



**AGENDA FOR AN ORDINARY MEETING OF THE EMERGENCY SERVICES SPECIAL  
COMMITTEE TO BE HELD IN THE CIVIL DEFENCE HEADQUARTERS, 7 ELCOAT  
AVENUE, HENDERSON, WAITAKERE CITY, ON TUESDAY, 1 APRIL 2003  
COMMENCING AT 9.30 AM.**

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**1 APOLOGIES**



**2 URGENT BUSINESS**

Section 46A(7) and (7A) of the Local Government Official Information Act and Meetings Act 1987 provides that where an item of business is not on the agenda, it may only be dealt with at the meeting if:

- (i) the item is a minor matter; and
- (ii) the Chairperson has explained at the beginning of the meeting (when open to the public) that the item will be raised for discussion, why the item is not on the agenda, and why it cannot be delayed until a subsequent meeting; and
- (iii) the Committee resolves to deal with the item.

No resolution, decision, or recommendation may be made in respect of the item except to refer the item to a subsequent meeting for further discussion.

**NOTE:** Urgent Business need not be dealt with now and may be delayed until later in the meeting.



**3 CONFIRMATION OF MINUTES**

Ordinary - 3 December 2002  
Special - 4 March 2003

**RECOMMENDATION**

That the minutes of the Ordinary Meeting of the Emergency Services Special Committee held on Tuesday, 3 December 2002 and the Special Meeting of the Emergency Services Special Committee held on Tuesday, 4 March 2003, as circulated, be taken as read and now be confirmed.



4 **AUCKLAND REGION CIVIL DEFENCE EMERGENCY MANAGEMENT GROUP -  
UPDATE ON FUNDING AND ADMINISTRATIVE ARRANGEMENTS 2003/2004**

**PURPOSE OF THE REPORT**

The purpose of this report is to provide the Emergency Services Special Committee with an update on funding arrangements for the Civil Defence Emergency Management Group.

**BACKGROUND**

The Committee has previously received reports on funding and administrative arrangements for the Auckland Regional Civil Defence Emergency Management Group. As of the Committee's last meeting in March 2003, agreement was still to be reached over how funding was to be apportioned for the 2003/2004 year.

**ISSUES**

Work has been undertaken at an officer level to try to reach agreement on funding arrangements for the Civil Defence Emergency Management Group. It is hoped that some progress will be able to be made in bringing the Councils to a consensus. This report provides the opportunity for staff to update the Committee on the progress being made.

**RECOMMENDATION**

That the information be received.

Report prepared by: Ross McLeod, Director: Corporate & Civic Services.



5 **CIVIL DEFENCE EMERGENCY MANAGEMENT UPDATE**

**PURPOSE OF THE REPORT**

The purpose of this report is to give the Emergency Services Special Committee and overview of the current organisational state of the Waitakere City Civil Defence Emergency Management and future planned activity.

**BACKGROUND**

The introduction of the Civil Defence Emergency Management Act 2002 and the subsequent progress being made with the formalisation of the Regional Co-ordinating Executive Group and the Civil Defence Emergency Management Group has introduced a new concept of Civil Defence Emergency Management on a national scale. While to a degree driven by Civil Defence Emergency Management Group decisions, the responsibility for local emergency management still lies firmly with District/ City Councils. The basis for this management is bound within the "4R's" namely Reduction, Readiness, Response and Recovery.

Since December 2003, an overview programme has been carried out aimed specifically at the future development requirements for our Civil Defence Emergency Management organisation. This has aligned with the adoption of our transitional Civil Defence Plan under the Civil Defence Act 1983.

## **STRATEGIC CONTEXT**

Civil Defence Emergency Management is a responsibility of the Council under the Civil Defence Emergency Management Act 2002. Civil Defence Emergency Management forms part of Councils strategic framework in that it contributes to community well being and building strong communities by increasing community readiness for and resilience to emergency events, reduce exposure to such events, and provides for emergency response in the case of such events. The requirement for local planning and coordination is essential to meeting these requirements.

## **ISSUES**

### **Civil Defence Plan**

Committee will be aware that a Transitional Local Civil Defence Emergency Management Plan was authorised for use in December 2003. This is in keeping with the requirements of the Civil Defence Emergency Management Act 2002 and the Plan will remain valid for two years. The new Act does not require that councils maintain a plan of the nature as currently used but there is still the requirement for local authorities to plan for Civil Defence Emergency Management within its district. For the purpose of consistency, Regional Emergency Management Officers are working together to develop a standard plan for use throughout each of the Regions districts. This plan will be consistent with the format of the Regional Civil Defence Emergency Management Group Plan. The primary changes will be the greater incorporation of Standard Operating Procedures as the basis for readiness, response and recovery activities. This will serve to ensure a common standard throughout the Region and reflect the requirements for standardisation within Group Emergency Operating Centres.

### **Local Emergency Operating Centre Staffing**

Given the level of Council and Management support given to our Civil Defence Emergency Management Organisation, we are well served in the numbers of people available to respond to any activation requirement. We are also very well served in the level of experience of working within an Emergency Operating Centre. A review is however being carried out to revise staffing level requirements to be commensurate with the development of the Group Emergency Operating Centre concept. In other words ensuring that the same terminology and positions are in place for each designated Emergency Operating Centre. Once finalised, dedicated training will be conducted for all staff accordingly. In a declared emergency, elected members could expect to be very involved in local community concerns at the reporting centre level.

### **Local Reporting Centre Staffing**

There are currently 16 Local Reporting Centres within the District. They range from Council Libraries, Rural Fire Stations, Primary Schools, Community Centres and an RSA. Staffing is a mixture of Council staff and volunteers. Each reporting centre is equipped with a Civil Defence Emergency Management radio and a box of material for use in an emergency. The level of experience and ability to respond is variable and a programme of training and development has been commenced to improve the readiness and response capability of each. Initial training is being conducted with the Council Library staff. Recent approval to establish the Ranui Community Centre as an additional Reporting Centre fills a requirement that has been lacking for the Swanson/Ranui area.

## Volunteers

In addition to the Local Reporting Centre volunteer requirements as mentioned above, other volunteers essentially fall into three categories, rescue, welfare and rural fire.

- **Rescue**

Currently there are 15 volunteer rescue team members undertaking regular training. In addition to their general rescue training, the team also qualified last year as the first Urban Search and Rescue Responder group in the Auckland Region. This years training programme will incorporate greater emphasis on Emergency Operating Centre, Welfare and communications operating procedures with a view to nationally recognised certification in these areas. The overall aim is to provide the volunteers with a wider range of skills that can be utilised in an emergency situation.

- **Welfare**

The current Civil Defence Emergency Management Welfare response essentially revolves around the use of Salvation Army and Latter Day Saints facilities and volunteers. As in any Civil Defence Emergency Management emergency, the primary response relates to the welfare of the affected people in the community. Although we have a sound welfare response base, there is a requirement to further extend our response capability in this area. This development will be a primary objective for the new staff officer when appointed and will involve greater liaison with neighbourhood support and other community groups.

- **Rural Fire**

The District three rural fire force units continue to provide a high level of service response to the community. Numbers remain satisfactory and the Principal Rural Fire Officer maintains a training programme relevant to their requirements which meet nationally recognised standards. Over and above their normal day to day response activities, rural fire volunteers are also an integral element of our Civil Defence Emergency Management readiness, response and recovery organisation.

- **Volunteers and the Health and Safety in Employment Amendment Act**

A primary change within the Health and Safety in Employment Amendment Act now categorises volunteers as being the same as paid workers. In this respect, there is an increased responsibility on Council to ensure that adequate provision is made for the safety of volunteers. This requirement is the subject of a further paper within this agenda.

## Recovery

The ability for Council to be able to recover from an emergency and to restore the community to its previous level or better is still very much a part of the Civil Defence Emergency Management function. In addition to in house business continuity planning there is also the need for external Civil Defence Emergency Management recovery planning. Although catered for in our current plans, there is a requirement to further develop a dedicated disaster recovery plan. This will be an ongoing process based on the requirements of the Civil Defence Emergency Management Group plan to culminate in a standard recovery response across the region.

## Communications

The District is well served by its current Civil Defence Emergency Management communications network. A programme of installing new radios within the Emergency Operating Centre and Local Reporting centres is almost complete as approved in the 2002/2003 Annual Plan.

As the Regional Group Civil Defence Emergency Management Plan develops, there will be a need to audit the operational capability of all dedicated Emergency Operating Centre's and part of this audit will also encompass all aspects of communications. Regardless of outcome, our current radio replacement programme will not be compromised.

There is currently no intention to incorporate a computer based emergency management system within the Emergency Operating Centre as has been done to varying degrees within the region and nationally. The Ministry of Civil Defence Emergency Management are currently conducting a survey of available systems with a view to the incorporation of a National Crisis Management Centre in due course. The aim of this development will be to improve the effectiveness of local, regional and national emergency management. Short listed vendors proposals are currently being reviewed with a view to selecting the preferred package by the end of April 2003.

### **CONCLUSION**

Given the Councils responsibility to provide for Civil Defence Emergency Management measures for the community, our current organisation is well placed to provide an adequate response to any perceived emergency threat. Ongoing activities at both the regional and local level as highlighted in this report will further enhance that capability.

### **RECOMMENDATION**

That the information be received.

Report prepared by: Bill Morley, Manager Emergency Management.



## **6 CHANGES TO THE HEALTH AND SAFETY IN EMPLOYMENT AMENDMENT ACT 2002**

### **PURPOSE OF THE REPORT**

The purpose of this report is to inform to the Emergency Services Special Committee of changes to the Health and Safety in Employment Act 1992 by the Health and Safety Amendment Act 2002 that was recently passed by Parliament. Of particular importance is the potential impact the new legislation will have to both Rural Fire and to a lesser degree Civil Defence volunteers.

### **BACKGROUND**

The Health and Safety in Employment Act 1992 already requires that parties to employment relationships and contractors must take all practicable steps to ensure that no hazard harms people at their site. Specifically the Act requires those it covers to identify hazards and to take all practicable steps to eliminate them. If this is not possible, all practicable steps must be taken to isolate them. If it is not possible to isolate the hazards, all practicable steps must be taken to minimise them.

While all practicable steps are already taken to protect rural fire personnel at their workplace and at the fire ground situation, the changes to the Health and Safety in Employment Act are designed to ensure that obligations in the Act apply to all New Zealand workplaces and to enable employers, employees, volunteers and government to collaborate in improving workplace health and safety.

## STRATEGIC CONTEXT

The primary concern for Council under the amendments to the Act is that rural fire and civil defence volunteers will now be classed as employees. This means that they have most of the same rights as employees and that the employer must keep them safe. Not only is this a requirement for response activities, the council responsibility for Health and Safety will now also extend to the rural fire stations in that they will be deemed as places of work.

This area of responsibility was not so specific in the original Act in that it related essentially to volunteers who worked for financial gain. In review, the government has removed the financial gain provision and replaced it with a provision for volunteers that undertake regular, ongoing work for an employer/organisation.

## ISSUES

*A1 - A5*

Without going into any great depth, the following issues are seen as those which impact mostly upon our rural fire and civil defence rescue volunteers. The paper attached at pages A1 to A5, issued by the New Zealand Fire Service, explains in more detail the main changes of the Health and Safety Amendment Act 2002 relating to the employment of their volunteers. Although not specific to the rural fire volunteer, most of the assumptions are still relevant.

As of 5 May 2003, Council will be responsible for ensuring that rural fire fighters are provided with a level of clothing required to undertake their duties in being able to respond to all fires as required by the Forest and Rural Fires Act. While the current level of clothing is of a reasonable standard, it is not sufficient from a good employer point of view for all types of fire that the volunteer may have to respond to. The responsibility for the provision of protective clothing presently falls short of the new requirements under the Health and Safety Amendment Act 2002. Clothing currently issued comprises, helmet, boots, and fire resistant coveralls, which are adequate for vegetation fire suppression. The woollen bunker coat issued is not rated for fire protection and is for warmth and comfort only.

To meet the requirements of the amended Act, Council would need to restrict the rural fire volunteers to responding to vegetation fires only. This is not a recommended course of action. Recruitment, retention and morale would become a major concern and the service provided by the volunteers in the case of generic emergency situations would be lost. In addition, Council cannot withdraw from the requirements of the Forest and Rural Fires Act to respond to all fires within the Fire District.

The level of training required for the fire fighter to meet the safety requirements will also increase. There is now a requirement to train to specific NZQA levels which in turn will require an increase in commitment of time by the volunteers. This new training requirement has already been recognised in the proposed 2003/2004 rural fire budget.

Rural Fire Stations will become a recognised workplace which has not been the case in the past. As such they will be subjected to the same OSH requirements as any Council facilities. This has been recognised and a programme for inspection will be commenced in the near future. While there will be areas requiring improvement to meet H&S standards, it is not expected that these will involve any major financial outlay.

The new Act, coupled with general OSH requirements will require a greater degree of "book keeping" than is currently the case. The need to maintain records of all training given and achieved plus response records will be of great importance at any inquiry relating to a complaint or accident regarding the actions of the volunteers.

Civil defence rescue volunteers fit within all the same categories as the three rural fire units in respect to training, clothing and record keeping. NZQA training requirements are already being practiced and their level of clothing meets nationally accepted standards for the types of response activity they could be called upon to perform.

## RESOURCES

Civil Defence rescue volunteers are resourced to appropriate levels and no increase in funding is being sought in the current budget round.

Additional resourcing is being proposed for rural fire units to meet clothing and training needs in order to meet the requirements of the Health and Safety Amendment Act 2002.

## CONCLUSION

The value of trained, disciplined and appropriately outfitted volunteers in any emergency response cannot be over emphasised. Of particular importance is the need to provide for a higher standard of emergency clothing, thus allowing our rural fire volunteers to respond to any incident within the Fire District. Being able to do so will be a source of comfort to their local communities knowing that immediate and committed assistance will always be on hand when needed in relation to all reasonably foreseeable incidents.

## RECOMMENDATIONS

1. That the information be received.
2. That the approach to meeting the requirements to provide the level of clothing required for the Waitakere Fire Districts Rural Fire units in order that they are able to fully meet the new legislative requirements be endorsed.
3. That the Emergency Services Special Committee endorses the principal of ensuring adequate training is received by all volunteers to NZQA standards as required in order to carry out their specific functions, be endorsed.

Report prepared by: Bill Morley, Manager Emergency Management.



# Changes to the Health & Safety in Employment Act 1992

(The introduction of the Health & Safety in Employment Amendment Act 2002)

## **Introduction**

This paper is to act as an information sheet to provide you with an understanding of the changes made to the Health and Safety in Employment Act 1992 by the Health and Safety in Employment Amendment Act 2002 (HSEAA 2002) that was recently passed by Parliament. The HSEAA 2002 is due to become law on 5 May 2003.

This paper covers some background, the changes and broadly how they may impact the New Zealand Fire Service.

## **Background**

The Health and Safety in Employment Act 1992 already requires that parties to employment relationships and contractors must take all practicable steps to ensure that no 'hazard' harms people present at their site. Specifically, the Act requires those it covers to identify hazards (things capable of causing harm) and to take all practicable steps to eliminate them. If this is not possible, all practicable steps must be taken to isolate them. If it is not possible to isolate the hazards, all practicable steps must be taken to minimise them.

The Government has a strategy that is intended to improve workplace culture. This includes:

- introduction of the Employment Relations Act 2000;
- ongoing ACC reform;
- amendments to the Health and Safety in Employment Act 1992.

The changes to the Health and Safety in Employment Act are designed to ensure that obligations in the Act apply to all New Zealand's workplaces and to enable employers, employees, volunteers and Government to collaborate in improving workplace health and safety.

***The main changes the Act has made are as follows with a brief clarification following:***

- Increases in the scope of the HSE Act
  - Change in definition of 'all practicable steps'
  - Extends the definition of 'harm' and 'hazard' to cover 'mental harm'
  - Allows employees to refuse to do work likely to cause serious harm
  - Requires employee participation
  - Removes the Crown monopoly on prosecutions
  - Increases the maximum fines
  - Introduces 'Infringement Offence Notices'
  - Makes it unlawful to insure against fines
  - Extends the limitation period
- **Increases the scope of the HSE Act** to cover volunteers, crew aboard ships and aircraft, rail workers and mobile workers. It is also extended to cover those supplying equipment for a place of work and hiring out facilities.

*The possible effects to the NZFS of the change:*

- *Certain sections of the Principal Act 1992 now apply to volunteers. Volunteers now have a formal legal obligation to take all practicable steps to ensure their own safety and that of their fellow workers under section 19. The NZFS also has a corresponding duty to its volunteers. The NZFS is of the view that both parties are already largely fulfilling these*

obligations. However, the Act also requires the NZFS to treat volunteers as employees for the purpose of sections 6-12 of the Act (Hazard identification and control) and Part IV General Provisions including (recording and notification of accidents and serious harm). Work on these latter requirements is underway.

- The definition of 'place of work' is extended to also apply to mobile workers such as those involved in air and road transport. Again, the NZFS is of the view that this does not represent any significant change as we already take all practicable steps to ensure that no harm comes to say, appliance crews. However, thought may have to be given to other NZFS workers that could be considered 'mobile workers'.
- Providers of equipment are now accountable for hazardous equipment provided for work purposes. This includes both hiring and lending. So any hiring or lending of NZFS equipment should be restricted to situations where it is absolutely necessary to provide it. Even then, all practicable steps must be taken to ensure the equipment is safe.
- There is also a duty to take all practicable steps to ensure the safety of fee paying recreational users of work places. So if we say, rent out our training facilities for other organisations to use, we will have this obligation and liability for any breach of the obligation.
- The Act (except for Part 2A regarding employee participation) now applies to those on work experience. The person on work experience must be treated as if they were an employee. As the NZFS already takes all practicable steps to ensure the safety of its workers, this extension of coverage should make little difference.
- Those on secondment from another employer are to be treated as if they are employees of the entity to which they are seconded unless a contract provides otherwise. However, the usual employer must ensure that the seconded employee is capable of performing the work safely and is aware of their duties under the Act.
- **Change in the definition of "All practicable steps"** The new definition sets a lower standard – a person is required by the Act to take all practicable steps only in respect of circumstances that the person knows or ought reasonably to know about.
- **Extends the definition of 'harm' and 'hazard' to cover 'mental harm'** and a hazard arising through physical or mental fatigue.

*The possible effects to the NZFS of the change:*

- Stress is now deemed to be a possible workplace hazard. However, many commentators have noted that this is simply a clarification of existing obligations under the 1992 Act and other legal obligations.
- It should be noted that existing case law on stress-related harm requires that:
  - the stress was avoidable; and
  - the employer knew or ought to have known about the stress; but
  - by its actions or omissions failed to take reasonable care for the safety of the employee; and
  - this failure materially contributed to the harm suffered.
- Many NZFS workers appear to pride themselves on their ability to cope with stressful situations without formal support. Informal debriefs amongst firefighters is currently the most common means of dealing with the effects of stressful situations. The NZFS also has a 'Critical Incident Stress Management' programme.
- However, the clarification that workers and employers must take all practicable steps to ensure that their employees do not suffer mental as well as physical harm may require a slight culture shift within the NZFS. In particular, some thought may have to be given to the ability for volunteer firefighters to effectively debrief given that they usually have to return to work immediately after attending stressful incidents.

- *Also, there may need to be an expansion of pre-employment screening to identify individuals with a greater likelihood of being adversely affected by stressful situations.*
- *Occupational Safety and Health (OSH) are preparing a best practice document for the management of stress and fatigue in the workplace. This may assist the NZFS in addressing this change to the Act.*
- *The definition of Hazard has also specifically mentioned along with the stress and fatigue other hazards such as drugs, alcohol, traumatic shock or another temporary condition that affects a persons behaviour.*
- *All Regions will need to re-evaluate their hazard management systems and hazard registers.*
- **Allows employees to refuse to do work** if the employee believes that the work is likely to cause serious harm. An employee may not refuse to do work that inherently or usually carries a risk of serious harm unless the risk has materially increased beyond the understood risk.

*The possible effects to the NZFS of the change:*

- *On the face of it, this change may appear to be significant for the NZFS and the phrase "has materially increased beyond the understood risk" is confusing. However, it appears that the concept may be very similar to one of the principles of the 'safe person' concept recently developed by the NZFS. This provides that refusals to perform unsafe work can only occur when the benefits of taking the risk appear to be outweighed by the extent of the risk.*
- **Requires employee participation** in the ongoing management of health and safety in the workplace. The amendments to the Act require every employer to provide "reasonable opportunities" for its employees to participate in the ongoing management of health and safety. This involves either establishing health and safety committees or having employee representatives. The amendments provide for an entitlement of paid leave for employees to attend health and safety training. This leave is governed by the same notice rules as apply to Employment Relations Education Leave under the Employment Relations Act 2000.

Where the committee or representative makes a recommendation regarding health and safety, the employer must either adopt the proposal or provide a written statement to the committee (or representative) setting out the reasons for not adopting the proposal. The employer and health and safety representatives and committees must deal with each other in good faith.

*The possible effects to the NZFS of the change:*

- *Across the NZFS, there is an entitlement to a total of 130 days paid leave for health and safety training for representatives (based on the calculation matrix in section 19F of the amendments).*
- *Employee health and safety representation already occurs in the NZFS. There are union delegates, health and safety representatives and/or functional groups/committees. The latter is a key requirement under the ACC Partnership Program Audit requirements. Some fine-tuning may be required along with some guideline on roles, responsibilities and key outcomes for both the employer and employee.*
- **Removes the Crown monopoly on prosecutions** so that a private prosecution would be possible. This would only take place if OSH has decided **not** to take prosecution action itself. The amendments also allow trained health and safety representatives to issue 'hazard notices'. If such a hazard notice has been issued, the representative may notify an OSH inspector of that fact.

*The possible effects to the NZFS of the change:*

- *There is now a possibility of a prosecution taken by a union, an employee, or an employee's family*

- *Health and safety representatives can issue hazard notices if:*
  - *they believe on reasonable grounds that a hazard exists;*
  - *they have brought the hazard to the attention of the employer;*
  - *the employer refuses to discuss or deal with the hazard; or*
  - *the employer and representative do not agree on the steps to be taken to deal with the hazard; or*
  - *the employer has not taken all practicable steps to eliminate, isolate or minimise the hazard.*
- *Unfortunately, it may be that the issuing of hazard notices, making threats of prosecution or taking prosecutions occur for reasons different to the intent of the Act.*
- **Increases the maximum fines** for offences likely to cause serious harm from \$100,000 to \$500,000 and increases the maximum term of imprisonment from one year to two years. For other offences there is an increase of the maximum fine from \$50,000 to \$250,000.

*The possible effects of the change to the NZFS:*

- *The NZFS has never been prosecuted in respect of harm suffered by a professional firefighter or employee. The Courts have very rarely used even the existing maximum fines. Where prosecutions do occur, they usually affect the employer rather than individuals and are for quite negligent acts or omissions.*
- **Introduces 'infringement Offence Notices'** as an extra method of enforcement of the Act. OSH inspectors can issue these infringement offence notices where a breach of the Act has occurred.

*Possible effects to the NZFS of the change:*

- *Fines may be brought against an individual or corporate body – training and monitoring may be required to ensure all managers and employees understand this.*
- *There are instant fines for **any** infringement offence **except** for a failure to comply with section 7(1) must be not less than \$100 and not more than \$3,000 (as multiples of \$100) and;*
- *Instant fines for failure to comply with section 7(1) 'the systematic identification and assessment of hazards' incurs fines of between \$800 - \$4,000 (as multiples of \$100).*
- **Makes it unlawful to insure** against fines under the Health and Safety in Employment Act.

*The possible effects the NZFS of the change:*

- *Although we are unable to ensure against the fine, we can insure against the cost of defending a charge under the Act and payment of reparation to a victim.*
- **Extends the limitation period** that is currently used for laying information. Previously, there was a six-month limitation period that started when the harm had occurred. An amendment to the Act includes a 'reasonable discoverability' test as the starting point for laying charges within the six-month limitation period, and also provides for a discretionary extension on application to the Court.
- *Possible effects to the NZFS of the change:*
  - *Employers may now be prosecuted for 'long latency' occupational illness, where the time from exposure to the onset of symptoms is longer than six months. This could include Occupational Overuse Syndrome (OOS), asbestosis or hearing loss that may have occurred years before.*
  - *Therefore there may be a need for new exit medical examinations or questionnaire to establish a worker's health when they leave, and to retain employee files for a much longer period. For example, noise induced hearing loss may be claimed ten to twenty years later.*

*What are the next steps?*

1. The Amendment Act is due to be enacted on 5 May 2003.
2. Updates of documents and policies that refer to the principal Act will be amended.
3. Regular communication and updates will be posted via the intranet or e-mail.