



Orders in Council under the severe weather emergency legislation

The Severe Weather Emergency Recovery Legislation Act 2023 (the Act) came into force on 13 April 2023 ([Severe Weather Emergency Legislation Act 2023 No 4, Public Act Contents – New Zealand Legislation](#)).

As well as making urgent changes to statutes to facilitate recovery in the areas affected by recent weather events, the Act enabled the Governor-General to make Orders in Council to modify other statutes to provide those affected by the severe weather with relief from legislative requirements that are overly burdensome. Modifications are also permitted where necessary to enable prompt action for an efficient and timely recovery.

Why is this needed?

The recent severe weather events in the North Island, including Cyclones Hale and Gabrielle and the Auckland floods, have caused widespread damage to land, waterways, infrastructure, businesses and homes. The extent of the damage is on a comparable scale to that caused by the Canterbury and Hurunui/Kaikōura earthquakes.

We are now moving away from the response phase and into a long period of recovery. The recovery needs will be broad and complex, and the damage caused to date may be further exacerbated by future weather events. The recovery has two main objectives. First, to bring back normality to those affected as quickly as possible so individuals can get on with their lives and their operations. The second is to restore and enhance the infrastructure on which communities and the economy depends.

The status quo regulatory environment has been designed for non-emergency times. Some laws that work well during “normal” times are not fit for purpose for emergency situations and the associated recovery phase. For example:

- there is no relief from legislative obligations after an emergency, which may result in perverse outcomes whereby individuals, groups and business need to redirect their resources and focus from recovery efforts to instead focus on accessing relevant files from flood damaged properties in order to meet the usual deadlines;
- there is no flexibility to adapt legislation to changed requirements; and
- there is no means to address the volume of changes required to allow for speedy and timely decisions.

For these reasons, the Government found it desirable to establish a mechanism to enable the regulatory environment to be modified, where necessary, for a limited time to support an efficient and effective recovery. Similar steps were taken following the Canterbury and Hurunui/Kaikōura earthquakes and this model is being followed again as part of the response to the recent severe weather events.

What can Orders in Council be used for?

The objectives of the Order in Council process are to:

- support economic recovery, planning processes, rebuild and recovery of land, infrastructure, people, and built and natural environments;
- enable safety enhancements and improved resilience of infrastructure;
- ensure that an adequate and appropriate regulatory framework is in place as soon as possible, to expedite the pace and trajectory of the recovery, increase resilience and avoid placing undue burdens on those most directly affected; and
- give people and communities affected by the severe weather events confidence that an enabling regulatory framework is in place to maximise recovery opportunities.

In determining that, officials will consider whether there are any alternatives available (such as amending legislation by the standard amendment bill process, or using discretion to choose not to apply a penalty), and if so, what the outcome would be of using those alternatives. If there are no alternatives, or they would have undesirable effects, then an amendment may be considered, provided it is necessary or desirable for the purpose of the Act.

The modification must go no further than is reasonably necessary to achieve its purpose/policy objective. In working out if this is the case, consider scope, time, geographical limit and viability of alternatives.

What is the Order in Council Process?

Who is responsible for proposing Orders in Council?

The agencies responsible for the statutes listed in Schedule 2 will propose Orders in Council and take them through the Order in Council process. For example, amendments to the Local Government Act 2002 will be progressed by the Department of Internal Affairs. For complex Orders in Council agencies will work together with a nominated lead agency and lead Minister, to enable the policy development, approvals and consultation processes to take place in a joined-up way.

When will the Orders in Council be made?

The Order in Council process is following a tranche approach, with scheduled tranches progressing along set timelines. This is to manage the workload of high numbers of Orders in Council to be drafted and advised on, while ensuring proper processes are followed to inform quality decision-making.

There are five proposed tranches of Orders, being enacted as follows:

- tranche one enacted week of 6 June (policy decisions are being made for this tranche concurrent with this briefing);
- tranche two enacted week of 25 July (policy advice is being finalised for this tranche concurrent with this briefing);
- tranche three enacted week of 7 August;
- tranche four enacted week of 28 August; and
- tranche five enacted week of 4 September.

What orders are being proposed?

The Orders in Council proposed under tranche one will amend statutory timeframes that councils or landowners in affected areas are unable to meet, and ensure that those subject to provisions under the Climate Change Response Act 2002 are not adversely affected due to the weather events.

Public consultation on the first tranche will take place between 2 and 12 May, and is being undertaken by the Department of Internal Affairs, Land Information New Zealand, and the Ministry for Primary Industries. More information is available from agency websites.

Officials at agencies are currently undertaking initial policy work for the second tranche of Orders in Council, which will be considered on 31 May. Announcements will be made by the responsible agencies as to the content of those tranches and the process for consultation after 31 May.

Government agencies will be reaching out directly to councils, iwi/Māori and stakeholders in the coming weeks to discuss potential changes to be made to statutes through the Order in Council process to address needs or barriers identified on the ground and ensure they are included in future tranches.

How can I feed into the process?

The Order in Council process provides three key opportunities for input:

- The policy development stage – Information from you can help us determine what Orders may be required.
- The Review Panel stage – The Convenor of the Severe Weather Events Review Panel may invite additional ad hoc subject matter experts to attend meetings to assist with their analysis of draft Orders in Council. These invitees could be anyone whose qualifications or experience would be of assistance to the Panel.
- The ministerial public consultation phase - Through the Minister's public consultation on the policy objectives for each Order in Council, where targeted consultation with subject matter experts may also be undertaken.

Agencies will be reaching out via their existing communication channels to identified stakeholders to feed into these stages.

Where can I see the Orders in Council that have been made?

All Orders in Council will be published on the legislation website (<https://legislation.govt.nz>). There is currently a box on the top right-hand side of the homepage dedicated to highlighting new severe weather legislation, and new Orders in Council will be added to this box when they are made.