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## **No animal left behind:**

A report on animal inclusive  
emergency management law  
reform.

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## Contents

Acknowledgments.....	3
Foreword by Gareth Hughes MP .....	4
Introduction .....	5
Legend.....	6
Lead Agency .....	7
Mandatory Planning.....	8
Definitions.....	9
Operational Response Costs .....	10
Volunteer Training .....	10
General Emergency Powers .....	11
Evacuation.....	12
Entry onto premises.....	13
Requisitioning powers.....	14
Microchip Databases.....	14
Personation of disability assist dogs .....	15
Failing to prevent harm and protect animals from hazards .....	16
Codes of Ethics.....	18
Dog Control Bylaws .....	18
Dog Control Jurisdiction.....	19
Power to seize.....	19
Holding periods.....	19
Humane Trapping .....	20
Animal Establishment Emergency Plans .....	21
NAWAC membership .....	22
Mandated Organisations .....	23
Registration of displaced dogs.....	24
Animal Population Data/Census .....	24
Destruction of Animals .....	25
Deceased companion animals .....	26
Removal of dog collars.....	26
Emergency Accommodation .....	26
Political Leadership .....	28
Other Socio-Zoologically Vulnerable Animals.....	29
Code of Emergency Animal Welfare .....	29
Sponsorship restrictions .....	30



Local authority to be an approved organisation in an emergency.....	30
Reinforcing existing powers of Inspectors not affected .....	31
Notice of entry requirement during an emergency.....	31
Power to microchip during an emergency.....	32
Public transportation of companion animals.....	32
Protection of animals during biosecurity incidents .....	33
Conclusion.....	34
Summary of changes.....	35
References .....	40
Annex A: US State Laws (2011) .....	44
Annex B: Entry, Seizure & Disposal Matrix (Draft).....	45



**Warning:** Some images in this document may be disturbing to some viewers, as pictures of disaster related neglect of animals are used.

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## Embargo

This report is subject to embargo and not for public release until January 22, 2019.

## Foreword by Gareth Hughes MP



Whakapūpūtia mai ō mānuka, kia kore ai e whati. Ki te kotahi te kakaho ka whati, Ki te kapuia e kore e whati — Cluster the branches of the manuka so they will not break. Alone we can be broken. Standing together, we are invincible.

When disaster strikes, the most important thing is keeping your loved ones safe. That's why emergency management planning is so important. We can stay safe by being prepared.

But there is a focus missing from our current emergency management arrangements, we don't have fit for purpose laws to protect animals who play an important part in our society and economy.

Can you imagine a disaster causing your family to be instructed to evacuate, only to be told to leave your pets behind? Or to flee to a shelter, only to have civil defence authorities tell you that there are no plans in place to help you care for your animals? Around the world there are countless examples where human and animal lives have been put at risk by ignoring animals in emergencies.

In this important report, Steve Glassey, proposes how we can modernise our existing emergency plans and laws to take account of animals in homes, farms and our communities.

This is not just an issue for animals, when separated from their animals, people will risk their own lives in animal rescue attempts. Steve reveals that in many disasters, including the earthquakes that devastated Christchurch, a common reason for people breaching cordons was to go rescue the furry members of their families. This makes the job of our emergency responders much harder.

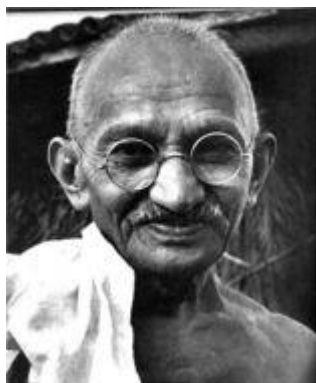
This can be avoided. But it takes planning and a modernisation of our laws. It takes our government stepping up to improve our animal emergency management arrangements and laws so that agencies take a more animal inclusive approach during disaster response. It will not only keep our animals safe, it will keep us safe, and it will improve our overall response when disaster strikes.

Steve has comprehensively researched the issue and put forward a number of practical recommendations to make sure our emergency laws and plans include all the members of our families. In the end, it'll make us all safer.

A handwritten signature in blue ink, appearing to read 'Gareth Hughes', written in a cursive style.

**Gareth Hughes**

**Member of Parliament**



“The greatness of a nation and its moral progress can be judged by the way its animals are treated.”

– Mahatma Gandhi

## Introduction

In 2005, America was struck by Hurricane Katrina. The deadliest natural disaster in their history at that time. Over 1,800 people died in that disaster, millions of animals also perished. 44% of those who failed to evacuate did so in part because they could not take their pets [1]. At the time, government policy was to leave pets behind [2]. Within a year of this tragedy, the US government realising the intrinsic link between people and animals, passed the Pets Emergency & Transportation Standards Act 2006 [3]–[6].

New Zealand has made little effort to learn from the grave mistakes of the USA [7]–[9]. The US government mandated funding, planning and capability for animal disaster management. By contrast, New Zealand still does not mandate responsibility for animal emergency management plans, fails to provide for the reimbursement of response costs incurred by animal charities, and laws continue to fail to sufficiently recognise animals require protection in disasters. In 2010, I completed my Masters in Emergency Management and made recommendations to government including MPI and the Ministry of Civil Defence & Emergency Management (MCDEM), noting significant deficiencies in our arrangements to protect animals from disaster [8]. None of the 60 recommendations have been implemented.

Seven years later, the Edgecumbe Floods struck and over 1,000 animals were left behind in the town and the fire service wouldn't go back in because there were no people left in the town [9], [10]. Many animals died needlessly. If it wasn't for the massive efforts by the animal rescue volunteers, more would have died [11]. One story was that of a woman who wanted to return to rescue her horse was refused entry at the cordon. As a result, she swam across the flooded Rangitāiki river with some ropes to rescue her horses [11]. Simply put, saving animals in disasters saves human lives. Indeed, leading scholars in this area have stated **“Pet ownership is the single most common factor associated with human evacuation failure that can be positively affected when the threat of disaster is imminent”** [12]. Studies have also found that the psychological impact of pet loss can be just as traumatic as losing one's home or even another family member [13]–[16].

This paper is intended to assist the drafting of a private members bill for Gareth Hughes MP, to enhance New Zealand's animal welfare emergency management arrangements. This may require amendments to existing legislation such as the Animal Welfare Act 1999, Dog Control Act 1990, Residential Tenancies Act 1986, Human Rights Act 1993, Civil Defence Emergency Management Act 2002 (as well as associated Codes or Orders), and/or passage of new statutes.

## Legend

To assist with the identification of changes/additions to the various statues and other legal instruments, recommendations as well as case studies have been colour coded as follows:

Dog Control Act 1996	Human Rights Act 1993
Animal Welfare Act 1999	Residential Tenancies Act 1984
Civil Defence Emergency Management Act 2002	National Civil Defence Emergency Management Plan Order 2015
Case study	

## Lead Agency

The historic failures of MPI in coordinating animal welfare emergency management need to be considered given that animal welfare, let alone animal welfare emergency management is not a core function of the Ministry. This has been raised on numerous occasions as a result of MPI failing to meet basic requirements under the Coordinated Incident Management System (CIMS) and there may be low confidence in MPI to perform all of this function [9], [10]. It is recommended that MPI lead non-companion animal emergency management, however companion animal emergency management becoming a core welfare function within civil defence emergency management as the needs of companion animals and owners are intrinsically linked and an integrated approach for rescue, housing, psychosocial needs response. This would mean, the Ministry of Civil Defence and Emergency Management would be responsible for coordinating companion animal emergency management, the CDEM Group responsible for coordinating companion animal emergency management, supported by local authority animal control. This also ensures group level companion animal plans should be incorporated by referenced into the group emergency management plan. Fire & Emergency NZ assumes responsibility for coordinating companion animal rescue operations and companion animal decontamination to ensure an integrated approach. This does not prevent teams such as the SPCA National Rescue Unit or Massey University Veterinary Response Team from being deployed, however it ensures such and similar teams are coordinated effectively alongside any human or property protection response [10]. Simply put, more power and responsibility should be placed on local authorities for companion animal emergency management as they have more capacity in this area, and dog control registration could be amended to allow for such revenue to fund related activities (i.e. in Wellington City alone, a 5% increase in dog registration would net an additional >\$50,000 for animal emergency management (reduction and readiness only as response and recovery costs are covered under proposed changes in this document) and knowing this may help save their animal, ratepayers may find this palatable. There are also over 1,600 registered charities that benefit animals in New Zealand – it is important that an inclusive forum is used to engage as many players as possible to improve pre-incident preparedness and creating a clear understanding of roles and responsibilities. In the US, there is the National Alliance of State Animal and Agricultural Emergency Programs (NASAAEP) which is comprised of government, not for profit, and private organisations. This inclusive model is lacking in New Zealand.

### **Amendment to the National Civil Defence Emergency Management Plan Order 2015**

#### **s.46 Role of fire service during response and recovery**

Add: Fire & Emergency New Zealand is responsible for the coordination of search/rescue and decontamination activities relating to companion animals during a major incident or state of emergency, with the support of Approved Organisations, other such organisations included in s.75 (Animal Welfare) of the National Civil Defence Emergency Management Plan Order or as specified in CDEM Group Plans or FENZ local plans. Nothing in this plan, requires Fire & Emergency New Zealand to deliver animal related search, rescue or decontamination services.

#### **S.75 Animal Welfare**

Add: At the national, the Ministry of Civil Defence & Emergency Management is responsible for -

(d) facilitating inclusive collaboration across companion animal welfare interest groups to enhance companion animal welfare arrangements through periodic hui, forums, workshops, conferences, and meetings.

(e) leading the development, implementation and review of a companion animal emergency management plan as part of the national civil defence emergency management plan in consultation with the *search and rescue* and *welfare services clusters* (s.33, National Civil Defence Emergency Management Plan order 2015).

At the national, CDEM Group and local level, the Ministry for Primary Industries is responsible for - coordinating and developing plans for non-companion animals.

#### **Amendment to the Dog Control Act 1996**

s.37(4) Local authority to set fees

Amend: In prescribing fees under this section, the territorial authority shall have regard to the relative costs of the registration and control of dogs in the various categories described in paragraphs (a) to (e) of subsection (2), *obligations under the National Civil Defence Emergency Management Plan Order (excluding response and recovery costs)*; and such other matters as the territorial authority considers relevant.

### **Mandatory Planning**

Nothing in the Civil Defence Emergency Management Act 2002 gives authority to set animal welfare emergency plans (M. Nixon, personal communication, 2018). The National Civil Defence Emergency Management Plan Order 2015, however tasks MPI to *coordinate* animal welfare planning, but no one is accountable for such a plan – there is also no ‘stick’ if this is not done either (nor is there any ‘carrot’). This is not consistent with lessons from international experiences such as those from Hurricane Katrina [8], [9], [17], [18] or the Victorian Bush Fires [19]. The *Ministerial Review of Civil Defence*, also recommended the term “major incident” to be included in future emergencies for significant events that fall below the threshold for declaring a state of emergency. Such plans need to be “incorporated by reference” pursuant to sections 41 (national level) and 51 (group/regional level) - so it would be an offence under section 95 to fail to comply with such plans.

#### **Amendment to Civil Defence Emergency Management Act 2002**

Add: In approving Civil Defence Emergency Management plans, the Director shall ensure that such plans take into account the needs of individuals with companion animals prior to, during, and following a major incident or state of emergency.

#### **Amendment to the National Civil Defence Emergency Management Plan Order 2015**

Add: That Civil Defence Emergency Management Group is responsible and accountable for the development, approval and maintenance of emergency management plans in reach region for the protection of companion animals prior to, during, and following a major incident or state of emergency. Such a plan shall be compatible with regional animal emergency management plan covering non-companion animals, which MPI is responsible for developing for each CDEM Group.

That MPI is responsible for the development and maintenance of a National Non-Companion Animal Welfare Emergency Management Plan. The Minister for Primary Industries on the advice of NAWAC and Director of Civil Defence, is responsible for approving the National Non-Companion Animal Welfare Emergency Management Plan.





Source: Daily Mail UK (2009). "Sam" the Koala Bear was injured by the 2009 Victoria Bushfires. He was rescued by David Tree, a firefighter. Sam became a symbol of hope and human kindness.



## Definitions

Companion animal and disability assist dog.

### Amendment to the Civil Defence Emergency Management Act 2002

#### Section 2: Interpretation

Add:

*companion animals* are domesticated or domestic-bred animals whose physical, emotional, behavioural and social needs can be readily met as companions in the home, or in close daily relationship with humans, and includes cats, dogs (including disability assist dogs), rodents, reptiles, fish, horses, and birds; but not does include pigs, sheep, emu, ostrich, or cows. (Adapted from the ASPCA definition [20])

*Animal* an animal having the same meaning pursuant to the Animal Welfare Act 1999.

*Animal marking* having the same meaning as marking in the Animal Welfare Act 1999.

*Major Incident* – refer to Ministerial Review recommendations.

## Operational Response Costs

Currently, central government under the National Civil Defence Emergency Management Plan Order 2015 reimburses local authorities 100% for emergency welfare costs, except for animal welfare despite it being a specified sub-function of the emergency welfare arrangements. Costs incurred by animal charities and other supporting organisations (i.e. veterinary practices) are not eligible for reimbursement by government. The direct cost of approximately \$6,000 by the SPCA's National Rescue Unit deploying to Edgcumbe and leading such a massive rescue operation was not even reimbursed. Without the goodwill of animal charities and other supporting organisations, government is unable to meet the expectations of citizens in animal emergency response. The PETS Act 2006 made funding available not just for response costs but also for preparedness activities within the US. Further guidance can be found within FEMA Policy DAP9523.19 [21]. Examples of specific funding for animal disaster response can be found in State Laws, such as those in Maine [22].

The unique relationship between animals and humans in New Zealand is intrinsic and is not merely a property relationship. Animal organisations operate in the interests of public and human welfare and wellbeing. The Animal Welfare Act 1999 deals directly with the relationship between animals and their owners which is an indication that ensuring the welfare of an owned animal correlates directly to the welfare of its owner. The purpose of emergency defence management is to ensure that the welfare of citizens is maintained which must include providing for the welfare of animals (R. Stedman, personal communication, September 10, 2018).

### Amendment to the National Civil Defence Emergency Management Plan Order 2015

#### S. 162 Government financial support to local authorities during response

Government financial support for response activities focuses on costs incurred by local authorities to— care for directly affected companion animals, including the costs of accommodating, transporting, registering, animal marking, rescuing, feeding, preventative immunization, disease testing, decontamination, disposal, and emergency veterinary treatment to companion animals as a result of an emergency; and recommissioning, cleaning and disinfection of facilities and other resources used for such emergency response purposes.

This amendment would also need to be adapted for s.163 Government financial support to local authorities during recovery.

## Volunteer Training

For over three years now, civil defence volunteers have been able to access zero fee training through TEC ACE funding. However, this has not been extended to those in civil defence animal welfare roles which adds further *salt to injury* given that civil defence animal welfare response costs borne by animal charities are not eligible for reimbursement by government, yet civil defence human welfare services are able to be reimbursed 100% (and access zero fee training for volunteers). Private Training Establishments who provide volunteer training have raised this concern for over three years with no traction from the Ministry of Civil Defence & Emergency Management. The national arrangements need to provide assurances that animal volunteers have equal access to such training, especially activities that enhance health and safety. This will improve responses to future emergencies, through physical capability, and also broader understanding of the human-animal bond that results in failure to evacuate.

## Amendment to the National Civil Defence Emergency Management Plan Order 2015

### S. 102 Capability development activities

Add: Volunteers from organisations who undertake an animal welfare emergency management function, through agreement with Fire & Emergency New Zealand, a Civil Defence Emergency Management Group, the Ministry for Primary Industries, or being mandated in the National Civil Defence Emergency Management Plan shall be afforded the same access to civil defence volunteer training as funded by government as those civil defence volunteers in a non-animal related function or role.



Christchurch Earthquake 2011: The situation for animals has been "deteriorating because of time issues" and is forcing concerned animal owners to break police cordons to search for their pets.

"That is really one of the common problems of why people break the cordon. It's not to go and do burglaries . . . it's to go and retrieve their pets." [23].

**Blair Hillyard, Rescue Officer  
SPCA National Rescue Unit**

## General Emergency Powers

The current Civil Defence Emergency Management Act 2002 does not have an animal inclusive structure to allow for rescue, care, shelter, and essential needs for companion animals. This provision also ensures public transport can be directed to take companion animals to improve evacuation compliance.

It is important to note that section 6 of the Civil Defence Emergency Management Act 2002, states that the act does not affect the powers, duties or functions of other acts. This includes not affecting the duties and powers that inspectors have under the Animal Welfare Act 1999, including the power to enter property (s.127), power to mitigate suffering including giving notice to animal owners or those in charge of such animals (s.130(1)(b)) and the power to take animals at risk of imminent harm into possession (s.127(5)(c)). Furthermore, the obstruction or hindering of an inspector (s.159) or failing to comply with requirements made by an inspector (s.130(2)) is an offence.

The Civil Defence Emergency Management Act 2002 has the purpose (s.3) to

- (a) improve and promote the sustainable management of hazards (as that term is defined in this Act) in a way that contributes to the social, economic, cultural, and environmental well-being and safety of the public and also to the protection of property; and,
- (c) provide for planning and preparation for emergencies and for response and recovery in the event of an emergency; and

As animals are legally considered as property, they should be afforded protection consistent to the act's purpose.

### Amendment to the Civil Defence Emergency Management Act 2002

#### s.85 Emergency Powers

Civil Defence Emergency Management Groups may:

Add: Provide for the rescue, care, treatment, shelter, transport, and essential needs of animals, and carry out animal marking.

#### Evacuation

As per above. The current *principles* of evacuation as provided for in the National Civil Defence Emergency Management Plan (s.140). The vagueness of principles gives good reason for specific statute law for protection of animals as implemented in the US through the passage of the PETS Act 2006. Recommended amendments are based on US laws [24].

### Amendment to the Civil Defence Emergency Management Act 2002

#### s.86 Evacuation

Change: evacuation requirements for preservation of "human or animal life".

### Amendment to the National Civil Defence Emergency Management Plan Order 2015

#### s.140

##### Add: Principles (mass evacuation)

- (iv) Where companion animals are left behind in evacuation area, that efforts to rescue such animals and reunify them with their owners, shall be a priority to prevent the illegal return of owners to the evacuated area.
- (v) every effort must be made to keep disability assist dogs and their owners together in cases of emergency. Those who rely on disability assist dogs must be evacuated, transported, and sheltered together with their service animal. Facilities that provide shelter to people with disabilities are obligated to provide shelter to both the disabled person and the disability assistance dog.



**"No more should you ever hear evacuate and leave your animals behind. You got a plan for it. And if you go through our preparedness information, you're going to find, we made that a big deal. You got pets, they're in the family plan. If you evacuate, take your pets with you" [25]**

**Craig Fugate, FEMA Administrator**

Entry onto premises

As per above.

### Amendment to the Civil Defence Emergency Management Act 2002

s.87 Entry onto premises

(a) saving life, preventing injury, or rescuing and removing injured or endangered persons or *animals*; or

(b) permitting or facilitating the carrying out of any urgent measure for the relief of suffering or distress to people or *animals*.

### Amendment to the Animal Welfare Act 1999

s.127(3) Dwelling: No inspector may, under subsection (1), enter in or on any dwelling or marae unless he or she is authorised to do so by a search warrant issued under section 131.

Add (3)(a) A dwelling may be entered without a search warrant for civil defence purposes, when during a state of emergency that property has been subject to direction to evacuate by a controller or constable.



Source: Steve Apps, *The Post-Crescent*, Appleton: Weyauwega, Wisconsin.

In 1996, a dangerous goods train derailed and forced the evacuation of the entire township of Weyauwega (above). About half the households left their pets behind. Half the owners attempted to breach the cordon to rescue their pets, and only after a bomb threat was made to the emergency operations centre, the state governor became involved and ordered the National Guard with armoured personnel carriers to effect an animal rescue [6], [26].

## Requisitioning powers

As above

### Amendment to Civil Defence Emergency Management Act 2002

#### Section 91 Requisitioning Powers

Change: This section applies if a state of emergency is in force and, in the opinion of a Controller or a constable, the action authorised by this section is necessary for the preservation of human and *animal* life.

## Microchip Databases

Currently, there are two national databases for microchip records in NZ. The NZ Companion Animal Register (owned by the NZ Companion Animal Trust) and the National Dog Database operated by the Department of Internal Affairs, the later established under the Dog Control Act. However, despite lobbying by the NZCAR and the Institute of Animal Control Officers NZ, DIA has refused to allow the sharing of information between these systems which results in delays in reuniting and duplication of services. These databases need to be able to share information in the interest of animal welfare and improve government electronic services to citizens. The rapid and effective -reuniting of animals with their owners, in particular disability assist dogs is critical to preventing owners returning to disaster affected areas and minimising negative psycho-social impacts on people.

There has also been concern raised by animal welfare and care professionals, that it is common that they observe cases where companion animals (but not dogs due to mandatory registration) have been microchipped, but registration (with the NZ Companion Animal Register) has not been completed, leaving an animal with an electronic number and no record to reconcile with. This further reduces the effectiveness of reuniting of animals in emergencies and it is recommended that for non-dog companion animals.

### Amendment to the Dog Control Act 1996

#### s.35 Supply of information

Any *approved organisation* should be included in the list of organisations who can access dog registration information.

A *Controller*, during a state of emergency should be included in the list of organisations who can access dog registration information.

And any other organisation or person gazetted by the Minister.

#### New section

s.35A A organisation gazetted by the Minister (i.e. NZCAR) may be granted access to data contained on the National Dog Database as such conditions the Minister imposes for the reuniting and welfare of animals. Where such access is granted, the Secretary of Department of Internal Affairs may cover such costs in doing so from levies collected under section 35B.

### Amendment to the Animal Welfare Act 1999

Add: A person commits an offence who, implants a microchip into a companion animal (not being a dog) and fails to register the animal on the gazetted microchip register (i.e. NZCAR). This section does not apply to

- (a) animals being used for research, teaching and training, under an approved code of ethics.
- (b) any person or organisation that has a written notice of exemption issued by the Director-General.

### Personation of disability assist dogs

There is a global trend of dog owners impersonating that their dog is a disability assist dog to allow them to access public places and transport. This also has occurred in NZ emergencies with owners attempting to bring their dogs inside human evacuation shelters inappropriately [7]. This undermines the legitimacy of genuine disability assist dogs [27]–[29]. To help minimise this, a civil defence dog tag was introduced to help civil defence workers easily identify legitimate service dogs given there is no standardised identification system for such animals [29]. The Human Rights Act has provisions for Guide Dogs, but this is inconsistent to the wider application of “disability assist dog” as contained in the Dog Control Act.

### Amendment to Human Rights Act 1993

#### S.21 Prohibited grounds of discrimination

Change: Substitute *guide dog* for *disability assist dog*, having the same meaning under the Dog Control Act 1996.

### Amendment to Dog Control Act 1996

#### New section: 75A Impersonation of disability assist dog (new)

A person commits an offence who intentionally personates or falsely represents or identifies their dog to be a disability assist dog (and add to Schedule 1: Infringeable Offences). For the purposes of this act, any use of a similar term such as service dog shall also be considered as personating a disability assistance dog.

#### New section: 75B Identification of disability assist dogs (new)

The Minister may gazette a form of identification to identify disability assist dogs, in consultation with certifying organisations at that time.

**In respect to the Canterbury earthquakes:** “Christchurch didn’t go smoothly from what I saw and heard. More animals than resources. People turned up to the welfare centre with animals and were told to take them to SPCA, but had no transport to get them there, and were more or less just turned away. At one stage when I was manager at a welfare centre I had to do battle as there was a woman with a hearing dog, not only that the woman had mental health issues. I had to fight to get the staff to let them in, then the other staff kept trying to remove her. They had all never heard of a hearing dog before, great learning for them, however extremely traumatic for the woman who spent hours in tears” (confidential personal communication, 2010) [7].

Service dog identification is easily available online to purchase and contributes to personification of legitimate disability assistance dogs.

The screenshot shows Amazon search results for 'Service Animal Cards'. At the top, there are three sponsored products from Xpress ID: 'Service Animal Cards' (5 stars, 727 reviews), 'XpressID Service Dog ID Key Tag (Set of 3)' (5 stars, 27 reviews), and 'XpressID Service Dog ID PRO Bundle' (5 stars, 12 reviews). Below these are four more sponsored products: 'The Dog's Right! Service Dog Photo I.D. Bundle' (\$39.95), 'Activedogs Service Dog Vest Harness' (\$30.99), 'Xpress ID HoloSeal holographic Service Dog ID' (\$30.00), and 'Service Dog ID Tags - Personalized Front and Back Premium Aluminum' (\$4.95).

Source: Amazon website (2018).

## Failing to prevent harm and protect animals from hazards

The majority of animal welfare laws have a statutory defence under codes of welfares or in times of emergency or stress. Emergency is not defined in the Animal Welfare Act 1999. It is important that owner responsibility during an emergency does not necessarily stop where there are reasonable opportunities to prevent harm. In Texas, their state law makes it an offence to tether a dog during extreme weather and where weather warnings are in place [30] – this is one of the best animal disaster laws noted.

### Amendment to the Animal Welfare Act 1999

#### Add: s.14A Duty to protect companion animals in emergencies

- (1) A person commits an offence who, being the owner of, or a person in charge of, a companion animal, without reasonable excuse or having taken reasonable steps, fails to protect a companion animal from harm, caused by or likely to be caused by extreme weather conditions or an emergency.
- (2) In a prosecution for an offence against section 14A(1) committed after the commencement of this subsection, evidence that a relevant code of emergency welfare was in existence at the time of the alleged offence and that a relevant minimum standard established by that code was not complied with is rebuttable evidence that the person charged with the offence failed to comply with, or contravened, the provision of this Act to which the offence relates.
- (3) Subject to subsection (4), it is a defence in any prosecution for an offence against section 14A(1) if the defendant proves—
  - (a) that, in relation to the animal to which the prosecution relates, the defendant took all reasonable steps to comply with section 14A(1); or
  - (b) that there was in existence at the time of the alleged offence a relevant code of emergency welfare and that the minimum standards established by the code of emergency welfare were in all respects equalled or exceeded.



(4) Except with the leave of the court, subsection (3) does not apply unless, within 7 days after the service of the summons, or within such further time as the court may allow, the defendant has delivered to the prosecutor a written notice—

(a) stating that the defendant intends to rely on subsection (3); and

(b) specifying—

(i) where the defendant intends to rely on subsection (3)(a), the reasonable steps that the defendant will claim to have taken; or

(ii) where the defendant intends to rely on subsection (3)(b), the code of emergency welfare that was in existence at the time of the alleged offence, and the facts that show that the minimum standards established by that code of emergency welfare were in all respects equalled or exceeded.

(5). Nothing in this section requires the owner or person in charge of a companion animal to return to an evacuated area to retrieve their animal where such an area remains under the control of a constable or controller or the area remains unsafe to do so.

Add definition in section 2. Interpretation

*Extreme weather* includes but not limited to conditions in which:

(a) the actual or effective outdoor temperature is below freezing point; or

(b) an actual storm, flood or tornado or such an event where a weather warning has been issued.

## Amendment to Dog Control Act 1996

### s.54A Obligations of dog owner during extreme weather (new)

Add: (1) A person commits an offence who, being the owner of, or a person in charge of, a dog, without reasonable excuse or having taken reasonable steps, leaves a dog outside unattended by use of a restraint including a tether or cage, that unreasonably limits the dog's movement and to access a place of safety:

(a) in the case of extreme weather conditions, or

(b) in an area that has been required to evacuate during an emergency

(2) Nothing in this section requires the owner or person in charge of a dog to return to an evacuated area to retrieve their dog where such an area remains under the control of a constable or controller or the area remains unsafe to do so.

Add to schedule 1 (Infringeable offences)

Add definition: *Extreme weather* includes but not limited to conditions in which

(a) the actual or effective outdoor temperature is below freezing point;

(b) an actual storm, flood or tornado or such an event where a warning has been issued

Add definition: *Controller* means a controller appointed under sections 10, 26 or 27 of the Civil Defence Emergency Management Act 2002.



Tethering of dogs during extreme weather such as flooding is illegal in the State of Texas. With no means to escape, these dogs are prone to drowning as this dog did during Hurricane Katrina in 2005.

## Codes of Ethics

Laboratory animals in particular are particularly vulnerable to disaster, often relying on automated environmental, food and water systems [6], [31]. If such facilities are disaster affected, it is common that those in charge of the animals are unable to access them.

### **S.88(2)(h) new section for code of ethics contents**

Add: Specify emergency management arrangements to protect animals from the impacts of natural and technological hazards appropriate to the research and facilities.

## Dog Control Bylaws

The Dog Control Act 1996 provides for local authorities to set bylaws mainly for matters pertaining to exercise areas and the like. However, in a state of emergency it would be appropriate to allow the Controller the power to make temporary variations to allow for traditional dog free areas such as sports fields or other public places, to be used for emergency exercise and/or accommodation areas. If off-leash bylaws were ignored during an emergency, it may create legal and political liability around any damage caused by dogs that would normally be banned in such areas [11].

### **Amendment to Dog Control Act 1996**

#### **s.20 (2A) Emergency bylaws (new)**

Add: During a state of emergency or major incident under the Civil Defence Emergency Management Act 2002, the Controller may pass, cease, suspend or modify bylaws under this section if required for the control and welfare of dogs and these shall only have effect while the state of emergency is in effect.

## Dog Control Jurisdiction

Dog Control Officers and Dog Rangers may only exercise their powers within their respective local authority boundary. There is provision to allow for councils to allow other council officers to exercise powers in their area [11]. This is suitable for day to day contractual arrangements for cover, but cumbersome in an emergency where establishing such agreements may not expedient.

### Amendment to Dog Control Act 1996

#### s.16(3) Districts in which dog control officer or dog ranger may exercise powers

Add: During a state of emergency or major incident under the Civil Defence Emergency Management Act 2002, the powers of any dog control officer and dog ranger shall extend to local authority or authorities to which the declaration applies to.

## Power to seize

The power to take into possession an animal at risk from imminent harm is provided for under section 127(5)(c) of the Animal Welfare Act 1999, however it is limited to inspectors and requires a notice of entry to be left which during a major incident or emergency may not be practical. The Civil Defence Emergency Management Act 2002 has provisions to seize an animal, by anyone directed by the Controller or Constable, but no disposal provisions have been made in the act causing a significant legal issue [11].

### Amendment to Dog Control Act 1996

#### Section: 15A Emergency powers of dog control officers and dog rangers (new)

Add: During a state of emergency or major incident under the Civil Defence Emergency Management Act 2002, a dog control officer or dog ranger may enter upon any property including any dwelling house for the purposes of seizing a dog that is at risk of imminent harm.

## Holding periods

The American Bar Association as a result of the issues following Hurricane Katrina developed a model law for states to adopt, that clarified the provisions for disposal of disaster displaced animals [32]. The key element of the law is that stray hold periods were extended to 30 days. Many states have adopted the model law including the state of Oklahoma [33].

### Amendment to Dog Control Act 1996

#### S69 Impounding, s15(1)(c) Dogs Seized and 15A Emergency Powers (new)

Where a dog is impounded or seized within the area declared under a state of emergency or major incident under the Civil Defence Emergency Management Act 2002, the holding period shall be extended from 7 days to 30 days; and the dog shall also be advertised on a lost and found database as gazetted by the Minister of Civil Defence.

### Amendment to the Animal Welfare Act 1999

#### S.141 Duties of approved organisations

Add: Where an animal is taken into custody of an approved organisation and that animal is believed to come from within the area declared under a state of emergency or major incident under the Civil

Defence Emergency Management Act 2002, the holding period shall be extended from 7 days to 30 days; and the animal shall also be advertised on a lost and found database as gazetted by the Minister of Civil Defence.

### **Amendment to Civil Defence Emergency Management Act 2002**

#### **S.92A Disposal of property seized (new)**

Where property or another other thing excluding an animal is seized under section 92, the Civil Defence Emergency Management Group may dispose of it as deemed fit upon termination of the emergency. Where an animal is seized under section 92, is shall be delivered to an approved organisation (Animal Welfare Act 1999) and disposed of under the provisions of section 141 (noting the 30 day hold period would apply).

## **Humane Trapping**

Following evacuations in particular, it is common for some animals to be left behind for various reasons. Given these areas are often cordoned off to the public, these animals can stray and are exposed to many hazards without any monitoring of their health or wellbeing. Leaving animals in-situ and feeding them creates numerous challenges such as blurring of who become the legal person in charge, encourages rodents and other vermin. Feeding in-situ may also become a public health issue. Currently, there are no laws to provide for humane trapping which expedites reuniting of pets with their owners, prevents owners from returning (often illegally) to rescue their pets and ensures owners remain responsible for the ongoing care of their animals [11]. Feeding in-situ is also very time and resource intensive, and best left for special circumstances such as aggressive dogs or large numbers of caged animals (large aviaries etc). In a world first, we can provide for post-disaster humane trapping.

### **Amendment to Civil Defence Emergency Management Act 2002**

#### **s.92B Emergency humane trapping (new)**

During a state of emergency, the Controller may direct suitably qualified or experienced persons to undertake the humane trapping of disaster displaced animals within the affected area. Animals caught in such traps, shall be delivered to the custody of an approved organisation.

Such direction does not limit the obligations under section 36 (Inspection of traps) of the Animal Welfare Act 1999.

Section 94N would also need to be amended to reflect this power during the transition period and authorise the Recovery Manager similar power.

## Animal Establishment Emergency Plans

Animal establishments as defined in the Animal Welfare Act means a place at which animals are used or held in the charge of any person, and which has, as its principal purpose, the using or holding of animals for display, sport, entertainment, temporary care, sale, conservation, scientific study, or other activity. Currently there is no obligation to ensure plans are in place to afford them protection. In mandating such plans, this will remove a large burden from government and the community should these establishments be unprepared and become impacted from disaster [11]. Specific laws to mandate animal establishment emergency planning are currently before US Congress [34] and already in place in some states such as Louisiana (RS 29:726):

“Require animal shelters, humane societies, veterinary offices, boarding kennels, breeders, grooming facilities, hospitals, schools, animal testing facilities, and any other businesses or not-for-profit agencies that normally house household pets or service animals to create evacuation plans for such animals consistent with the provisions of this Paragraph. Such plans shall be made available to the public upon request and shall be filed annually with the Louisiana Department of Agriculture and Forestry, office of animal health and food safety, and with their respective parish office of homeland security and emergency preparedness”.

### **Amendment to the Animal Welfare Act 1999**

New section. s.29A Emergency Plans. Every animal establishment shall develop and maintain an emergency management plan that:

- (1) Identifies the hazards that may threaten or impact the establishment
- (2) Provides for the reasonable mitigation of such hazards
- (3) Specifies actions and responsibilities in the event of an emergency arising from such hazards
- (4) Is appropriate to the size and scale of the establishment
- (5) Details how the welfare of animals within the establishment is provided for
- (6) Specifies the training, exercising and review requirements to ensure the plan is effective and maintained.
- (7) Meets the requirements prescribed by a standard for such plans, as set by the Director-General.

Each plan shall be available for inspection at any reasonable time, by an Inspector or Auditor appointed under the act.

The Director-General may exempt types or individual animal establishments, after consulting NAWAC.

The Director-General may develop a standard for animal establishment emergency plans, after consulting with NAWAC.

### **Amendment to the Animal Welfare (Care & Procedures) Regulations 2018**

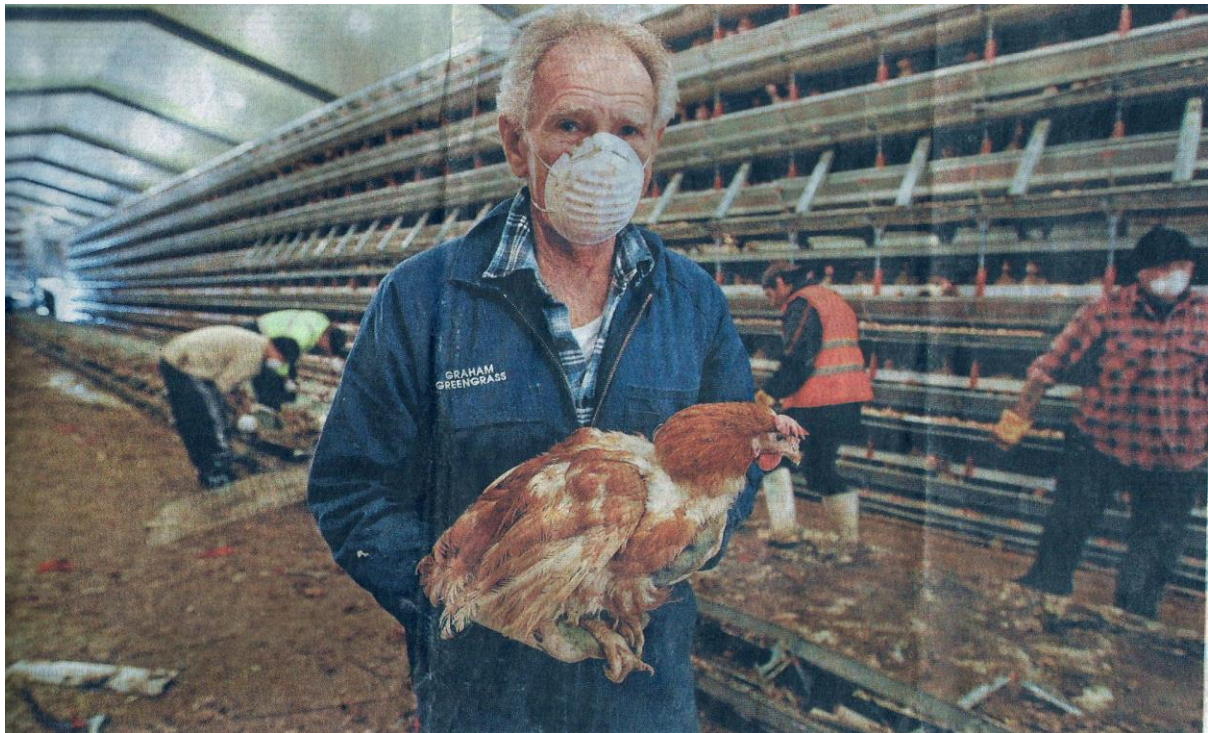
Add 49A Emergency Plans

The owner of, and every person in charge of an animal establishment must provide request a copy of the establishment's emergency plan for inspection by an Inspector or Auditor, unless an exemption is in place.

A person who fails to comply with this regulation commits an offence and is liable on conviction to a fine not exceeding \$1,500.

The offence in subclause is an infringement offence with an infringement fee of \$500.





Source: *Sunday Star-Times* (12 September 2010):

Around 3,000 birds were killed or required to be destroyed after caging stacks at the Weedon Poultry Farm failed during the September 2010 (Darfield) earthquake. The Army were called into assist. This is often the case where producers do not have confidence in animal rights groups to assist in emergency response. In 2000, several tornadoes struck layer hen sheds at the Buck Eye Egg farm in Ohio. Over million hens became injured or trapped in storm damaged cages. Many were buried injured and alive, despite crude attempts at euthanasia [6]. It was clear this major facility had little emergency management plans including mitigation in place.

## NAWAC membership

The Animal Welfare Act 1999 specifies the requirements for membership of the National Animal Welfare Advisory Committee. Should this mechanism be continued under the new coalition government, then there are some deficiencies that should be. Given climate change, it is likely there will be more climatic events like Edgumbe. With intensification of farming practices, more animals will be vulnerable to disaster. It is likely that more animals will suffer from these events, than from neglect or cruelty meaning the Minister's advisory panel needs to have the expertise to advise the Minister on such matters [11]. Additionally, given the need to encourage more animal shelters to be compliant with disposal laws, there should be an increase in approved organisations (not necessarily with enforcement powers) and these should be fairly represented and not purely the domain of a single animal welfare charity. NAWAC should be solely an animal advocacy voice and leaving the remit of other considerations such as cultural practices, rural communities with other advocacy processes.

### Amendment to the Animal Welfare Act 1999

#### s.58 NAWAC Membership

Change: s.58(1) National Animal Welfare Advisory Committee consists of not more than 14 (increased from 11).

(3) The Minister must, in making appointments under subsection (2)(b), have regard to the need for the Committee to possess knowledge and experience in the following areas:

(j) Animal disaster management

(k) Operation as an Approved Organisation

## Mandated Organisations

Under the National Civil Defence Emergency Management Plan Order 2015, the SPCA is only mandated to assist the owners of companion animals to mitigate suffering. The CDEM Act 2002 does not define the mitigation of suffering. The legislative term mitigation of suffering is found within the Animal Welfare Act 1999 and provides inspectors the power to undertake or direct the humane destruction of animals that are sick or injured under section 130. This function as per the National CDEM Plan Order 2015, could continue given under the plan the SPCA's only mandated function is to assist owners of companion animals to mitigate suffering. There is no other mandated function upon the SPCA such as temporary accommodation of companion animals. The mandated function of companion animal care, relocation and accommodation is bestowed upon the local authority through their animal control service. The SPCA has no mandated function for reuniting companion animals, nor any function for non-companion animals such as laboratory animals or livestock under current civil defence arrangements [11]. Should the SPCA not guarantee a response capability or is overwhelmed, which the latter is more likely, government has an obligation to ensure the legislative framework has contingencies and encourages all relevant community groups to be part of disaster resilience in accordance with its national civil defence emergency management strategy. Given that more animal welfare groups should be encouraged to improve their compliance with the Animal Welfare Act in regard to rehoming of abandoned animals in particular, the National CDEM Plan Order should take an inclusive approach and not be charity specific. The exclusion of other animal groups will likely result in major fragmentation such as in Hurricane Katrina where over 120 charities descended into the affected area, with over 50 temporary shelters being set up without any integration or information sharing [2], [35]– ultimately leading to reuniting failure and reduced animal welfare outcomes.

The proposed arrangement future proofs the legislative framework for changes in participating organisations and sets expectations for all approved organisations to have responsibilities during an emergency. At the National Hui on Animal Welfare held in Auckland on 8<sup>th</sup> of June 2018, many other charities raised their concerns of the lack of collaboration and engagement by the SPCA as well as animal welfare advice concerns given by the society [36]. The SPCA Chief Executive has also made comment in the media that centres around the country were about to reach crisis point and “we can't take in any more animals” [37], highlighting a significant risk for the government to rely on an already overburdened on a day to day basis, let alone an emergency.

### Amendment to National Civil Defence Emergency Management Plan Order 2015

#### S.75(3) Animal Welfare (amend)

Approved Organisations (~~RNZSPCA~~) under the Animal Welfare Act 1999, to provide direct support and co-ordination services to companion animal owners to assist in mitigating animal suffering as a result of an emergency OR If RNZSPCA to remain then ADD Animal Evac New Zealand Trust may provide assistance to any civil defence emergency management group, local authority or any other agency in the National CDEM Plan Order in the interest of animal welfare, in particular the evacuation, temporary sheltering and reuniting of animals.

## Registration of displaced dogs

The Dog Control Act 1996 has been written with only reference to the “Societies for the Prevention of Cruelty to Animals”, which is somewhat outdated given some of the largest animal shelters are now run by other charities such as HUHA. In line with previous recommendations to move to neutral terminology and create redundancy in animal disaster care capacity, the Dog Control Act 1999 should be modernised to refer only to “approved organisations”. This would then allow other organisations to hold disaster displaced dogs, without an obligation to have them registered whilst in custody. To some degree, where such organisations are operating under local authority dog control during an emergency to operate an animal shelter, they are not obligated to have all dogs within their care registered. However, to avoid any ambiguity, section 42 (offence for failing to register dog) of the Dog Control Act 1996 should be updated. The section also requires dogs to be registered at the time of release or before being returned to the owner, however this may not be appropriate during an emergency and an exemption is sought.

### Amendment to Dog Control Act 1996

#### s.42 Offence of failing to register dog

(3)(c) keeping the dog in the custody of an approved organisation under the Animal Welfare Act 2002 pending the dog’s—

(i) recovery by its owner; or

(ii) disposal to a new owner.

(4) However,—

(b) Except during a state of emergency, a person to whom subsection (3)(b) or subsection (3)(c) applies must not dispose of a dog (other than by destroying it), unless the dog is first registered under this Act.

## Animal Population Data/Census

Effective emergency planning requires animal population data to underpin assumptions in planning and response, as recommended by the OIE emergency management guideline [38]. Currently, animal population data is fragmented and no organisation taking the lead to collate such information from the range of sources including MPI, Statistics NZ, National Dog Database, NZ Companion Animal Register, and the NZ Companion Animal Council Census. It is recommended that MPI (or statistics NZ) is responsible for provide animal census data for emergency management purposes and collating such data from the range of sources.

### Amendment to National Civil Defence Emergency Management Plan Order 2015

#### S.75(3) Animal Welfare (amend)

The Ministry for Primary Industries is responsible for the periodic publication of local, regional and national animal population statistics. The Ministry is also responsible for the supply of data for emergency management purposes to Civil Defence Emergency Management Groups.



## Destruction of Animals

The destruction of animals during emergencies is highly emotional and fraught with political risk. An example of this was St Bernard Parish during Hurricane Katrina where two Sherriff Deputies shot and maimed numerous pets that were told to be left behind at a community assembly point. The shooting was allegedly done inhumanely, and photographs of the crime scene painted a horrific blood bath. The Deputies were indicted on serious animal cruelty charges; however, the case was withdrawn due a technicality [8], [35], [39]. The provisions with the Civil Defence Emergency Management Act 2002 provide out-dated and draconian powers for the unbridled destruction of animals. Should there be grounds to destroy animals due to sickness or injury, such provisions already exist under the Animal Welfare Act 1999. It would be appropriate to only provide powers to electively destroy animals under strict conditions, such as limiting this power to the Controller (not any constable) and in consultation with an Animal Welfare Inspector.

### Amendment to Civil Defence Emergency Management Act 2002

#### S.92 Power to inspect

No animal shall be destroyed under this enactment, unless authorised by a Controller who has consulted an Inspector appointed under section 124(2) of the Animal Welfare Act 1999 or veterinarian.



© Ruaridh Connellan for DailyMail.com

“I promise you, that I will hold anyone accountable that unlawfully restrains their dog in extreme weather conditions,” “Dogs are your family members too.” [40]

**Roman Forest City Chief Stephen Carlisle**

“Animal abuse in Texas will be met with harsher punishment starting in September. A law was passed that will hold abusers accountable for up to a decade in prison if found guilty. That means that if the

Texans that **chained their animals up in Hurricane Harvey** are found, they could fall under this law and spend **ten years in prison**" [41].

## Deceased companion animals

In Hurricane Katrina more than 90% of animals left behind died. In the Edgcombe 2017 flood, the SPCA's protocol was to recover deceased companion animals where possible at the time of the search to reduce the degradation of the body and to expedite the closure of the loss for the owner. This in turn, created significant goodwill with the community and removed, in many cases, the desire to breach the cordons to find their animal. This best practice should be included into the legislative arrangements to improve future responses [11].

### Amendment to National Civil Defence Emergency Management Plan Order 2015

#### S.75(3) Animal Welfare (amend)

Notwithstanding section 85(1)(g), the local authority shall be responsible for the collection of deceased companion animals and in doing so should check for animal markings to enable notification to the owner or an approved organisation.

## Removal of dog collars

During Hurricane Katrina it was observed that some volunteers involved in searching for and rescuing animals left behind, intentionally removed collars and other identification in an attempt to reduce the likelihood of reuniting with the owner, as they believed the owners were of bad character to have abandoned their animals in the first place [2]. Though the Dog Control Act has provisions for the prohibiting the removal of collars to deceive, it may not be sufficient to cover the intent to minimise reuniting, nor does it prevent removal of collars that do not bear a registration disc (i.e. a dog collar without a registration disc but has a phone number tag could be removed currently without offence). This offence also only applies to dogs and cats may be subject to the indirect abuse of having their identification removed.

### Amendment to the Animal Welfare Act 1999

#### s.29 Further offences

A person commits an offence who—

Add: (i) removes any collar, disc or animal marking from an animal during a major incident or state of emergency, with the wilful intent to hindering the reuniting of that animal to its owner.

## Emergency Accommodation

In the recovery phase after an emergency, experience has shown nationally [42] and internationally [43] that rental accommodation availability reduces in disaster affected areas due to damage of homes and dwellings. The lack of pet-friendly rental accommodation associated with this contributes to unnecessary euthanasia of companion animals, adding to the trauma (and guilt) of those already affected by disaster and removes an often trusted and existing source of psychosocial support [42]. New Zealand has been proactive in being more pet-inclusive in our society with recent changes to Housing New Zealand policies and companion animals able to be taken on public transport (in Wellington). New Zealand has an opportunity to create world leading animal emergency management laws that protect the family unit following a disaster. This would be achieved by making it illegal to

discriminate against a tenant for rental properties, based on companion animal ownership during a recovery transition period. This will lead to better mental health and animal welfare outcomes.

### **Amendment to Residential Tenancies Act 1986**

#### **S.12 Discrimination to be an unlawful act**

A landlord shall not, in respect of the grant, continuance, extension, variation, termination, or renewal of a tenancy agreement,—

Add: (c) Discriminate against any person on the basis of companion animal ownership while a transition period is in effect under the Civil Defence Emergency Management Act 2002; and where the owner has as written certificate or statement issued by a veterinarian that confirms the animal's suitability to reside in the property being tenanted.

Add: (5) Nothing in section 12 (1)(d) shall apply tenancies involving dogs classified as menacing or dangerous under the Dog Control Act 1996.

## Political Leadership

Under the National Civil Defence Emergency Management Plan Order, the government's high-level crisis coordination mechanisms are explained including the National Security Committee (NSC), Officials Domestic & External Security Committee (ODESC) and Watch Groups. The vagueness may be well placed, however it was clear in events such as Edgecumbe that animal welfare which a major issue for government, did not have sufficient representation at these meetings [10]. The Minister responsible for animal welfare should by default be invited to NSC, and the Director General of MPI should be attending ODESC. It would be appropriate to clarify the expected membership for civil defence emergencies on these groups, especially given all significant emergencies in the past decade have had major animal related issues that went largely unresolved and have a negative impact on animal welfare and community wellbeing. The absence of robust review, debriefing and after action reporting within MPI's animal emergency management processes also draws concern [9], [10], [44], despite obligations under section 158 of the National Civil Defence Emergency Management Plan Order 2015.



Credit: Associated Press. Case Study: The 2016 Kaikoura Earthquake made news headlines with the world more concerned about the fate of the three cows stuck on a landslide island, than the impact on the human population. The way we treat and respond to animals in disaster is a reflection on our society and reputation.

## Other Socio-Zoologically Vulnerable Animals

Following the 2016 Kaikoura earthquake, GNS Scientist Kevin Berryman observed the seabed was vertically displaced some 6 metres along the coastline, rendering trapped crabs, fish and paua unable to return to the water [45]. Other media reports corroborated these observations with crayfish and lobster also being observed as stranded by the uplift and despite public officials warnings not to, community members returned to relocate the sea life back into water [46]. There was significant backlash by the public to the government direction to stop the sea life rescue attempts. A Ministry for Primary Industries fisheries officer threatening to arrest the paua rescue volunteers [47]. With hundreds if not thousands of crabs, lobsters, fish and crayfish stranded and dying, no government agency took responsibility for the welfare of these animals, despite them being afforded the same protections under the Animal Welfare Act 1999 as companion animals (acknowledging that paua are not classified as animals and therefore not protected under the Animal Welfare Act 1999). Simplistically, the government sets the maximum number of fish that can be legally taken from the sea through a quota system or *allowable catch*. The efforts by the public to rescue the fish were treated as breaches of fishing quota by officials, whereas in many cases, people were acting in the interests of animal welfare. It is unclear whether the provisions of section 16 (emergency measures) would be effective in enabling rescue of fish, those protected under the Animal Welfare Act 1999 or otherwise. In effect, there is no agency or body responsible for the welfare of these animals during an emergency and this legislative gap needs to be addressed.

### Amendment to National Civil Defence Emergency Management Plan Order 2015

#### S.75(3) Animal Welfare (amend)

The Ministry of Primary Industries is responsible for the welfare of fish, lobster, octopus, squid and crayfish found in a natural state or any other species that the Minister directs, where such animal's welfare is compromised during a state of emergency or major incident.

MPI shall include such responsibilities in the National Animal Welfare Emergency Management Plan they will be responsible for.

## Code of Emergency Animal Welfare

The Animal Welfare Act 1999 allows for Codes of Welfare to be set that set minimum standards for animals. However, a person where prosecuted under section 12 or 29(a) of the Animal Welfare Act (where most offences fall) has a defence to these section's statutory liability, should "the act or omission constituting the offence took place in circumstances of stress or emergency, and was necessary for the preservation, protection, or maintenance of human life".

The terms stress and emergency are not defined in the Animal Welfare Act 1999. This means, the Codes are ineffective in setting minimum standards for emergency situations. There is also significant research to suggest that in reality, protecting animals leads to protecting humans, so the clause around necessary for the protection of human life may be conflicted.

Therefore, it is recommended that the Minister may issue a Code of Emergency Animal Welfare, that sits outside the strict liability and statutory defence provisions [11].

A new Code of Welfare (Temporary Housing of Animals) was issued in September 2018. The code states the code does not apply "temporary housing of companion animals in temporary emergency shelters during civil defence and other emergency situations" [48, p. 5], yet it sets a minimum standard (#15: Contingency Planning) "Staff must be suitably trained to respond to an emergency that could

have a detrimental effect on the animals in the temporary housing facility” [48]. In effect failing to provide this renders the standard invalid.

Without the Animal Welfare Act 1999 providing an offence for failing to have a contingency plan (as recommended in this report under *Animal Establishment Emergency Plans*), the minimum standard is benign and unenforceable.

It would appear the consultation process and legal review of the Code has been sub-optimal, and the drafting of the code has been done as if it's legislation without providing for situations of emergency under the Animal Welfare Act 1999. Such processes require further attention.

#### **Amendment to the Animal Welfare Act 1999**

##### **s.79A Codes of Emergency Welfare (new)**

The Minister may issue a Code of Emergency Welfare (using the same process as that specified for a Code of Welfare) to establish minimum standards of animal welfare during emergency situations.

### **Sponsorship restrictions**

Some major animal charities have commercial agreements around brand association, which may become restrictive in an emergency and prevent other suppliers from actively participating in emergency response in the interest of animal welfare. It is important that expectations on such suppliers are managed, in that any such agreement should not impeded the provision of relief during a state of emergency. This issue may extend to non-animal relief provision in an emergency also.

#### **Amendment to Civil Defence Emergency Management Act 2002**

##### **S.92C Contracts not to affect relief (new)**

No contract or agreement shall impede the effective provision of functions, powers, or duties under this enactment.

### **Local authority to be an approved organisation in an emergency**

The National Civil Defence Emergency Management Plan Order 2015 places responsibility for companion animal emergency care, transportation and accommodation on local authorities. However, unlike an approved organisation they do not have any legal provisions for the disposal of animals other than dogs, and even then, only for dogs that have been impounded for being stray or seized due to offences under the act. This is a major oversight by the responsible departments [11]. Though any organisation including local authorities could apply to the Minister to become an Approved Organisation, this would be cumbersome given the large number of authorities and not all may want to have the wider scope of duties associated with being an approved organisation on a day to day basis. Therefore, it is recommended that during a state of emergency or major incident, that the local authority is by default an approved organisation for the purposes of carrying out their mandated function under the National CDEM Plan Order; and that Dog Control Officers and Dog Ranges are by office, deemed Auxiliary Officers under the Animal Welfare Act to allow for compliance associated with disposal of animals.

## Amendment to the Animal Welfare Act 1999

### s.121 (1A) Approved Organisations

Add: The local authority shall be deemed an Approved Organisation during a major incident, state of emergency or transition period as defined by the Civil Defence Emergency Management Act 2002, for the sole purpose of carrying out their function specified in the National Civil Defence Emergency Management Plan Order, unless the Minister approves otherwise through an application received under section 122.

### S.2 Interpretation

Auxiliary Officer includes by virtue of appointment under the Dog Control Act 1996 any Dog Control Officer or Dog Ranger during a major incident, state of emergency or transition period as defined by the Civil Defence Emergency Management Act 2002.

## Reinforcing existing powers of Inspectors not affected

During the Christchurch quake and Edgecumbe Flood events, it was evident that response agencies had little to no knowledge of the powers of an inspector, pursuant to the Animal Welfare Act [10] and in several cases, government officials hindered or obstructed them in their duty and power to enter premises to take into possession animals at risk of imminent harm (s.127(5)(C)). Under the Civil Defence Emergency Management Act 2002, it is made very clear in section 6, the CDEM act does not limit the powers under other enactment.

## Amendment to National Civil Defence Emergency Management Plan Order 2015

### S.75 Animal Welfare

Add: Nothing in this plan shall limit the powers, duties or functions of Inspectors or Auxiliaries appointed under the Animal Welfare Act 1999, or Dog Control Officers or Dog Rangers appointed under the Dog Control Act 199.

## Notice of entry requirement during an emergency

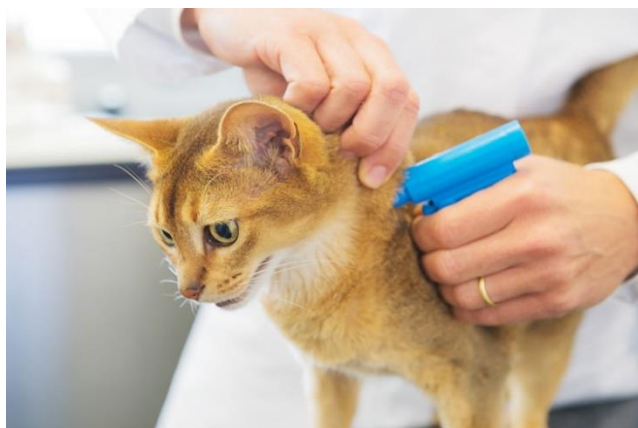
Animal Welfare Inspectors on a day to day basis, exercise significant powers similar that to a Constable (only minus the power to arrest or detain a vehicle). They are however required to leave a notice of entry where they enter upon a property, including for taking an animal into possession where it is at risk of imminent harm. In large scale disasters, this administrative requirement may impede the expeditious rescue of animals. Though there are some provisions under section 131(4)(b) of the Search and Surveillance Act 2012 for such notices to be given to occupiers within 7 days if not practical to serve at the time of entry, during a large-scale event, this administrative obligation may become burdensome and not appropriate for non-compliance “rescue” activities. The removal of such an obligation would be consistent to the Fire & Emergency Management Act 2017 and Civil Defence Emergency Management Act 2002, that both do not mandate notices of entry to be served for similar lifesaving powers. It is recommended that during a state of emergency, this mandatory requirement be relaxed. With the increased requirements recommended under this report, any animal rescued will be required to be recorded on one central/national database to make reuniting efficient.

## Amendment to the Animal Welfare Act 1999

### s.129 Notice of Entry

Change: *Except for during a state of emergency*, if the person in charge of the land, premises, or place or the vehicle, aircraft, or ship, as the case may be, is not present at the time at which a power of entry is exercised, without warrant, under section 127, the inspector must leave in a prominent place on the land, premises, or place or in or on the vehicle, aircraft, or ship a written statement...

## Power to microchip during an emergency



**“Following the 2011 quake the NZCAR provided support services to SPCA Canterbury.** In a 12 week period we dealt with over 24,000 phone calls and faxes and placed over 800 ads for chipped and non-chipped pets. Of the hundreds of animals we dealt with we managed to get 25% of non-chipped pets home within 2 to 3 days. However **we managed to get over 85% of microchipped pets home in under 3 hours.**” [49]

## Amendment to the Civil Defence Emergency Management Act 2002

### s.92D Power to mark animal (new)

During a state of emergency, an Inspector or Auxiliary Officer may cause an animal to be marked (refer definition: animal marking).

## Public transportation of companion animals

As a result of the experiences of Hurricane Katrina, the Pet Emergency & Transportation Standards Act 2006 introduced the requirement that the transportation of pets be included in emergency arrangements. Hunt et. al. (2011) found that an “inability to transport a pet during an emergency and lack of knowledge of pet-friendly emergency shelters were popular explanations for pet evacuation failure” during Hurricane Irene [50]. Examples of state laws giving effect to this requirement can be exemplified in the New Jersey state law [51].

## Amendment to the Civil Defence Emergency Management Act 2002

### s.92E Emergency transport of companion animals (new)

During a state of emergency, and when evacuation has been directed by a controller or constable, the owner of a companion animal shall be permitted to board any public transportation or public transportation service with the domestic companion animal so long as that animal is under the owner's control by use of a leash or tether or is properly confined in an appropriate container or by other suitable means.





Credit: Tony Alsup. Case Study: While fleeing the effects of Hurricane Florence, South Carolina resident Tony Alsup rescues and evacuates 64 animals using a school bus. This “selfie” went viral and was covered by major news channels including Washington Post, MSN News, CNN and the Daily Mail UK. During Hurricane Katrina, pets were not allowed on public transport, yet Limousines were used to transport animals to safety [52].

## Protection of animals during biosecurity incidents

The current incursion of *Mycoplasma bovis* across New Zealand had led to over 37,524 cattle being culled [53]. As part of control measures pursuant to the Biosecurity Act 1993, Restricted Place Notices and Notices of Direction can be issued. These can prohibit the movement of animals (in this case cattle) unless a permit is issued. The Civil Defence Emergency Management Act 2002 does not affect the powers of the Biosecurity Act 1993, therefore even during a state of emergency (civil defence), the requirement to move cattle under such notices without a permit is illegal. The permit is issued to specific persons under the Biosecurity Act 1993, and such permitting function is not a default power upon a constable or controller. This means, in the case of *Mycoplasma bovis* (and other similar incursions affecting animals), that the safe evacuation of animals during a natural disaster event is conflicted. It is recommended that the National CDEM Plan Order mandates MPI to ensure arrangements are in place for animals under a biosecurity notice that may also be affected by a civil defence emergency. By codifying this arrangement, this ensures vulnerable stock are not put at risk during disasters.

### Amendment to the National Civil Defence Emergency Management Plan Order 2015

#### S.75 Animal Welfare

Add: At the national, the Ministry for Primary Industries is responsible for:

Ensuring adequate arrangements are made for animals placed a notice issued under the Biosecurity Act 1993 to ensure such animals are protected in the event of a state of emergency under the Civil Defence Emergency Management Act 2002. This may include providing information to owners or persons in charge of such animals, to ensure they have adequate arrangements for the evacuation or

culling if required, and/or the provision of emergency movement conditions as outlined in a permit issued under section 134(1)(b) of the Biosecurity Act 1993.

## Conclusion

In New Zealand the existing national arrangements and framework for companion animal emergency management do not currently meet international best practice. While effort is being made within the sector to address the issue, it is often ad hoc and accomplished through the sheer good will and personal interest of individuals with little or no financial and technical support. It is not appropriate to assume that charities will carry out the necessary companion animal emergency planning which is a statutory responsibility of the territorial authority, especially when national instruments do not provide for the reimbursement of their operational response costs – this makes them financially vulnerable for simply trying to help during a disaster.

The United States has implemented specific federal legislation and provided significant funding for companion animal emergency management as a result of the lessons learned following Hurricane Katrina.

New Zealand has the opportunity to mitigate the same risks and prevent similar catastrophes including the loss of human life, providing strong leadership and commitment can be exemplified by central government. We have a once in a lifetime opportunity to create world leading animal disaster laws that will enhance our vision for a resilient New Zealand.



**Steve Glassey**

**Founder | Animal Evac New Zealand Trust**  
& Doctoral Candidate | University of Otago

## Summary of changes

Change	Comparative Laws
1. MCDEM specifically mandated to develop and maintain National Companion Animal Emergency Management Plan.	Pet Emergency & Transportation Standards Act 2006 [USA] New Jersey State Law [54] Refer also to Annex A.
2. MPI responsible for National Non-Companion Animal Emergency Management Plan.	
3. CDEM Groups responsible for regional companion animal emergency plan, supported by local authority animal control.	Pet Emergency & Transportation Standards Act 2006 [USA] New Jersey State Law [54] Refer also to Annex A.
4. Fire & Emergency NZ responsible for coordinating and directing large scale animal rescue and animal decontamination at major incidents and during states of emergency.	
5. Dog Control registration fees may be used towards local authority animal welfare related civil defence functions (reduction and readiness activities).	
6. Definitions of companion animal, animal marking added to legislation.	
7. Dwellings may be entered without warrant by Animal Welfare Inspectors, during state of emergency and where dwelling subject to evacuation order, for civil defence purposes.	

8. Operational costs for animal welfare emergency management now reimbursed by central government (for response and recovery activities).	Pet Emergency & Transportation Standards Act 2006 [USA] Maine State Law [22]
9. Animal welfare civil defence volunteers equally able to access civil defence volunteer training funding schemes.	Pet Emergency & Transportation Standards Act 2006 [USA]
10. Powers to rescue, shelter, transport, care, treat, decontaminate, and microchip animals during emergencies.	Pet Emergency & Transportation Standards Act 2006 [USA]
11. Powers to evacuate, enter on property and requisition now are animal-inclusive.	Pet Emergency & Transportation Standards Act 2006 [USA]
12. Companion animals left behind during evacuation now to be treated as a priority for rescue and reuniting.	Pet Emergency & Transportation Standards Act 2006 [USA]
13. Offence created for impersonating the use of a disability assist dog.	New York State Law [55]. Colorado, Maine, Michigan, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, Texas, Utah, and Virginia have similar laws or regulations prohibiting the misrepresentation of service animals.
14. National identification tag may be mandated for disability assist dogs.	
15. NZCAR/LostPets and National Dog Database mandated to share information, with existing levy able to be used for civil defence functionality.	State of Louisiana (RS 29:726) section (E)(a)(iii)(bb). [56]
16. Displaced animals in an emergency must be entered into onto the NZCAR/LostPets database.	State of Louisiana (RS 29:726) section (E)(a)(iii)(bb). [56]

<p>17. Offence created for failing to protect companion animals from extreme weather and during emergencies, without reasonable excuse.</p>	<p>State of Texas, <i>Texas Health &amp; Safety Code</i>. 2007. [30]</p>
<p>18. Code of Ethics (research, testing, teaching) now require measure to protect animals from impacts of natural and technological hazards.</p>	<p>Animal Emergency Planning Act (Bill) 2015, US Congress. [34]</p>
<p>19. Controller may amend, suspend, change, create temporary emergency dog control bylaws, i.e. emergency exercise areas for dogs near evacuation centres.</p>	
<p>20. Dog Control Officer and Dog Rangers able to carry out function, duties and powers in any area subject to state of emergency.</p>	
<p>21. Dog Control Officer and Dog Ranger may seize a dog that is at risk of imminent harm.</p>	
<p>22. Stray holding periods under dog control and animal welfare acts, increased from 7 days to 30 days for displaced animals during emergency.</p>	<p>American Bar Association, 'Model Act Governing Standards for the Care and Disposition of Disaster Animals (2/10)'. [32] Oklahoma State Law (Care and Disposition of Disaster Animals, 2015) Act 4 Okl. St. Ann. § 701 – 707. [33]</p>
<p>23. Power for humane trapping operations to be undertaken including during recovery transition period.</p>	
<p>24. Approved organisations (not just specific charity) embedded in national animal welfare sub-function to promote inclusiveness.</p>	

<p>25. MPI responsible for protected animals under the animal welfare act, found in a natural state and impacted by disaster i.e. crayfish, lobster, squid and octopus.</p>	
<p>26. Animal establishments required to have an emergency management plan, and offence for failing to provide for inspection by Inspector or Auditor.</p>	<p>Animal Emergency Planning Act (Bill) 2015, US Congress. [34] State of Louisiana (RS 29:726) section (E)(a)(v). [56]</p>
<p>27. NAWAC to have “approved organisation” and “animal emergency management” experience as part of its composition.</p>	
<p>28. Local authorities become approved organisations for civil defence purposes during an emergency and recovery transition period, with dog control officers and rangers becoming auxiliary officers by default during such time.</p>	
<p>29. MPI responsible for collation of national, regional and local animal census/population data and supply of such data to CDEM groups.</p>	
<p>30. Power to destroy animals under civil defence arrangements, now subject to approval by animal welfare inspector or veterinarian.</p>	
<p>31. Dead displaced companion animals should be delivered to an approved organisation, checked for animal markings and entered onto the NZCAR/LostPets database.</p>	
<p>32. Offence created to make it illegal to discriminate tenancy applicants based on companion animal ownership during recovery transition period.</p>	

33. Code of Emergency Welfare able to be developed that applies during times of emergency.	
34. Sponsorship arrangements may not hinder relief of animal welfare aid during an emergency.	
35. Inspectors may enter to rescue animals from imminent harm without notice of entry in a state of emergency.	
36. Inspectors, Auxiliary Officers, Dog Control Officers and Dog Rangers able to microchip animals during a state of emergency.	
37. Public transportation of confined or restrained companion animals permitted during an emergency.	Pet Emergency & Transportation Act 2006. New Jersey state law [51]. See also Annex A.
38. Offence to microchip companion animal and fail to register it on the National Dog Database or NZCAR/Gazetted database.	
39. MPI to work with affected owners of animals under a biosecurity notice to ensure adequate arrangements are made for their protection during emergencies, given the movement restrictions may prevent evacuation.	

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## Annex A: US State Laws (2011)

Emergency Plans for Household Pets and Service Animals- State Statutes February 2010		
State	Statute	Description
Connecticut	Conn. Gen. Stat § 28-1 (4) (D)(ii)	Definition of civil preparedness includes providing for the non-military evacuation of the civilian population, pets and service animals
District of Columbia	D.C. Code § 8-1861.01 (2009)	The Mayor shall establish an emergency preparedness plan for the protection, sheltering and evacuation of domestic animals during and following a major disaster or emergency.
Florida	Fla. Stat. § 252.3568 (2009) Fla. Stat. § 252.355 (2009)	§252.3568 - Emergency Sheltering of persons with pets. Strategies for emergency evacuation of persons with pets shall be addressed in the shelter component of the state comprehensive emergency management plan. § 252.355 Registry of persons with special needs – (3) - person with special needs is allowed to bring service animal into a special needs shelter.
Illinois	20 ILCS §3305/4 (2010)	Definition of Emergency Operations Plan means the written plan... for responding to and recovering from disasters and shall include plans that take into account the needs of those individuals with household pets and service animals
Louisiana	La. R.S. § 29:726 (E)(20) (2010)	Very extensive statute, mandates planning, education, evacuation programs.
Nevada	Nev. Rev. Stat. Ann. § 414.095 (2009)	Emergency Management Plan must address needs of persons with pets, service animals or service animals in training.
New Hampshire	N.H. RSA § 21-P:37 (VI)	Prepare a plan and program for evacuation of hearing ear dogs, guide dogs, search and rescue dogs, and other service animals as defined in RSA 167-D.
New Jersey	N.J. Stat. § App. A:9-43.1 (2010): State Emergency Operations Plan N.J. Stat. § App. A A:9-943.2 (2010): County and municipal emergency operations plans	Each county and municipality shall prepare a written Emergency Operations Plan. Plans shall include provisions, developed in support with the Dept. of Ag. To support the needs of animals and individuals with an animal under their care, including service animal in a major disaster or emergency.
New York	NY CLS Exec § 22(3)(b)(16) (2010)	Disaster response plans shall include utilization and coordination of programs to assist individuals with household pets and service animals following a disaster, with attention to means of evacuation, shelter and transportation.
Oregon	ORS § 401.272 (2007) (pets and service animal plans): ORS § 401.274 (2007) (livestock plans): amended by HB 3021 § 3031 (2009)	Office of Emergency Management in cooperation with State Department of Agriculture shall prepare a written plan for evacuation, transport and sheltering of household pets and service animals. Section 401.274 requires preparation of plans for livestock.
Texas	Tex. Gov't Code §418.043(11) (2009)	The Texas Division of Emergency Management shall assist political subdivisions in developing plans for the humane evacuation, transport, and temporary sheltering of service animals and household pets in a disaster..
Virginia	Va. Code Ann. § 44-146.18 (B)(19) (2009)	State Department of Emergency Management shall: Develop an emergency response plan to address the needs of individuals with household pets and service animals in the event of a disaster and assist the coordinate with local agencies in developing an emergency response plan for household pets and service animals.

Source: Iowa State University, 2011 [57].

## Annex B: Entry, Seizure & Disposal Matrix (Draft)

Acts	Power bestowed upon	Power to enter onto Property	Power to enter dwelling	Power to take possession of animal for safety	Notice of Entry required	Disposal of animals taken into possession	Disposal of animals presented	Disposal meets ABA model law (30-day hold)
CDEM Act 2002	Controller or any Constable	Conditional to declared state of emergency only [s.87]	Conditional to declared state of emergency only [s.87]	Yes [s.92]	No	No provisions for things seized	No provisions	No
AWMA 1999	Animal Welfare Inspector, including Any Constable	Yes, power to inspect any animal. [s.127]	No, unless Search Warrant issued. [s.127(3)]	Yes [s.127(5)(b/c)]	Yes [s.129]	Where Taken into possession, by court order if not returned. [s.127(6)]	After 7 days excluding stock [s.141]	No
DCA 1996	Dog Control Officer or Ranger, or any constable	Conditional to situations involving dogs [s.15(1)(c)]	No, unless Search Warrant issued.	If limited access to food, water or shelter [s.15(1)(c)]	Yes [s.15(3)]	After 7 days from notice being issued to owner [s.71A]	Dogs only after 7 days [s.69]	No
FENZ 2017	Authorised person under Act	Yes, to protect life or property [s.42]	Yes, to protect life or property	Yes, implied by Act. [s.40(a)]	No	No provisions but may transfer to AO/TLA as not seized.	No Provisions	No

Source: Glassey, 2018 [11].