There is no single definition of what constitutes an emergency and when emergency powers are justified. But various statutes make provision for action to be taken to deal with an emergency that has arisen in respect of a particular event. The exact legal and parliamentary steps to be taken differ in each case, depending upon the provisions of the legislation.

An emergency that requires parliamentary action of some description will, of its nature, be an event of national significance, posing a serious threat to public safety or threatening the destruction of or damage to property. A severe earthquake, or an outbreak of a quarantinable disease, are the most obvious examples. Whether or not a state of national emergency is declared by the Government, the House will undoubtedly wish to give attention to any such event. The recent experience of Parliament in responding to the September 2010 and February 2011 Canterbury earthquakes raised points of interest in terms of House practice and procedure, which occasioned the Standing Orders Committee recommending a select committee inquiry into Parliament’s future legislative response to a national emergency.

ROLE OF THE HOUSE

The role of the House contrasts with the natural pattern of emergency response by the executive, which steps in immediately to respond to an emergency, over and above a local or regional response. The role of the House is not to direct and act. The theory is that the House should be informed of the emergency and should give its members the opportunity to speak about the emergency. As an emergency unfolds there may be a role for the House in revoking or continuing a state of emergency. This will depend on the emergency legislation that is in operation. In the case of an earthquake it is the Civil Defence Emergency Management Act that comes into play, and in the case of an outbreak of a quarantinable disease it may be the Epidemic Preparedness Act 2006 or the Biosecurity Act 1993.

The House’s role in respect of the Civil Defence Emergency Management Act also focuses on the planning stage. It approves emergency plans that are set

---

1 Law Commission Final report on emergencies (NZLC R22, 1991) at [1.12].
out in advance in delegated legislation. Further into an emergency response there may be a role for the House in legislating additional response powers and recovery provisions. This was the case after the Canterbury earthquakes. Finally, the House maintains its central role in holding the executive to account for the exercise of any emergency powers and its response to the emergencies generally.

**SITTING OF THE HOUSE AND MEETING PLACE**

Should an emergency, such as an earthquake or an outbreak of a quarantinable disease, affect the meeting place of Parliament, legal power is vested in the Governor-General to alter the place of meeting from that to which Parliament has been summoned to meet.3 Parliament is summoned to meet at such place as is appointed in the Governor-General’s proclamation summoning it.4 If the place to which Parliament has been summoned becomes unsafe or uninhabitable after Parliament has been summoned to meet, the Governor-General may, by proclamation, change the place at which Parliament is to meet.5 This is done by a further proclamation. The House does not go into abeyance when an emergency has taken place; indeed its functions take on additional significance.

Until 2011, it was customary for a Proclamation summoning Parliament to appoint a meeting place “in Parliament House, in the City of Wellington”. Following a recommendation from the Standing Orders Committee, the proclamation summoning Parliament now appoints the meeting place as “the parliamentary precincts in the City of Wellington”. The House can now alter its venue on its own authority, provided it still meets within the parliamentary precincts in the City of Wellington.6

**House adjourned, prorogued or dissolved**

If the House is adjourned during a parliamentary session when an emergency occurs, and because of that emergency additional or alternative arrangements must be made for the House to meet, the Speaker can postpone the next sitting of the House to allow such arrangements to be made.7 A sitting cannot be postponed under this provision for more than seven days after the date originally scheduled for the next sitting. The House sits at the time determined by the Speaker.

A formal contingency plan exists, and will be activated should it be necessary to relocate the House and executive government temporarily to Auckland because of a catastrophic event in Wellington.

In the case of a declaration of a state of national emergency or an outbreak of a quarantinable disease while Parliament is dissolved or prorogued or while the House is adjourned and is not due to meet again within seven days, statute requires that the House’s reassembly be accelerated. In these circumstances Parliament must be summoned to meet within seven days of the last day appointed under the Electoral Act 1993 for the return of the writ for constituency members if it is dissolved, and within seven days of the making of the proclamation if it is prorogued. If the House is adjourned at the time, it must sit within seven days of the making of the declaration at a time to be appointed by the Speaker by notice in the Gazette.8

Special procedures apply in the event of the outbreak of a serious disease involving people.9 If the House is adjourned and an epidemic notice given under

---

3 Constitution Act 1986, s 18(1A).
4 Constitution Act 1986, s 18(1).
5 Constitution Act 1986, s 18(1A).
7 SO 55(6).
9 SO 55(3), (4).
the Epidemic Preparedness Act 2006 is in force, and it appears to the Prime Minister, on the written recommendation of the Director-General of Health, that the postponement of the next sitting of the House is necessary for effective management of a serious outbreak of a disease affecting people, the Prime Minister, after consulting the leaders of other parties, may inform the Speaker that the next sitting of the House should be postponed to a specific date within one month of the date originally scheduled for the sitting. The Speaker on being so informed may postpone the sitting and notify members accordingly and determine a date for the next sitting.

When the House assembles following an emergency, apart from any legislative action that may be required, a number of procedures may be utilised to inform the House and scrutinise any Government response to the emergency. The House could expect the Prime Minister or another Minister to make a ministerial statement to inform the House, there will be opportunities to ask oral questions, and an urgent debate on the Government’s response could be held. In this way, regardless of whatever else is on the parliamentary agenda, members can respond in the House to a matter of serious import that has just arisen.

**FORMS OF PARLIAMENTARY CONTROL**

In a few circumstances the powers conferred on the Government or officials to deal with an emergency are regarded as so extreme that some parliamentary control is desirable to ensure that they are not abused. The House is only one means of control; another obvious means is the right to seek judicial review of the exercise of any statutory powers. The forms of parliamentary control include four elements:

the right to be consulted in planning for emergencies, the right to be informed of an emergency, the need for the House in some circumstances to authorise the continuance of the emergency, and the power of the House to revoke or amend powers to deal with the emergency.

**Planning for emergencies**

The Minister of Civil Defence must prepare, on behalf of the Crown, a civil defence emergency management strategy. The strategy is designed to set out the Crown’s goals regarding civil defence strategy management, the objectives to be pursued to achieve them, and the measurable targets to be met in order to achieve those objectives.\(^{10}\) Before completing the strategy the Minister must engage in a process of public consultation.\(^{11}\) A copy of the completed strategy must be presented to the House.\(^{12}\)

Once presented to the House, the strategy stands referred to the Government Administration Committee, which must report on it within 12 sitting days of its referral.\(^{13}\) The strategy takes effect 28 days after it is publicly notified in the *Gazette* or on any later date specified in it.\(^{14}\) But the House has the right to prevent it taking effect or to counteract it by resolving not to approve it, within 15 sitting days of its presentation (the House’s express approval for the strategy is not required).\(^{15}\) A motion not to approve the strategy would require notice. A decision by the House not to approve the strategy would be likely only if the Government Administration Committee were to endorse such an action in reporting on the strategy. If the House does resolve not to approve the strategy the Minister must complete a revised strategy. This would also be subject to non-approval by the House.\(^{16}\)

---

11 Civil Defence Emergency Management Act 2002, s 32(1).
13 SO 394.
15 Civil Defence Emergency Management Act 2002, s 35(1).
16 Civil Defence Emergency Management Act 2002, s 35(2).
A strategy remains in force for 10 years or the lesser period specified in it.\textsuperscript{17} It may be amended by following the consultation and approval procedure required for the strategy itself.\textsuperscript{18} The Minister is responsible for ensuring that, at all times, there is a current national civil defence emergency management strategy.\textsuperscript{19}

A national civil defence emergency management plan that is consistent with the strategy may be made by Order in Council.\textsuperscript{20} The plan must identify and provide for the hazards and risks to be managed at the national level, set objectives, and provide for the co-ordination of civil defence emergency management during a state of national emergency.\textsuperscript{21} In drawing up the plan, the Minister must engage in a process of public consultation and must present the completed plan to the House.\textsuperscript{22} The plan stands referred to the Government Administration Committee,\textsuperscript{23} which may consider it as it sees fit. The plan is a legislative instrument, but not a disallowable instrument, for the purposes of the Legislation Act 2012, and must be presented to the House under section 41 of the Legislation Act.\textsuperscript{24} A civil defence emergency management plan must be reviewed by the Minister between five and 10 years after it is made.\textsuperscript{25}

The right to be informed

The House must be informed immediately if it is sitting, or as soon as it sits, of certain emergencies that have arisen.

This obligation is imposed on the responsible Minister in the case of a declaration of a state of national emergency (which could involve an earthquake or a flood) or the extension of such an emergency.\textsuperscript{26}

Similar obligations on the responsible Minister arise in respect of a declaration of a biosecurity emergency (when, for example, a pest is, or threatens to be, beyond control of any national pest management plan);\textsuperscript{27} a declaration of an outbreak of a stated quarantinable disease (within the meaning of the Health Act 1956);\textsuperscript{28} the authorising of the police to exercise emergency powers in respect of an international terrorist event;\textsuperscript{29} the grant of authority for the armed forces to provide assistance to the civil power in the time of an emergency (for example, to help the police, the prison service, or the civil defence authorities);\textsuperscript{30} and when proclamations of a war emergency have been made and the armed forces mobilised.\textsuperscript{31}

The House is informed of the emergency by a ministerial statement made by the appropriate Minister. Any regulations that must be presented are delivered to the Clerk before the House meets.

The House’s response to being informed of an emergency may vary. Following the first Canterbury earthquake on 4 September 2010, the House sat on 7 September and the Prime Minister made a ministerial statement informing the House of the emergency situation. Leave was given for extended comments on the statement by all party leaders.\textsuperscript{32} By agreement amongst the parties no oral questions were lodged that day out of respect for the losses sustained in Canterbury and for the loss of nine lives in an aviation accident at Fox Glacier. The Speaker declined an urgent debate

\textsuperscript{17} Civil Defence Emergency Management Act 2002, s 34(1)(b).
\textsuperscript{18} Civil Defence Emergency Management Act 2002, s 36.
\textsuperscript{19} Civil Defence Emergency Management Act 2002, s 34(2).
\textsuperscript{20} Civil Defence Emergency Management Act 2002, ss 39(1) and 42.
\textsuperscript{21} Civil Defence Emergency Management Act 2002, s 39(2).
\textsuperscript{22} Civil Defence Emergency Management Act 2002, ss 41 and 43.
\textsuperscript{23} SO 394(1).
\textsuperscript{24} Civil Defence Emergency Management Act 2002, s 39(4).
\textsuperscript{25} Civil Defence Emergency Management Act 2002, s 46.
\textsuperscript{26} Civil Defence Emergency Management Act 2002, s 66(2).
\textsuperscript{27} Biosecurity Act 1993, s 147.
\textsuperscript{28} Epidemic Preparedness Act 2006, s 5(5).
\textsuperscript{29} International Terrorism (Emergency Powers) Act 1987, s 7(1).
\textsuperscript{30} Defence Act 1990, s 9(7).
\textsuperscript{31} Defence Act 1990, s 41(5).
\textsuperscript{32} (7 September 2010) 666 NZPD 13671–13679.
application on the setting up of a Cabinet Committee on Canterbury reconstruction and the decision to allocate funding to the mayoral fund and emergency work on roading infrastructure, on the grounds that leave had been granted that day for extended comment on the Prime Minister’s statement. The Deputy Leader of the House obtained leave of the House for all members from the Canterbury area who were absent from the parliamentary precincts that day to be regarded as present for the purposes of casting party votes on that sitting day. This allowed Canterbury members to return to Christchurch while parliamentary business continued unhindered. Following discussion in the Business Committee, the arrangement for Canterbury members to be regarded as present was extended for four weeks.

In contrast, when the second Canterbury earthquake struck shortly before the sitting of the House on 22 February 2011, the Prime Minister made a ministerial statement at 2 pm and the House was adjourned immediately following the party leaders’ comments on the statement. On the next day, two ministerial statements were made updating the emergency situation and informing the House of the declaration of a state of national emergency, following which the House adjourned by leave until the next scheduled sitting on 8 March 2011 out of respect for the 166 people who lost their lives in the second earthquake. Again leave was granted, following consideration in the Business Committee, for members from the Canterbury region to be considered to be attending to official business and therefore present for the purposes of party voting for the next month’s sitting period.

The obligation to inform the House of a declaration of a state of national emergency having been made or authority having been given in relation to other emergencies arises regardless of the fact that by the time the House sits the emergency may be over or the authority withdrawn. Thus, the House has been informed of the grant of authority for the armed forces to assist with the custody of prisoners even though the industrial action that led to the emergency was over by the time the House resumed sitting and the authority had never been exercised.

**Authority to continue or revoke an emergency**

The House’s authority is not required for a state of national emergency to continue in force. Nor is the affirmative approval of the House required in respect of an epidemic or biosecurity emergency, although the House can by resolution revoke such declarations or orders at any time. An epidemic notice expires after three months unless an earlier expiry date is set or the notice is revoked. Notice of a renewal must be presented to the House as soon as possible after it is given. While an epidemic notice is in force, immediate modification orders may be made by Order in Council, and must be presented to the House as soon as practicable after they are made. Any authority for the armed forces to assist the civil power lapses after 14 days unless the House agrees, by resolution, to extend it for the period specified in the resolution (the Governor-General may extend it if Parliament is dissolved or has expired).

In the case of an international terrorist emergency, the authority given to the Police expires when the incident ends or is otherwise dealt with. At the latest it

---

33 Ibid, at 13684.
34 Ibid, at 13683.
35 Business Committee determination for 15 September 2010 (extension granted until 13 October 2010).
36 (22 February 2011) 670 NZPD 16937–16941.
37 (23 February 2011) 670 NZPD 16948.
40 Epidemic Preparedness Act 2006, s 5(3).
41 Epidemic Preparedness Act 2006, s 5(5).
42 Epidemic Preparedness Act 2006, s 16.
43 Defence Act 1990, s 9(8).
expires after seven days.\textsuperscript{44} The House has power to extend the authority, by resolution, for such period not exceeding seven days as it thinks fit (as does the Governor-General if Parliament is dissolved or has expired). But in no circumstances may the authority be extended beyond 14 days.\textsuperscript{45} In addition, the House has the power to revoke an authority or an extension to such an authority at any time.\textsuperscript{46}

The declaration on 23 February 2011 of a state of national emergency relating to the second Canterbury earthquake was the first time such a declaration had been made under the Civil Defence Emergency Management Act 2002.\textsuperscript{47} States of national emergency expire after seven days. There is no limit on the number of renewals available to the Minister in charge, but the requirement to inform the House stands for each renewal.

Throughout the period following the second earthquake, the House’s form of parliamentary control became evident. Ministerial statements provided the House with information on the continuing state of national emergency and the Government’s response to it. Comment on the ministerial statements and oral questions moved from seeking information about the Government’s response to raising concerns about it. The House increasingly exerted its role of holding the executive to account.

Innovative legislative procedures were adopted to fast-track the legislative response. A truncated select committee consideration allowed legislation to be passed with the necessary urgency, while responding to concern about lack of public input and the need for external expert review.\textsuperscript{48} The Canterbury Earthquake Recovery Act 2011 was introduced under urgency on 12 April 2011 to replace the 2010 Act\textsuperscript{49} and to facilitate the response to and recovery from the earthquakes. The bill was not referred to a select committee, but the House granted leave for the Local Government and Environment Committee to hear evidence on the bill. It was given two days to do so. The committee managed to hear a number of useful submissions. Changes flowing from the submissions were incorporated into a substantial Government Supplementary Order Paper.

**Power to make delegated legislation**

It has been recommended that delegated legislation of an emergency nature should be given a limited life, unless specifically confirmed by an Act of Parliament.\textsuperscript{50} The only emergency regulations subject to statutory confirmation are those relating to biosecurity. Biosecurity emergency regulations must be laid before the House not later than the second sitting day after they are made.\textsuperscript{51} They lapse if not confirmed by an Act of Parliament passed by the end of the year where they were made before 30 June in that year, or by the end of the following year where they were made after 30 June.\textsuperscript{52} In addition to this specific provision, the House has a general power to disallow any regulations or any provisions of regulations, and to amend or to

---

\textsuperscript{44} International Terrorism (Emergency Powers) Act 1987, s 6(4).

\textsuperscript{45} International Terrorism (Emergency Powers) Act 1987, s 7(2), (3), (4).

\textsuperscript{46} International Terrorism (Emergency Powers) Act 1987, s 8.

\textsuperscript{47} (23 February 2011) 670 NZPD 16948 (ministerial statement in relation to declaration of a state of national emergency).


\textsuperscript{49} Canterbury Earthquake Response and Recovery Act 2010 (due to expire on 1 April 2012; repealed by Canterbury Earthquake Recovery Act 2011, s 89(1)).


\textsuperscript{51} Biosecurity Act 1993, s 150(5).

\textsuperscript{52} Biosecurity Act 1993, s 151.
revoke and substitute regulations. These powers are not limited to regulations in respect of which the House possesses no other power of revocation or amendment. Unless they are specifically excluded from the disallowance process by legislation, they apply to all types of regulations. It would therefore seem that they could be used in respect of emergency regulations even though the emergencies legislation might make specific provision for revocation and amendment of regulations made under the relevant Acts.

Any notice of motion given for the disallowance of an immediate modification order under the Epidemic Preparedness Act 2006 is set down on the Order Paper for the next sitting day as the first item of business after general business. The House has six sitting days from the date on which the order was made in which to disallow it. Where such an order is disallowed, the Clerk must give written notice to the Prime Minister and the Chief Parliamentary Counsel, who arranges for it to be published as if it were a regulation.

The Regulations Review Committee has reported on the Orders in Council made under the emergency legislation in response to the Canterbury earthquakes. The committee reported that the orders made under this legislation were used responsibly, but that there needs to be continuing strong parliamentary oversight of any new orders made under the Canterbury Earthquake Recovery Act 2011, along with review of the operation of current orders as they expire. In August 2015, the House referred to the Regulations Review Committee the inquiry into Parliament’s legislative response to future national emergencies that had been recommended by the Standing Orders Committee.

**EMERGENCY EXPENDITURE**

Permanent legislative authority exists for expenses or capital expenditure to be incurred or for a capital injection to be made to respond to an emergency or disaster. This authority allows the Minister of Finance to approve such expenditure or capital injection where any state of emergency or of civil defence emergency has been declared or any other situation arises that affects the public health or safety of New Zealand or a part of New Zealand, and that the Government declares to be an emergency.

The Minister may approve expenses, capital expenditure or capital injection to meet the emergency even though no appropriation exists, and public money may be spent on it accordingly. Statements about these expenses, capital expenditure or capital injection must be included in the annual financial statements of the Government and in an Appropriation Bill for confirmation by Parliament.