Mātāpono Matatapu

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Civil Defence National Emergencies (Information Sharing) Code 2020

This code of practice is made under section 32 of the Privacy Act 2020 by the Privacy Commissioner.

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Code of Practice

1 Title

This code of practice is the Civil Defence National Emergencies (Information Sharing) Code 2020.

2 Commencement

This code comes into force on 1 December 2020.

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

- (1) In this code,—

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

foreign person or entity means—

- (a) an individual who is neither—
 - (i) present in New Zealand; nor
 - (ii) ordinarily resident in New Zealand;
- (b) a body, incorporated or unincorporated, that—
 - (i) is not established under the law of New Zealand; and
 - (ii) does not have its central control and management in New Zealand;
- (c) the Government of an overseas country

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.

- (2) A term or expression defined in the Act and used, but not defined, in this code has the same meaning as in the Act.

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; or
 - (ii) are or may be otherwise involved in the emergency; or
 - (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; or

- (c) assisting with law enforcement in relation to the emergency; or
- (d) coordination and management of the emergency; or
- (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; or
- (b) a child or sibling of the individual and at least 18 years old; or
- (c) a spouse, civil union partner or de facto partner of the individual; or
- (d) a relative of the individual, at least 18 years old and a member of the individual's household; or
- (e) a guardian of the individual; or
- (f) exercising an enduring power of attorney granted by the individual that is exercisable in relation to decisions about the individual's health; or
- (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.

6 Collection, use and disclosure of personal information for permitted purpose

(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, or a foreign person or entity, 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, and the disclosing agency has no reason to believe the individual would not want the information to be disclosed to that other agency, or foreign person or entity, in the circumstances; or
 - (iv) a person who is **responsible** for the individual (within the meaning of clause 5(3)); and
- (d) a person who is **responsible** for the individual (within the meaning of clause 5(3)); and

- (e) in the case of a disclosure of personal information, the disclosure is not to a news entity.
- (2) Subclause (1) modifies the information privacy principles as follows—
 - (a) information privacy principles 2, 10 and 11 by providing additional grounds to collect, use or disclose information in the circumstances where subclause (1) applies; and
 - (b) information privacy principle 12(1) applies to a disclosure to a foreign person or entity under clause 6(1)(c)(iii) only to the extent that it is reasonably practicable in the circumstances for the agency to comply with the requirements of that principle.
- (3) For the avoidance of doubt, subclause (1) does not limit the exceptions contained in information privacy principles 2, 10, 11, and 12 or the equivalent rules in any code of practice.
- (4) Subclause (1) is not limited to collection, use and disclosure of personal information by agencies within a district directly affected by the emergency.

7 **Revocation**

The Civil Defence National Emergencies (Information Sharing) Code 2013 is revoked.