

Report on
Operation of the Severe Weather Emergency Recovery Legislation Act 2023
since 13 April 2024

**Presented to the House of Representatives by the Minister for Emergency Management
and Recovery pursuant to section 33 of the Severe Weather Emergency Recovery
Legislation Act 2023**

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Introduction

The Severe Weather Emergency Recovery Legislation Act 2023 (the Act) is the second Act passed in response to the heavy rain events in the upper North Island and Cyclones Hale and Gabrielle in January and February 2023. The single broad policy for the Act is to ensure that Government agencies and Crown entities, and affected local authorities and communities, can appropriately respond to, or recover from the recent severe weather events, or both, including by providing the Government with flexibility to facilitate, enable, and expedite the recovery.

The Act enables the Governor-General to make Orders in Council (Orders) to modify other statutes to provide those affected by the North Island severe weather events with relief from legislative requirements that are overly burdensome in this context. Modifications are also permitted where necessary to enable prompt action for an efficient and timely recovery. Prior to the finalisation of an Order, the Act requires the relevant Minister to provide a copy of the draft Order to the Regulations Review Committee and the Severe Weather Recovery Review Panel.

As the Minister responsible for the administration of the Act, I am also required under section 33 to present a report on the operation of the Act to the House of Representatives (the House) at least every six months. These reports must, for the period covered by that report, include a list of the Orders made under the Act during that period and a brief description of those orders. This report provides information on Orders made under the Act between commencement of the Act and the date this report is presented to the House, in accordance with section 33.

During the time period 13 April 2024 to 13 October 2024, the Regulations Review Committee tabled a report 'Briefing on retrospective change of limitation periods and the truncating of appeal rights in secondary legislation in response to an emergency event' indicating their concern with specific elements of some Orders. The Government response to this report will be presented to the House by 6 November 2024, in accordance with Standing Order 256.

Orders in Council enacted

The following Orders in Council were enacted during the period 13 April 2024 to 13 October 2024.

Severe Weather Emergency Recovery (Hawke's Bay Flood Protection Works) Order 2024

This order modifies the Resource Management Act 1991 (the RMA) to facilitate flood protection works at specified locations in the Hawke's Bay region. These sites are in Wairoa, Whirinaki, Waiohiki, Ohiti Road/Omāhu, Pākōwhai, Havelock North, Pōrangahau and Awatoto.

The flood protection works this Order enables will allow about 975 properties, which are currently categorised as Category 2A or Category 2C, to be recategorised as

Category 1. The flood works will also protect the Awatoto industrial area where Napier's wastewater treatment plant is located.

The project works covered by this Order include:

- The construction of stop-banks, culverts, retaining walls, bridge works, pump stations, stream alignments and earthworks.
- Activities that are concerned with the construction or reinstatement of, making safety enhancements to, or improving the resilience of land and flood protection infrastructure.

The Order does not allow an existing consent to be varied. If a consent holder wants to change or cancel the conditions of an existing resource consent, they will need to use the standard Section 127 RMA process.

The Order came into force on 7 June 2024 and is revoked on 31 March 2028.

Severe Weather Emergency Recovery (Resource Management—Hawke's Bay Rural Recovery Works) Order 2024

The Order in Council modifies the Resource Management Act 1991 to allow rural landowners and occupiers in the Hawke's Bay to carry out recovery works on their land.

This order applies to rural land in the districts of a Hawke's Bay local authority and to rural recovery works that are deemed to be permitted activities under clause 7 for the purposes of the Resource Management Act 1991 (the RMA).

The rural recovery works are deemed to be permitted activities under the RMA if certain requirements in the Order are met. The works must be reasonably necessary for the purpose of remediating, repairing or mitigating damage caused by Cyclone Gabrielle or Cyclone Hale, are carried out on rural land, and are works that would ordinarily require a resource consent.

The rural recovery works must also comply with the notice, further information and record-keeping requirements in the Order and be carried out in accordance with the requirements set out in Schedule of the Order.

It comes into force on 20 September 2024 and is revoked on 30 April 2026.

Orders in Council revoked

The following Orders were revoked during the period 13 April 2024 to 13 October 2024.

Severe Weather Emergency Recovery (Local Government) Order 2023 and the **Severe Weather Emergency Recovery (Local Government) Amendment Order 2023.**

The principal Order amended the Local Government Act 2002 (LGA) to make changes for local government administration by simplifying legislative processes, extending statutory timeframes for key documents to be published, and allowing councils to

continue to collect rates and provide services to the community in an efficient and effective manner.

Clause 5 (relating to the requirement under section 15 of the LGA for all local authorities in a region to enter into a triennial agreement) and clause 6 (relating to the requirement under section 40 of the LGA for local authorities to publish local governance statements within 6 months after each triennial general election) were treated as having come into force on 12 February 2023 and the rest of the Order came into force on 9 June 2023. Clauses 5 and 6 were revoked on 1 September 2023 and the rest of the Order was revoked on the close of 30 June 2024.

The amendment order amended the Severe Weather Emergency Recovery (Local Government) Order 2023 (the principal order). The Order removed regulatory barriers that delayed councils from making decisions related to buying properties that were severely impacted by Cyclone Gabrielle and the early 2023 severe weather events.

The amendment Order temporarily suspended section 97 of the Local Government Act 2002 (LGA) for Auckland and Napier Councils for the remainder of the financial year (ending 30 June 2024), by amending an earlier Order that provided the same relief for other councils (the Severe Weather Emergency Recovery (Local Government) Order 2023).

Additionally, the amendment Order clarified that the section 97 suspension in this amendment, and in the earlier Order created for the same purpose, applied to decisions about Category 3 Future of Severely Affected Locations property buy outs.

The amendment Order came into force on 26 September 2023. This amendment Order revoked upon revocation of the initial Severe Weather Emergency Recovery (Local Government) Order 2023 on 30 June 2024.

Severe Weather Emergency Recovery (Land Transport Funding) Order 2023

The order streamlined requirements in the Land Transport Management Act 2003 (the Act) for the funding of road and rail recovery activities arising out of the severe weather events.

The order came into force on 1 September 2023 and was revoked on 30 June 2024.