



Factsheet: Local transition periods

The Civil Defence Emergency Management Act 2002

The Civil Defence Emergency Management Act 2002:

- provides for local transition periods to assist recovery
- provides for certain people to be authorised to give notice of a local transition period; and
- provides powers to Recovery Managers during local transition periods.

Who is authorised to give notice of a local transition period (s25)?

A Mayor can give notice of a local transition period for the territorial district. If the Mayor is absent, and elected member of a territorial authority may give notice of a local transition period.

The CDEM Group must also appoint at least one person (a representative of the Group) to give notice of local transition periods for the Group's area. This appointment of persons authorised to give notice of a local transition period mirrors the state of local emergency requirements.

If the Group appoints more than one person to give notice, they must state whether they have equal status to give notice, or whether they are only authorised in the absence of another named person. They must also include any conditions or limitations to the appointment (s25(3)).

The Minister can also give notice of a local transition period if it appears to the Minister that a local transition period is required (s94B(3)).

A notice of local transition period must be given on Form 17 of Schedule 2 in the Civil Defence Emergency Management Regulations 2003, or a form of similar effect.

What area does a local transition period apply over?

A local transition period can apply to one or more districts or wards within an area (s94B(1)). A local transition period notice can be given over the whole area of a CDEM Group or a district within an area of a CDEM Group.

When can a notice of local transition period be given?

A person who is authorised can give notice of a local transition period:

- Following a declaration of local state of emergency; or
- Following approval from the Minister when:
 - a period of recovery is required after an emergency, when there was no local state of emergency declared (s94B(2));
 - where the local transition period is required for COVID-19 reasons (s94B(12)); or
- For a district or ward not affected by an emergency if the resources of that area could assist an area affected by the emergency (s94B(9)). Although this is not necessary if these areas are willing to provide their resources (i.e. they don't need access to the special transition period powers).

If approval from the Minister is needed, this should be obtained by the person authorised by writing to the Minister (email is sufficient) and should be discussed with a NEMA Regional Emergency Management Advisor beforehand.

The fact that an emergency has occurred does not mean there is a need or obligation to give notice of a local transition period.

What needs to be considered when deciding whether to give notice of local transition period?

A notice of local transition period must not be given unless the person authorised to give notice is satisfied that the following legal tests are met:

- It must appear to the person giving the notice that a local transition period is required (s94B(1));
- Invoking the powers to manage, coordinate, or direct recovery activities is:
 - In the public interest; and
 - Necessary or desirable to ensure a timely and effective recovery (s94B(4)).

The person authorised must also have regard to the areas, districts, or wards affected by the emergency and whether the focus is moving from response to recovery, including if the state of emergency is about to expire or be terminated (s94B(5)).

The powers exercised during a state of local emergency do not automatically transfer to a local transition period. A new assessment applying the legal tests for use of local transition period powers is required. Some powers available under a state of emergency are not available under a local transition period e.g. ability to requisition under s90.

Who needs to be involved in the decision?

The authorised person should discuss giving notice of a local transition period with the Group Controller/ Controller, Group Recovery Manager/Recovery Manager and they should also discuss it with their NEMA Regional Emergency Management Advisor, who can help ensure national CDEM level awareness of the emergency and raise any requests for national level support.

To make an informed decision, the authorised person should also consult with other people as appropriate, including:

- Local authority departments involved in response and recovery e.g. building control, asset management;
- Fire and Emergency New Zealand;
- Providers of health and disability services e.g. District Health Board, Primary Health Organisations, Ambulance Services.

What needs to be considered about the area affected?

The person appointed by the CDEM Group can give notice for the area of the CDEM Group concerned, or for one or more districts or wards within the area (s94B(1)).

Generally, as local transition periods provide for powers that are not normally available and there are tests to ensure that invoking the powers is necessary or desirable, notices should be limited to the areas(s) affected. For example, notice of a local transition period does not need to be given for the entire area of the Group if the emergency only affects one or two districts or wards.

Local transition periods for a lesser geographical area (e.g. ward) cease to have effect when a local transition period for a larger geographical area is given (s94B(8)).

If the same emergency affects more than one CDEM Group, affected CDEM Groups (and/or Mayors) coordinate but each give their own respective transition notices.

What if the Minister gives notice of a national transition period?

If the Minister gives notice of a national transition period, any other local transition period in force in the area or district ceases to have effect (s94A(4)(b)). Except if the national transition period relates to COVID-19 reasons.

Likewise, notice of a local transition period cannot be given for any part of New Zealand while a national transition period is in force for that part (s94B(11)). Except if the national transition period relates to COVID-19 reasons as set out below.

What if a local transition period is needed during local government elections?

Only elected representatives of the members of the Group are able to give notice of local transition period (s25). Following a local election there may be no-one available to give notice as members cannot act as an elected representative until they are sworn in (clause 14, Schedule 7 of the Local Government Act 2002).

If an emergency arises following a local election but before members are sworn in and emergency powers are needed, a local transition period can be declared by:

- The Minister of Civil Defence giving notice of a local transition period for a CDEM Group area or any district or ward within that area (s94B(3)); or
- In circumstances that provide a period of warning, such as an impending adverse weather event, a council meeting may be called as soon as practicable to have the new council sworn in (clause 21(3), Schedule 7, Local Government Act 2002), allowing the Mayor to give notice of a local transition period under s25(5) of the CDEM Act 2002.

How do you change from state of emergency to local transition period?

Where a state of emergency was declared, a local transition period comes into force (s94C(1)) either:

- On the termination of a state of emergency; or
- On the expiry of the state of emergency if the local transition period notice states this.

If notice of local transition period is given before the state of emergency is due to expire, the state of emergency must be terminated.

If no state of emergency is currently in force, the transition period comes into force at the time and date given on the transition notice (s94C(2)).

If the Minister gives notice of a local transition period, the declared state of local emergency is automatically terminated (s72(3)).

How long does a local transition period last?

A local transition period ends 28 days after the time and date that it comes into force, unless extended or terminated earlier.

This means that if a local transition period comes into force at 0935 on 1 January, it would expire at 0935 on 29 January.

How is the duration of a local transition period extended?

Before a local transition period ends, the duration of the period can be extended either by:

- The person who gave the notice; or
- Another person authorised to give notice (s94D(2)).

Before extending, the authorised person must be satisfied that:

- It appears to the person giving the notice that the extension is required (s94D(2)); and
- They have regard to the areas, districts or wards affected by the emergency (s94D(3)(a)); and
- That invoking the powers to manage, coordinate, or direct recovery activities is:
 - In the public interest; and
 - Necessary or desirable to ensure a timely and effective recovery (s94D(3)(b)).

A local transition period can be extended more than once (s94D(7)).

An extension of a local transition period only relates to the duration of the period, not the area. This means, an extension of local transition period can be given for the same geographical area as the original notice, or a reduced geographical area. For example, Districts A, B and C are subject to a local transition period. It is proposed to extend the duration of the local transition period for districts A and C, but not B. A notice of extension of duration can be given for districts A and C, leaving district B to expire (or be terminated).

However, if it is proposed that the area subject to a local transition period be increased in size geographically, then a new local transition period should be given.

A notice of extension of local transition period must be given on Form 18 of Schedule 2 in the Civil Defence Emergency Management Regulations 2003, or a form of similar effect.

What if the local transition period is extended three or more times?

The person who extends the period (other than the Minister) must give the Minister a copy of the notice at the same time as notifying the public of the extension (s94D(9)(a)).

This can be done by sending a short signed letter to the Minister (and Minister's office) with the notice attached.

Once the Minister receives the notice of extension, the Minister must advise the House of Representatives as soon as practicable (s94D(9)(b)).

What if the local transition notice needs to be terminated?

The person who gave the notice, or another authorised person, may terminate the local transition period by notice (s94E(2)).

A notice of termination of local transition period must be given on Form 19 of Schedule 2 in the Civil Defence Emergency Management Regulations 2003, or a form of similar effect. The local transition period is terminated at the date and time specified on the form (s94E(3)).

If a state of emergency is declared when a local transition period is in force in the area, it automatically overrides the local transition period, and a termination of a transition period notice does not need to be given (s94E(7)).

What are the requirements to publish a notice of local transition period?

A person who gives notice or extends the duration of a local transition period must as soon as practicable notify the public of the notice by publishing the notice:

- In one or more newspapers circulating in the areas, districts, or wards to which the notice relates; and
- On an internet site to which the public has free access (s94F(4)(a)).

They must also ensure that the notice or extension is published in the Gazette as soon as practicable (s94F(4)(b)).

A person who terminates a local transition period must immediately notify the public by any means of communication that are reasonably practicable in the circumstances, and ensure that the notice of termination is published in the Gazette as soon as practicable (s94E(6)).

COVID-19 related transition periods

Ministerial approval is required to give notice of a local transition period for COVID-19 related reasons

The CDEM Act 2002 has been amended to require approval from the Minister of Civil Defence before notice of a local transition period can be given for COVID-19 related reasons (s94B(12)). This provides the opportunity to test if the transition period is necessary or desirable and to ensure that a nationally consistent approach continues to be taken to COVID-19.

Allowing a local transition period for a non-COVID-19 related emergency when a national transition period is in place for COVID-19

Normally, the CDEM Act 2002 does not allow a national and local transition period to be in place at the same

time for the same area (or part area). The CDEM Act 2002 has been amended to allow notice of a local transition period to be given for a non-COVID-19 related emergency when a national transition period for COVID-19 is in place for the same area (or part area) (s94B(13)).

Gazette publication

A copy of the signed notice form(s) (in Microsoft Word format) must be sent to the New Zealand Gazette Office at:

New Zealand Gazette Office
Department of Internal Affairs
PO Box 805
Wellington 6140

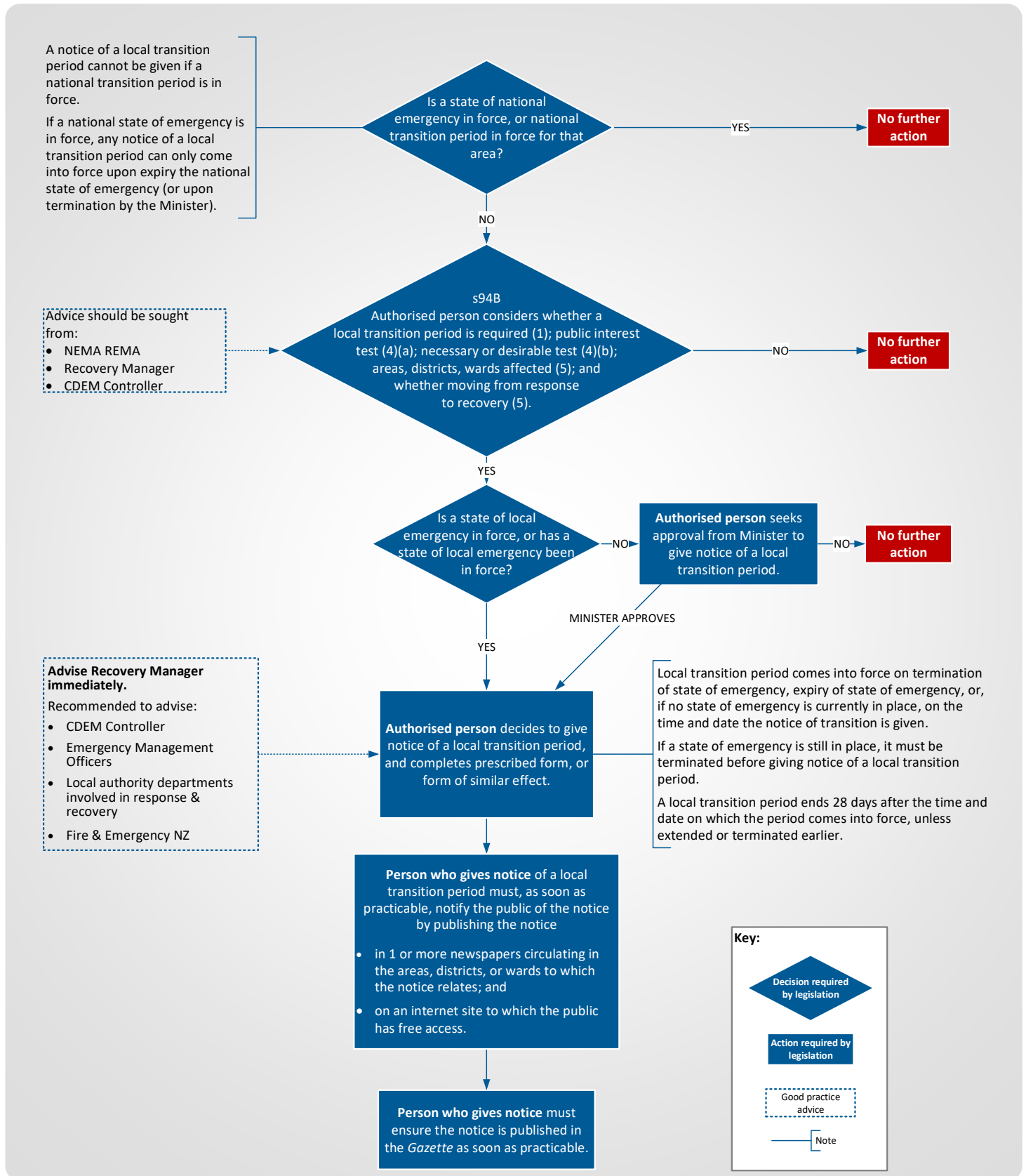
or

gazette@dia.govt.nz

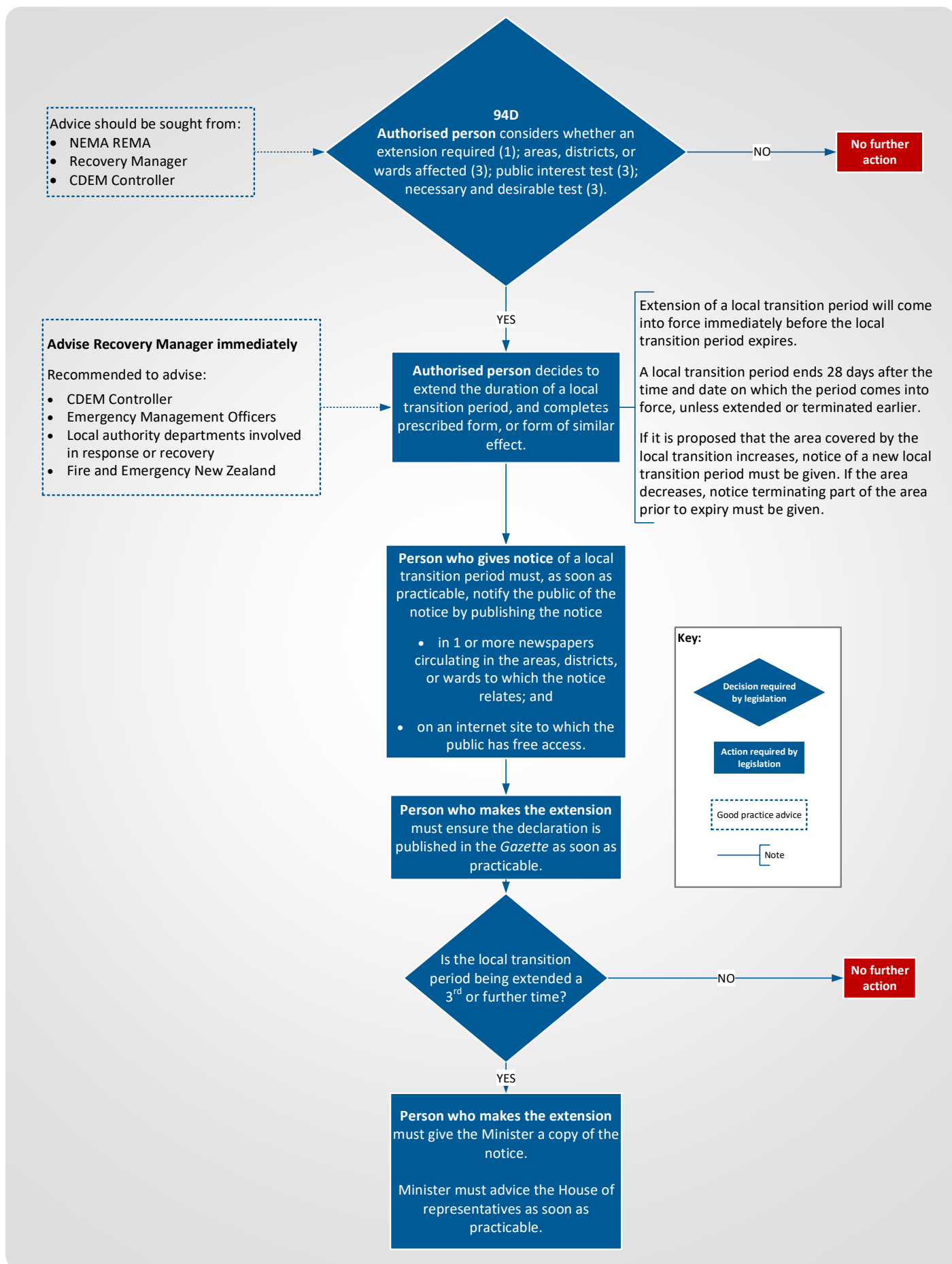
See <https://gazette.govt.nz/how-to-submit> for details on how to submit a notice for publication in the Gazette.

Process for giving notice of a local transition period (s94B)*

Note: The approval of the Minister of Civil Defence is required before a notice of local transition period can be given in relation to COVID-19. Contact your REMA immediately if you think you may need to make such a declaration.



Process for extending duration of a local transition period (s94D)



Process for terminating a local transition period (s94E)

