

Severe Weather Emergency Recovery Legislation Bill

Government Bill

Explanatory note

General policy statement

The Severe Weather Emergency Recovery Legislation Bill (the **Bill**) is the second Bill in response to the heavy rain events in the upper North Island and Cyclones Hale and Gabrielle in January and February 2023. It is an omnibus Bill that amends more than 1 Act and is introduced in accordance with Standing Order 267(1)(a) as the amendments deal with an interrelated topic that can be regarded as implementing a single broad policy. The single broad policy for this Bill 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.

Purpose

The general purpose of the Bill is to assist local authorities and communities in the areas affected by the severe weather events. In particular, the purpose is to—

- assist economic recovery, planning processes, rebuilding and recovery of land, infrastructure, and other property, and increasing safety and resilience, as they relate to people and the natural and built environment;
- ensure that governmental activity can continue to be undertaken after the severe weather events;
- temporarily enable the relaxation or flexible operation of some legislative requirements following the severe weather events; and
- provide opportunities for local Māori and local community groups to participate in the development of Orders in Council, without impeding a focused, timely, and expedited recovery.

There is provision for the legislation to apply to areas indirectly affected by the severe weather events in limited circumstances. This is important to cover—

- effects initiated or exacerbated by weather events that occurred, or occur, after the severe weather events; and
- situations where effects occurred at a location directly affected by the severe weather events, but work is required in another, indirectly or non-affected location as a result in the response or recovery. For instance, enabling transport corridors to work effectively or opening up new land required for rehousing.

Delegated legislation

The Bill provides a power for the Governor-General to make Orders in Council, on the recommendation of the relevant Minister, to exempt, modify, or extend provisions of certain legislation that are set out in the Bill. The reference to relevant Minister means, for example, the Minister for the Environment will be the relevant Minister if changes are proposed to the Resource Management Act 1991.

This process facilitates recovery without needing to anticipate every power or statutory provision that may need to be amended to achieve the Bill's purpose.

An Order in Council process was used in previous emergency recovery legislation—

- 67 Orders in Council (including amendment orders) were issued under the Canterbury Earthquake Response and Recovery Act 2010 and the Canterbury Earthquake Recovery Act 2011;
- 5 Orders in Council (including an amendment order) were issued under the Hurunui/Kaikōura Earthquakes Recovery Act 2016.

The Order in Council mechanism is designed to be flexible to deal with a range of potential matters: for instance, demolition or repair of certain buildings, and streamlining planning and consenting processes.

There are several controls in the Bill to provide checks and balances on the process. These checks and balances are more extensive than in previous emergency recovery legislation and include—

- the order must be necessary or desirable for 1 or more of the proposed purposes, and the extent of the order must not be broader than is reasonably necessary;
- an order can only relate to 1 or more of the Acts listed in *Schedule 2*, and some Acts are specifically excluded (for example, the Constitution Act 1986 and the New Zealand Bill of Rights Act 1990);
- draft orders must be provided to the Regulations Review Committee, or if that is not practicable, to leaders of political parties represented in the present or previous Parliament;
- draft orders must also be given to persons or representatives of those persons the relevant Minister considers appropriate (unless the relevant Minister is satisfied that engagement is impracticable in the circumstances or urgent):

- local Māori and community groups are specified as examples of the persons the Minister must consider engaging with on draft orders (unless the Minister is satisfied that engagement is impracticable in the circumstances or urgent):
- the standard timeframe for engagement may be extended by the relevant Minister if they consider it desirable to consider community and Māori interests likely to be affected by the order:
- the Severe Weather Events Review Panel (the **Panel**) must review draft orders and provide advice to both the relevant Minister and the Minister:
- the Minister must appoint members of the Review Panel and, in doing so, consider whether they have knowledge, experience or expertise in relation to certain matters including law, public administration, local government, environmental protection, biodiversity, climate change, emergency response and recovery, local Māori and local community interests, and specified local perspectives in the severe weather events affected areas:
- the relevant Minister will be required to publish their reasons for recommending an order, to increase transparency:
- the relevant Minister is obliged to keep their orders under review:
- there are sunset clauses for both the legislation and any orders.

There is provision to add Acts to the list in *Schedule 2* by an Order in Council mechanism provided certain safeguards are met—

- the Minister—
 - must be satisfied that it is necessary or desirable to do so for 1 or more of the purposes of the Bill; and
 - must be satisfied that there is unanimous or near-unanimous support from the leaders of the political parties in Parliament; and
- the Minister is required to publish their reasons for recommending that additional Acts are added; and
- the House of Representatives must approve the order to add additional Acts; otherwise the order will be revoked.

Timing

By 31 March 2028 the Act will be repealed. The Orders in Council that are still in force will be revoked on that same day but the power to make new Orders in Council will be repealed earlier, on the close of 31 March 2026.

Departmental disclosure statement

The Department of the Prime Minister and Cabinet is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2023&no=242>

Regulatory impact statement

The Department of the Prime Minister and Cabinet produced a regulatory impact statement on 21 March 2023 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this regulatory impact statement can be found at—

- <https://www.treasury.govt.nz/publications/risa/regulatory-impact-statement-severe-weather-emergency-recovery-bill>

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 provides for the Bill to come into force on the day after the date of Royal assent.

Part 1

Preliminary provisions

Clause 3 provides for the purposes of the Bill.

Clause 4 defines terms used in the Bill, including severe weather event and severe weather events affected area.

Clause 5 indicates that the transitional, savings, and related provisions are set out in *Schedule 1*.

Clause 6 provides that the Bill, when enacted, binds the Crown.

Part 2

Orders in Council

Clause 7 provides for Orders in Council (a **orders**) to be made to grant exemptions from, modify, or extend any provisions of an enactment referred to in *Schedule 2*.

An order can be made only in connection with a severe weather events affected area.

An order is made on the recommendation of the Minister responsible for the administration of the enactment (the **relevant Minister**).

Key restrictions on orders

Clause 8 provides that the relevant Minister must not recommend the making of an order unless certain procedural steps are followed. These include—

- the relevant Minister being satisfied that the order is necessary or desirable for 1 or more purposes of this Bill, that the extent of the order is not broader than

reasonably necessary, and that the order does not breach *clause 11* and does not unjustifiably limit the New Zealand Bill of Rights Act 1990; and

- a review of a draft of the order by the Panel appointed under *clause 13*; and
- providing a draft of the order to the Regulations Review Committee or, if that is not practicable, each leader of a political party represented in the present or previous Parliament (unless a leader cannot be contacted after reasonable efforts); and
- having regard to the recommendations of the Panel and the comments provided by the Committee or a party leader.

Clause 9 requires the relevant Minister to consult appropriate persons or the public generally about proposed orders.

Clause 10 requires the relevant Minister to give reasons for their recommendation.

Clause 11 imposes further restrictions on orders. For example, an order cannot modify a requirement or restriction imposed by certain constitutional statutes.

Clause 12 requires the relevant Minister to keep orders under review.

Severe Weather Events Recovery Review Panel

Clauses 13 to 16 provide for the Panel. The functions of the Panel are to—

- review draft orders; and
- provide advice on request to both the Minister responsible for the Bill and the relevant Minister in relation to orders that may be required.

Further provisions about orders

Clause 17 provides that orders are revoked on the close of 31 March 2028 (unless sooner revoked).

Clause 18 provides rules about the validity of orders.

Other orders

Clause 19 provides for additional Acts to be added by Order in Council to the application of the Bill in certain limited circumstances.

Clause 20 provides that an order to add an Act to the application of the Bill is revoked if it is not approved by the House of Representatives.

Clause 21 requires the Minister's reasons for making a recommendation under *clause 19* to be published together with the Order in Council.

Part 3 Amendments to other legislation

Subpart 1—Amendments to Local Government Act 2002

Clause 22 provides that the Local Government Act 2002 is the principal Act being amended.

Special consultative procedure

Clause 23 inserts *new sections 83B and 83C* into the principal Act for a temporary period. *New section 83B* relates to interpretation. *New section 83C* relaxes the way in which the special consultative procedure is used in severe weather affected areas.

Clause 24 inserts *new section 93DA* into the principal Act for a temporary period. *New section 93DA* enables a local authority in a severe weather events affected area to adopt a consultation document in relation to its long-term plans without a report from the Auditor-General, if obtaining that report would prevent the authority from amending the long-term plan in a timely way.

Clause 25 inserts *new section 94A* into the principal Act on a temporary basis. It makes similar provision to *new section 93DA* but in relation to the long-term plan itself.

Clause 26 inserts *new section 95AAA* into the principal Act on a temporary basis. *New section 95AAA* requires an annual plan that applies to a severe weather events affected area and that relates to the 2023/2024 financial year to be adopted by 30 September 2023.

Clause 27 inserts *new clause 4A* into Schedule 8 of the principal Act on a temporary basis. *New clause 4A* makes similar provision to *new section 95A* but in respect of the statement of intent.

Subpart 2—Amendment to Local Government (Auckland Council) Act 2009

Clause 28 provides that the Local Government (Auckland Council) Act 2009 is the principal Act being amended.

Clause 29 inserts *new section 96A* into the principal Act on a temporary basis. *New section 96A* provides that the meeting required by section 96(2)(a) of the principal Act on the draft statement of intent can be held on any date before 30 September 2023, rather than before 30 June 2023.

Subpart 3—Amendments to Resource Management Act 1991

Clause 30 provides that the principal Act being amended is the Resource Management Act 1991.

Clause 31 amends the definition of **area** in section 329A(1) of the principal Act to include the Manawatū and Rangitikei districts. This is to enable the special regime

introduced by sections 331A to 331F of the principal Act to also be applied in those districts.

Clause 32 amends the definition of culturally significant land in section 331B of the principal Act to include the statutory overlay provided for in section 11 and Schedule 3 of the Ngā Rohe Moana o Nga Hapū o Ngāti Porou Act 2019. It also inserts into that section references to a specified statutory overlay, and a definition of that term.

Part 4

Miscellaneous

Report on operation of Act

Clause 33 requires the Minister to present, at least every 6 months, a report to the House of Representatives that names and describes the orders made under this Bill.

Repeal

Clause 34 provides for the repeal of different provisions of the Act at different times.

Schedule 1 relates to transitional, savings, and related provisions.

Schedule 2 lists legislation that can be amended by Order in Council.

Hon Kieran McAnulty

Severe Weather Emergency Recovery Legislation Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Severe Weather Emergency Recovery Legislation Act **2023**.
- 2 Commencement**
This Act comes into force on the day after the date of Royal assent. 5

Part 1
Preliminary provisions

- 3 Purposes**
- (1) The principal purpose of this Act is to assist communities and local authorities affected by the severe weather events to respond to, and recover from, the impacts of the severe weather events and, in particular, to— 10
- (a) provide for the planning, rebuilding, and recovery of affected communities and persons, including—
- (i) the rebuilding of land, infrastructure, and other property of affected communities or of any affected persons; and 15
- (ii) the development, building, or rebuilding of land, infrastructure, or other property or access to resources or services in areas not affected by the severe weather events; and
- (iii) safety enhancements to, and improvements to the resilience of, that land, infrastructure, or other property; and 20
- (iv) facilitating co-ordinated efforts and processes for short-term, medium-term, and long-term recovery; and
- (v) facilitating the restoration and improvement of the economic, social, and cultural well-being, and enhancing the resilience, of affected communities or of any affected persons; and 25

- (vi) facilitating the restoration and resilience of the environment; and
- (b) provide for economic recovery.
- (2) This Act also has the purpose of—
- (a) ensuring that certain activities normally undertaken by people and agencies interacting with government agencies, Crown entities, and local authorities can continue to be undertaken after the severe weather events (whether in the same or a different way); and 5
- (b) supporting the operation of other legislation or enabling it to be relaxed or operate more flexibly, to take account of—
- (i) the severe weather events; or 10
- (ii) actions taken to respond to, or recover from, the severe weather events:
- (c) amending other Acts to facilitate recovery from the severe weather events.
- (3) This Act facilitates the achievement of its purposes by providing opportunities for local Māori and local community group participation in the development of orders that affect them, without impeding a focused, timely, and expeditious recovery. 15
- Compare: 2011 No 12 s 3
- 4 Interpretation** 20
- (1) In this Act, unless the context otherwise requires,—
- affected local authority or local authority** means any of the following local authorities:
- (a) Auckland Council:
- (b) Bay of Plenty Regional Council: 25
- (c) Carterton District Council:
- (d) Central Hawke’s Bay District Council:
- (e) Far North District Council:
- (f) Gisborne District Council:
- (g) Hamilton City Council: 30
- (h) Hastings District Council:
- (i) Hauraki District Council:
- (j) Hawke’s Bay Regional Council:
- (k) Kaipara District Council:
- (l) Kawerau District Council: 35
- (m) Manawatu District Council:
- (n) Masterton District Council:

- (o) Matamata-Piako District Council:
- (p) Napier City Council:
- (q) Northland Regional Council:
- (r) Ōpōtiki District Council:
- (s) Ōtorohanga District Council: 5
- (t) Rangitikei District Council:
- (u) Rotorua District Council:
- (v) South Waikato District Council:
- (w) South Wairarapa District Council:
- (x) Tararua District Council: 10
- (y) Taupo District Council
- (z) Tauranga City Council:
- (aa) Thames-Coromandel District Council:
- (ab) Waikato District Council:
- (ac) Waikato Regional Council: 15
- (ad) Waipa District Council:
- (ae) Wairoa District Council:
- (af) Waitomo District Council:
- (ag) Western Bay of Plenty District Council:
- (ah) Whakatane District Council: 20
- (ai) Whangarei District Council

department means the department that, under the authority of a warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

legislation has the same meaning as in section 5(1) of the Legislation Act 2019, and includes any plan, programme, bylaw, or rule made under any Act or secondary legislation 25

Minister means the Minister of the Crown who, under the authority of a warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act 30

order means an Order in Council made under **section 7**

Panel means the Severe Weather Events Recovery Review Panel established under **section 13**

rebuilding includes—

- (a) demolishing, removing, disposing of, reconstructing, altering, extending, repairing, improving, subdividing, or converting any land, infrastructure, or other property: 35

(b) rebuilding communities

recovery means the co-ordinated efforts and processes used to bring about the immediate, medium-term, and long-term holistic regeneration and enhancement of a community following an emergency

relevant Minister,—

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(a) in relation to any legislation (other than this Act or an instrument referred to in **paragraph (b)**), means the Minister who is, under the authority of any warrant or with the authority of the Prime Minister, responsible for the administration of the legislation:

(b) in relation to a plan, programme, bylaw, or rule, means the Minister who is, under the authority of any warrant or with the authority of the Prime Minister, responsible for—

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(i) the administration of the Act under which that instrument is made; or

(ii) if that instrument is made under secondary legislation, the administration of the Act under which the secondary legislation is made

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severe weather event means any of the following weather events:

(a) Cyclone Hale, which crossed the North Island during the period commencing on 8 January 2023 and ending on 12 January 2023:

(b) heavy rainfall commencing on 26 January 2023 and ending 3 February 2023 in the Northland, Auckland, Waikato, and Bay of Plenty regions:

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(c) Cyclone Gabrielle, which crossed the North Island during the period commencing on 12 February 2023 and ending on 16 February 2023

severe weather events affected area means,—

(a) the districts or regions of the local authorities affected (whether directly or indirectly) by 1 or more severe weather events; and

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(b) the districts or regions of the local authorities where land, infrastructure, other property, resources, or services are required to support an area affected by 1 or more severe weather events; and

(c) the parts of the coastal marine area (within the meaning of section 2(1) of the Resource Management Act 1991) that are part of, or adjacent to, those districts and regions.

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(2) If there is more than 1 relevant Minister for an order, the references in this Act to the relevant Minister must be treated as references to those Ministers acting together (unless the context otherwise requires).

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(3) For the purposes of **paragraph (a)** of the definition of severe weather events affected area, an effect on an affected area includes circumstances where subsequent events exacerbate the damage or other effects in that area caused by 1 or more serious weather events.

5 Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in **Schedule 1** have effect according to their terms.

6 Act binds the Crown

This Act binds the Crown.

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Part 2 Orders in Council

7 Governor-General may make Orders in Council

- (1) The Governor-General may, by Order in Council made on the recommendation of the relevant Minister, grant exemptions from, modify, or extend any legislation, or any provisions of any legislation referred to in **Schedule 2**, in connection with the whole or a part of a severe weather events affected area. 10
- (2) An exemption from, modification of, or extension of any legislation or a provision—
- (a) may be absolute, or subject to terms or conditions; and 15
- (b) may be made by—
- (i) stating alternative means of complying with the legislation or provision; or
- (ii) creating or substituting a discretionary power for the provision.
- (3) An exemption from, modification of, or extension of any legislation or a provision may be for the purposes of enabling the relaxation or suspension of legislation, or provisions in legislation, referred to in **Schedule 2** that— 20
- (a) may divert resources away from the effort to—
- (i) efficiently respond to the damage caused by a severe weather event: 25
- (ii) minimise further damage; or
- (b) may not be reasonably capable of being complied with, or complied with fully, owing to—
- (i) the circumstances resulting from 1 or more severe weather events:
- (ii) the effect of those events; or 30
- (iii) work that is undertaken or needs to be undertaken to respond to or recover from those events.
- (4) **Subsections (2) and (3)** do not limit **subsection (1)**.
- (5) In this Act, **modify**,—
- (a) in relation to legislation, includes adding provisions (including provisions that are additional or dealing with a new subject matter): 35

- (b) in relation to a provision, includes replacing, disapplying, or suspending the provision.
- (6) Orders in Council made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).
- Compare: 2011 No 12 s 71

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Key restrictions on orders

8 Relevant Minister may recommend order only for 1 or more purposes of Act, etc

- (1) The relevant Minister must not recommend the making of an order unless—
- (a) the relevant Minister is satisfied that—
- (i) the order is necessary or desirable for 1 or more purposes of this Act (other than the matter described in **section 3(3)**); and
- (ii) the extent of the order is not broader than is reasonably necessary to address the matters that gave rise to the order; and
- (iii) the order does not breach **section 11**; and
- (iv) the order does not limit or is a justified limit on the rights and freedoms in the New Zealand Bill of Rights Act 1990; and
- (b) a draft of the order has been reviewed by the Panel; and
- (c) a draft of the order has been provided to—
- (i) the Committee of the House of Representatives that is responsible for the review of secondary legislation; or
- (ii) if that is not practicable, each leader of a political party represented in the present or previous Parliament (unless a leader cannot be contacted after reasonable efforts have been made); and
- (d) the relevant Minister has had regard to—
- (i) the Panel’s recommendations on the draft order; and
- (ii) the comments on the draft order (if any) that are provided by the Committee or a leader referred to in **paragraph (c)** and that are provided within 3 working days after the date on which the draft order is first provided under **paragraph (c)**; and
- (e) if the order relates to the Resource Management Act 1991, the relevant Minister has considered—
- (i) the effects on the environment that could occur as a result of the order; and
- (ii) whether any adverse effects can be avoided, remedied, or mitigated; and
- (f) the engagement process under **section 9** has been complied with.

- (2) The draft order provided to the Panel and under **subsection (1)(c)** must be accompanied by a draft of the relevant Minister’s reasons for a recommendation under **subsection (1)** (including why the draft order is appropriate).
- (3) Where a draft of the order has been subject to the process under **subsection (1)(b), (c), (d), (e), or (f)**, that paragraph applies to a subsequent draft of the order only if the relevant Minister considers that, given the differences between the drafts, it would be appropriate to repeat the process. 5
- Compare: 2011 No 12 s 74
- 9 Engagement about proposal**
- (1) For the purposes of **section 8(1)(f)**, the relevant Minister must— 10
- (a) make available the document referred to in **subsection (2)** to—
- (i) the persons or representatives of persons that the relevant Minister considers appropriate (including local Māori and local community groups), given the proposed effect of the order; or
- (ii) the public generally; and 15
- (b) invite those persons to make written comments on the document; and
- (c) give those persons 3 working days from the giving of the invitation within which to make their comments to the relevant Minister (or any longer time allowed by the relevant Minister); and
- (d) have regard to those comments that are received within the 3-working day period (or within the longer time allowed by the relevant Minister). 20
- (2) The document must include—
- (a) an explanation of what the proposed order is intended to achieve; and
- (b) a description of the effect of the proposed order; and
- (c) an explanation of why the relevant Minister considers that the order is necessary or desirable for 1 or more purposes of this Act. 25
- (3) **Subsections (1) and (5) and section 8(1)(f)** do not apply, or do not apply to a person or class of persons, if the relevant Minister is satisfied that—
- (a) engagement is impracticable in the circumstances; or
- (b) the urgency of the situation requires that the order be made as soon as practicable without that engagement. 30
- (4) If **subsection (3)** is relied on, the relevant Minister’s reasons for relying on that subsection must be published together with the order.
- (5) The relevant Minister may extend the period for provision of comments under **subsection (1)(c) or (d)**, if the relevant Minister considers this desirable, in light of local Māori and local community group interests likely to be affected by the order. 35

10 Reasons for order

If the relevant Minister makes a recommendation under **section 7**, the relevant Minister's reasons for making the recommendation (including why the order is appropriate) must be published together with the order.

11 Further restrictions on orders

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(1) Despite anything else in this Act, an order must not—

(a) grant an exemption from or modify a requirement to—

(i) release a person from custody or detention; or

(ii) have any person's detention reviewed by a court, Judge, or Registrar; or

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(b) grant an exemption from or modify a restriction on keeping a person in custody or detention; or

(c) grant an exemption from or modify a requirement or restriction imposed by the Bill of Rights 1688, the Constitution Act 1986, the Electoral Act 1993, the Judicial Review Procedure Act 2016, the New Zealand Bill of Rights Act 1990, or the Parliamentary Privilege Act 2014; or

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(d) contain any provision that has the effect of amending a provision of this Act.

(2) **Subsection (1)(d)** does not limit **section 19**.

Compare: 2011 No 12 s 71(6)

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12 Orders must be kept under review

(1) The relevant Minister must keep under review all orders for which they are responsible under **section 7**.

(2) For the purposes of **subsection (1)**, the relevant Minister, in carrying out the review, must decide whether they continue to be satisfied in relation to the matters specified in **section 8(1)(a)**.

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Compare: 2020 No 12 s 14(5)

*Severe Weather Events Recovery Review Panel***13 Severe Weather Events Recovery Review Panel**

(1) The Minister must appoint a Severe Weather Events Recovery Review Panel of up to 12 persons who have appropriate knowledge, skills, and experience to assist the Panel to perform its functions.

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(2) One of the members must be a former or retired Judge of the High Court (and that member will be the convener).

(3) In appointing members of the Panel the Minister, must consider appointing members with—

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- (a) knowledge, experience, or expertise in relation to 1 or more of the following matters:
- (i) law (including if possible, the Māori land tenure system under Te Ture Whenua Maori Act 1993), public administration, or local government: 5
 - (ii) environmental protection, biodiversity, or climate change:
 - (iii) local Māori or community interests in the severe weather events affected areas (whether that knowledge, experience, or expertise is local, regional, or applies more widely in the severe weather events affected areas): 10
 - (iv) emergency response and recovery:
- (b) local perspectives in the severe weather events affected areas of mana whenua, mātauranga Māori, tikanga, and te ao Māori.
- (4) Before appointing members of the Panel, the Minister may seek nominations for appointments to the Panel from— 15
- (a) Local Government New Zealand; and
 - (b) those Māori entities that the Minister considers have relevant knowledge of the severe weather events affected areas.
- (5) In this section, **Māori entity**—
- (a) has the same meaning as in section 9 of the Urban Development Act 2020; and 20
 - (b) includes any entity or other body, incorporated or unincorporated, comprising or representing a collective group whose members are 1 or more of the Māori entities.
- 14 Matters relating to appointment** 25
- (1) A member of the Panel must be appointed by notice of appointment in writing that—
- (a) states the date on which the appointment takes effect; and
 - (b) states the term of the appointment.
- (2) If, for any reason, the convener is unable or unwilling to act in relation to a matter or class of matters,— 30
- (a) the convener may designate any other member of the Panel to act in the convener’s place; or
 - (b) if the convener is unable or unwilling to act under **paragraph (a)**, the Minister may designate any other member of the Panel to act in the convener’s place. 35
- (3) If a person (A) is designated to act in the convener’s place under **subsection (2)** in relation to a matter or class of matters, references in this section and

section 15 to the convener must, in relation to the matter or matters, be treated as references to A.

- (4) An appointed member vacates office if they—
- (a) are removed by written notice given by the Minister; or
 - (b) resign by written notice given to the Minister. 5
- (5) The department must provide administrative support for the Panel.
Compare: 2011 No 12 s 72

15 Panel may act by division

- (1) The convener may determine that the Panel may act in separate divisions of the Panel in relation to any matter or class of matters. 10
- (2) A division must, subject to **section 14(2) and (3)**, consist of—
- (a) the convener; and
 - (b) at least 3 other members of the Panel selected by the convener.
- (3) For the purposes of acting in relation to any matter or class of matters referred to a division of the Panel, the Panel consists of the division and **section 16** 15 applies with any necessary modifications.

16 Functions of Panel

- (1) The functions of the Panel are—
- (a) to review draft orders; and
 - (b) to provide advice on request to both the Minister and the relevant Minister in relation to orders that may be required for 1 or more purposes of this Act. 20
- (2) Within 3 working days after the date on which a draft order is received for review, or any longer time allowed by the relevant Minister, the Panel must—
- (a) review the draft; and 25
 - (b) give the Panel's recommendations to both the Minister and the relevant Minister.
- (3) A review by the Panel may be conducted in any manner that the convener thinks appropriate, including by telephone or video conference.
- (4) The convener has a casting vote if there are more than 2 members voting and there is an equality of votes. 30
- (5) The relevant Minister must ensure that the Panel's recommendations on a draft order are publicly available on an Internet site.
- (6) The Panel's recommendations must include the Panel's reasons for making the recommendations. 35

- (7) The relevant Minister must, as soon as practicable after receiving the Panel's recommendations on a draft order, present a copy of the recommendations to the House of Representatives.

Compare: 2011 No 12 s 73

Further provisions about orders 5

17 Orders revoked at close of 31 March 2028

Every order is revoked on the close of 31 March 2028 (unless sooner revoked).

18 Validity of orders

- (1) An order may not be held invalid just because—
- (a) it is, or authorises any act or omission that is, inconsistent with any legislation referred to in **Schedule 2**; or 10
- (b) it confers any discretion on, or allows any matter to be determined or approved by, any person.
- (2) An order may be expressed to come into force on a day that is before, on, or after the date on which it is made, but not earlier than the first day of the earliest relevant severe weather event, and the order comes into force or, as the case may be, is deemed to have come into force accordingly. 15
- (3) An order may be retrospective only to the extent provided for in **subsection (2)**.
- (4) So far as it is authorised by this Act, an order has the force of law as if it were enacted as a provision of this Act. 20
- (5) This section is subject to **section 11**.

Compare: 2011 No 12 s 75

Other orders

19 Order in Council may specify additional Acts 25

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, specify 1 or more Acts for the purposes of **Schedule 2**.
- (2) The Minister may make a recommendation for an Order in Council under **subsection (1)** only if—
- (a) the Minister is satisfied that— 30
- (i) the Order in Council is necessary or desirable for 1 or more purposes of this Act; and
- (ii) the Order in Council does not breach **section 11(1)(a) to (d)**; and

- (b) a draft of the Order in Council has been provided to each leader of a political party represented in Parliament (unless a leader cannot be contacted after reasonable efforts have been made); and
- (c) the Minister is satisfied that there is unanimous or near-unanimous support for the Order in Council from those leaders. 5
- (3) The draft order provided under **subsection (2)(b)** must be accompanied by a draft of the Minister’s reasons for a recommendation under **subsection (2)** (including why the draft order is appropriate).
- (4) An Order in Council under **section 7** that relates to an Act specified by an Order in Council under **subsection (1)** may, in accordance with **section 18(2) and (3)**, come into force before, on, or after the date on which the order under **section 7** is made, but not earlier than the date on which the earliest relevant severe weather event occurred. 10
- (5) Where a draft of the Order in Council has been subject to the process under **subsection (2)(b) or (c)**, that paragraph applies to a subsequent draft of the order only if the Minister considers that, given the differences between the drafts, it would be appropriate to repeat the process. 15
- (6) Orders in Council made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).
- 20 Order in Council to add Acts revoked if not approved by House** 20
- (1) An Order in Council under **section 19** is revoked (unless it is earlier revoked) on the expiry of the relevant period if no motion to approve the Order in Council is agreed to by the House of Representatives within that period.
- (2) The **relevant period** is the longer of the following:
- (a) the period of 10 sitting days of the House of Representatives after the date on which the Order in Council is made: 25
- (b) the period of 28 days after the date on which notice that the Order in Council has been made is given in the *Gazette*.
- (3) An order under **section 7** that relates to an Act specified by an Order in Council under **section 19** that is revoked under **subsection (1)** is also revoked at the same time. 30
- 21 Reasons for order**
- If the Minister makes a recommendation under **section 19**, the Minister’s reasons for making the recommendation (including why the Order in Council is appropriate) must be published together with the Order in Council. 35

Part 3 Amendments to other legislation

Subpart 1—Amendments to Local Government Act 2022

22 Principal Act

This subpart amends the Local Government Act 2002. 5

Special consultative procedure

23 New sections 83B and 83C inserted

After section 83A, insert:

83B Interpretation

(1) In **sections 83C, 93DA, 94A, 95A**, and Schedule 8,— 10

severe weather event means any of the following weather events:

- (a) Cyclone Hale, which crossed the North Island during the period commencing on 8 January 2023 and ending on 12 January 2023:
- (b) heavy rainfall commencing on 26 January 2023 and ending on 3 February 2023 in the Northland, Auckland, Waikato, and Bay of Plenty regions: 15
- (c) Cyclone Gabrielle, which crossed the North Island during the period commencing on 12 February 2023 and ending on 16 February 2023

severe weather events affected area has the same meaning as in **section 4(1)** of the Severe Weather Emergency Recovery Legislation Act **2023**. 20

(2) This section is repealed on the close of 30 September 2023.

83C Use of special consultative procedure during recovery from severe weather events

(1) A local authority that is required, by this Act or any other enactment, to use or adopt the special consultative procedure may take the modified approach to using the special consultative procedure that is set out in this section, in a severe weather events affected area. 25

(2) When making decisions about the timing and manner of consultation steps in the course of using the special consultative procedure, the local authority may rely on 1 or more of the modifications set out in **subsection (3)**. 30

(3) The modifications to the special consultative procedure are as follows:

- (a) the minimum period referred to in section 83(1)(b)(iii) is 14 days;
- (b) the matters set out in section 83(1)(d) and (e) are highly desirable but not mandatory.

(4) This section is repealed on the close of 30 September 2023. 35

*Amendment of long-term plans***24 New section 93DA inserted (Amendments to long-term plan after severe weather events)**

After section 93D, insert:

- 93DA Amendments to long-term plan after severe weather events** 5
- (1) This section applies to a local authority using the special consultative procedure in making an amendment to the authority's current long-term plan, that applies in severe weather events affected areas.
- (2) Despite section 93D(4), the local authority may adopt a consultation document that does not contain a report from the Auditor-General as required by that provision if the local authority is satisfied that obtaining and including the report will prevent the authority from amending the long-term plan. 10
- (3) This section is repealed on the close of 30 September 2023.

25 New section 94A inserted (Long-term plan amended during recovery from severe weather events) 15

After section 94, insert:

- 94A Long-term plan amended during recovery from severe weather events**
- (1) This section applies to a long-term plan that is amended using a special consultative procedure in which the local authority adopts a consultation document of a kind authorised by **section 93DA(2)** for use in a severe weather events affected area. 20
- (2) Despite section 94(2), the amended long-term plan is not required to contain a report by the Auditor-General of the kind required by that provision.
- (3) However, the amended long-term plan must contain a statement— 25
- (a) that the plan incorporates an amendment that has not been audited; and
- (b) that includes the reasons why the amendment was not audited.
- (4) The local authority must include a statement under **subsection (3)** in the amended long-term plan immediately before the Auditor-General's report under section 94(1).
- (5) This section is repealed on the close of 30 September 2023. 30

26 New section 95AAA inserted (2023/2024 annual plan due date)

After section 95, insert:

- 95AAA 2023/2024 annual plan due date**
- (1) Section 95(3) does not apply to a local authority in a severe weather events affected area. 35

- (2) An annual plan that applies to a severe weather events affected area and that relates to the 2023/2024 financial year must be adopted before 30 September 2023.
- (3) This section is repealed on the close of 30 September 2023.

27 Schedule 8 amended 5

In Schedule 8, after clause 4, insert:

4A 2023/2024 statement of intent

- (1) Clause 4 does not apply to a local authority in a severe weather events affected area.
- (2) The shareholder of a council controlled organisation in a severe weather events affected area may, by written notice, extend a deadline specified in clause 1(2), 2, or 3 for a period or periods not exceeding in total 3 calendar months. 10
- (3) This clause is repealed on the close of 30 September 2023.

Subpart 2—Amendment to Local Government (Auckland Council) Act 2009 15

28 Principal Act

This subpart amends the Local Government (Auckland Council) Act 2009.

29 New section 96A inserted (Timing of public meeting for shareholder feedback on 2023/2024 statement of intent)

After section 96, insert: 20

96A Timing of public meeting for shareholder feedback on 2023/2024 statement of intent

- (1) The meeting otherwise required to be held under section 96(2)(a) before 30 June 2023 to consider the 2023/2024 draft statement of intent may instead be held on any date before 30 September 2023. 25
- (2) This section is repealed on the close of 30 September 2023.

Subpart 3—Amendments to Resource Management Act 1991

30 Principal Act

This subpart amends the Resource Management Act 1991.

31 Section 329A amended (Interpretation) 30

- (1) In section 329A(1), definition of **area**, paragraph (b), after “Taranui”, insert “Manawatū, Rangitikei,”.
- (2) This section is repealed on the close of 1 October 2024.

- 32 Section 331B amended (Owner or occupier of rural land may take emergency preventive or remedial measures)**
- (1) In section 331B(4)(b), after “statutory acknowledgement”, insert “or specified statutory overlay”.
- (2) In section 331B(4)(c), after “statutory acknowledgement”, insert “or specified statutory overlay”.
- (3) In section 331B(4)(e), after “statutory acknowledgement”, insert “or specified statutory overlay”.
- (4) In section 331B(7), definition of **culturally significant land**, after paragraph (b), insert:
- (c) is on or near the statutory overlay of ngā rohe moana and ngā rohe moana o ngā hapū o Ngāti Porou, as described in section 11 and Schedule 3 of the Ngā Rohe Moana o Nga Hapū o Ngāti Porou Act 2019
- (5) In section 331B(7), insert in its appropriate alphabetical order:
- specified statutory overlay** means statutory overlay of ngā rohe moana and ngā o hapū o Ngāti Porou in the Ngā Rohe Moana o Nga Hapū o Ngāti Porou Act 2019, as described in section 11 and Schedule 3 of that Act
- (6) In section 331B(7), definition of **wāhi tapu** or **site of cultural significance**, after paragraph (c), insert:
- (ca) section 11 and Schedule 3 of the Ngā Rohe Moana o Nga Hapū o Ngāti Porou Act 2019:

Part 4

Reporting on and repeal of this Act

Report on operation of this Act

- 33 Reports on operation of this Act** 25
- (1) The Minister must, at least once every 6 months, present to the House of Representatives a report relating to the operation of this Act since the last report was presented (or, in the case of the first report, since the commencement of this Act).
- (2) The report must, for the period covered by the report, include— 30
- (a) a list of the Orders in Council made under this Act during the period; and
- (b) a brief description of those orders.

Repeal

- 34 Repeal of this Act** 35
- (1) **Subparts 1 and 2 of Part 3** are repealed on the close of 30 September 2023.

- (2) **Section 32** is repealed on the close of 1 April 2024.
- (3) **Subpart 3 of Part 3** (other than **section 32**) are repealed on the close of 1 October 2024.
- (4) **Sections 7 to 21 and Schedule 2** are repealed on the close of 31 March 2026. 5
- (5) The rest of this Act is repealed at the close of 31 March 2028.

Schedule 1
Transitional, savings, and related provisions

s 5

Part 1
Provisions relating to this Act as enacted

5

1 Order not invalid by reason of pre-commencement consultation or engagement

An order is not invalid because any requirements under this Act relating to engagement, consultation with any person or body, or the appointment of members of the Panel occurred before this Act received the Royal assent.

10

2 Orders continue in force

- (1) This clause applies to an order that is in force immediately before the repeal of this Act.
- (2) The order continues in force until the close of 31 March 2028 despite the repeal of **section 7** (unless it is sooner revoked).
- (3) The order may be amended or revoked after the repeal of **sections 7 to 21** and **Schedule 2** as if those provisions had not been repealed.

15

Schedule 2

Enactments to which order may relate

s 7

The legislation referred to in **section 7** is—

- | | |
|--|----|
| (1) the Building Act 2004: | 5 |
| (2) the Climate Change Response Act 2002: | |
| (3) the Conservation Act 1987: | |
| (4) the Freedom Camping Act 2011: | |
| (5) the Government Rooding Powers Act 1989: | |
| (6) the Heritage New Zealand Pouhere Taonga Act 2014: | 10 |
| (7) the Immigration Act 2009: | |
| (8) the Land Transfer Act 2017: | |
| (9) the Land Transport Act 1998: | |
| (10) the Land Transport Management Act 2003: | |
| (11) the Local Government Act 2002: | 15 |
| (12) the Local Government (Auckland Council) Act 2009: | |
| (13) the Local Government (Rating) Act 2002: | |
| (14) the Maori Community Development Act 1962: | |
| (15) the Maori Trust Boards Act 1955: | |
| (16) the New Zealand Railways Corporation Act 1981: | 20 |
| (17) the Oaths and Declarations Act 1957: | |
| (18) the Public Works Act 1981: | |
| (19) the Railways Act 2005: | |
| (20) the Ratings Valuations Act 1998: | |
| (21) the Real Estate Agents Act 2008: | 25 |
| (22) the Reserves Act 1977: | |
| (23) the Resource Management Act 1991: | |
| (24) the Sale and Supply of Alcohol Act 2012: | |
| (26) Te Ture Whenua Maori Act 1993: | |
| (28) the Waste Minimisation Act 2008: | 30 |
| (29) the Wildlife Act 1953: | |
| (30) any Act (other than the Public Finance Act 1989) to the extent that it relates to accounting records, the preparation, audit, approval, lodgement, or distribution of financial statements, or any other financial reporting obligations of any group, entity, or other person: | 35 |

- (31) an Act that replaces (in whole or in part) an Act referred to in any of **paragraphs (1) to (30)**:
- (32) an Act specified for the purposes of this schedule in an Order in Council made under **section 19**:
- (33) secondary legislation made under an Act referred to in any of **paragraphs (1) to (31)** or specified under **paragraph (32)**: 5
- (34) any plan, programme, bylaw, or rule made under an enactment referred to in any of **paragraphs (1) to (33)**.