



INSPECTOR POWERS

May 2017

What are the inspector powers?

They are:

- Powers of entry and inspection
- Power to enter homes and marae
- Power to deal with cause of imminent danger
- Power to take samples and other objects and things
- Power to restrict or prohibit entry to sites

Who can use the inspector powers?

To use the inspector powers, you need to be trained and appointed in writing, and Fire and Emergency New Zealand is required to issue an identity card. If you haven't received a notice of appointment you can't use the powers.

Who will be appointed to use the inspector powers?

From Day One it will generally be Fire Risk Management Officers and Level 2 rural fire investigators who are appointed to use the:

- Powers of entry and inspection
- Power to enter homes and marae
- Power to restrict or prohibit entry to sites

From Day One a smaller group of people (several in each region) will be appointed to use:

- Power to deal with cause of imminent danger
- Power to take samples and other objects and things

Once further training is developed it is likely that more people will be trained and appointed to use more of the inspector's powers.

When can the inspector powers be used?

The entry and inspection powers are for:

- pre-incident planning
- assessing compliance with relevant fire safety legislation
- conducting post-incident analysis

What "relevant fire safety legislation" are inspectors assessing compliance against?

Relevant fire safety legislation includes the following Acts and associated regulations:

- Fire and Emergency New Zealand Act 2017
- Building Act 2004
- Local Government Act 2002
- Local Government Act 1974
- Hazardous Substances and New Organisms Act 1996
- Radiation Safety Act 2016
- Sale and Supply of Alcohol Act 2012
- any former enactments replaced by any of the Acts referred above

Does an officer need the inspector powers to do pre-incident planning and post-incident reporting?

No. Operational officers must ask for consent from the occupier to enter to do pre-incident planning. They must get help from someone with inspection powers if entry is refused or because there is no one on-site to give consent.

Operational officers don't need to use inspector powers to determine likely origin and cause for Station Management System (SMS) reporting at the end of an emergency.

What should we do if we need to do an investigation and we can't get consent and an inspector isn't around?

If an investigation is needed, an authorised person can temporarily restrict or prohibit access to the site of an emergency (for example to preserve evidence) until an inspector arrives. The authorised person needs to talk to an inspector before they do this.

What is special about the inspector powers?

Entering and inspecting private property without consent is a serious matter. This is even more so for people's homes and marae. People's rights are protected under modern legislation including the Search and Surveillance Act and the Bill of Rights Act. To ensure that those rights are protected the inspector powers are subject to certain provisions of the Search and Surveillance Act.

Can inspectors just go into homes?

No. They must either get the consent of an occupier or apply to an issuing officer of the court to get an "entry warrant". Please note this is different to a "search warrant".

Can inspectors just go onto marae?

No, not without consent of an occupier or under an entry warrant from an issuing officer. Entry onto a marae and associated buildings must take into account the kawa (protocol) of the marae so far as practicable.

In addition, an inspector must ask Comcen to page the Pou Herenga Māori / National Advisor Māori who will arrange support from a Maori Liaison Officer to help them understand these requirements.

Can an inspector apply for a search warrant?

Not immediately. Obtaining a search warrant is a very specific process and will need to be authorised by senior management. Although the new legislation provides the ability to apply for a search warrant under the Search and Surveillance Act, this is unlikely to happen very often.



Will inspectors be writing “tickets”?

Not from Day One. Fire and Emergency New Zealand won't be issuing “tickets” (infringement notices) until infringement regulations are in place, which is expected to be from 1 July 2018. It has not yet been decided who will issue infringement notices, but it is likely to be a relatively small group of people.

What is imminent danger?

Guidance is being developed to explain when it would be appropriate to use this power. However, generally “imminent” means that something is likely to happen, and it is likely to happen soon. It doesn't cover situations where something might happen, or might happen sometime in the future.