

Hon David Parker, Minister of Revenue

Information Release

Income Tax (Accommodation Expenditure – North Island Flooding Events) Order 2023

July 2023

Availability

This information release is available on Inland Revenue's tax policy website at <https://taxpolicy.ird.govt.nz/publications/2023/2023-cab-ir-leg-23-sub-0077>

Documents in this information release

#	Reference	Type	Title	Date
1	LEG-23-SUB-0077	Cabinet paper	Income Tax (Accommodation Expenditure – North Island Flooding Events) Order 2023	1 June 2023
2	LEG-23-MIN-0077	Minute	Income Tax (Accommodation Expenditure – North Island Flooding Events) Order 2023	1 June 2023

Additional information

The Cabinet paper was considered and confirmed by the Cabinet Legislation Committee on 1 June 2023.

One attachment to the Cabinet paper is not included in this information release as it is publicly available:

- Income Tax (Accommodation Expenditure – North Island Flooding Events) Order 2023¹

Information withheld

No information was withheld for this information release.

Accessibility

Inland Revenue can provide an alternate HTML version of this material if requested. Please cite this document's title, website address, or PDF file name when you email a request to policy.webmaster@ird.govt.nz

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¹ <https://www.legislation.govt.nz/regulation/public/2023/0119/latest/whole.html>

In Confidence

Office of the Minister of Revenue

Chair, Cabinet Legislation Committee

INCOME TAX (ACCOMMODATION EXPENDITURE—NORTH ISLAND FLOODING EVENTS) ORDER 2023

Proposal

- 1 This paper seeks the Cabinet Legislation Committee's agreement to submit an Order in Council making the Income Tax (Accommodation Expenditure—North Island Flooding Events) Order 2023 to the Executive Council.

Background

- 2 Between 8 January 2023 and 16 February 2023, a number of adverse weather events affected large parts of the North Island.
- 3 These weather events have impacted upon taxpayer's businesses and livelihoods. In response to the events, the government enacted a number of provisions that provided tax relief from income tax and fringe benefit tax for certain cash and benefits provided by employers to flood affected employees.
- 4 In addition, the government enacted a provision that provides for the tax-free provision of accommodation to employees who are required to relocate to work on projects of limited duration for the rebuilding or recovery in areas covered by the North Island floods.
- 5 The six-month timeframe does not match the timeframe that was permitted in respect of the Canterbury earthquakes and it has been noted that timeframe is too short given the time to assess the work required.
- 6 Cabinet has agreed that this discrepancy be amended with retrospective effect in the next tax bill (LEG-23-MIN-0056 refers), however, the six-month timeframe for employees to commence work that is currently in the legislation will expire prior to that bill being enacted leaving taxpayers with no certainty around the tax implications of the provision of accommodation in the interim.
- 7 This could provide a disincentive for firms to relocate employees to work on these projects until the tax bill is enacted.

Policy

- 8 The provision enacted contains a power to extend or modify, by Order in Council, the time limits for an employee to commence work in a distant location affected by the North Island floods.
- 9 I therefore recommend making the Income Tax (Accommodation Expenditure—North Island Flooding Events) Order 2023.
- 10 This Order in Council would extend the time for employees relocating to a distant workplace to commence work on a limited duration project relating to the rebuild and recovery from the North Island flooding events from 6 months from the start of the relevant flooding event to 1 April 2024.
- 11 This will provide certainty for taxpayers who are looking to relocate staff to a distant workplace to work on these limited duration projects until the next tax bill is enacted.

Timing and 28-Day Rule

- 12 I propose that the Income Tax (Accommodation Expenditure—North Island Flooding Events) Order 2023 come into force 28 days after approval from the Executive Council.

Financial implications

- 13 The Order in Council does not have any financial implications.
- 14 Baseline forecasts do not factor in the occurrence of weather events nor the consequent charging of penalties that might arise in absence of the proposed extension.

Compliance

- 15 The Order in Council complies with:
- 15.1 the principles of the Treaty of Waitangi;
 - 15.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 15.3 the principles and guidelines set out in the Privacy Act 1993;
 - 15.4 relevant international standards and obligations;
 - 15.5 the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

Regulations Review Committee

- 16 There are no anticipated grounds for the Regulations Review Committee to draw the attached Order in Council to the attention of the House.

Certification by Parliamentary Counsel

- 17 The Parliamentary Counsel Office has certified that the attached Order in Council is in order for submission to the Executive Council.

Impact Analysis

Regulatory Impact Assessment

- 18 The Treasury's Regulatory Impact Analysis team has determined that the proposal to extend the time period for employees to relocate to a flood affected area is exempt from the requirement to provide a Regulatory Impact Statement. This is granted on the grounds that it provides limited temporary exemptions or modifications to existing legislative requirements in a situation where a declared emergency has made compliance with existing legislative requirements impossible, impractical or unreasonably burdensome.

Climate Implications of Policy Assessment

- 19 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

Communications

- 20 Inland Revenue will publish an article about these changes in its *Tax Information Bulletin*.

Proactive Release

- 21 I propose to proactively release this Cabinet paper, associated minutes, and key advice papers with appropriate redactions within 30 working days of Cabinet making final decisions.

Consultation

- 22 The Treasury was consulted on this paper.

Recommendations

The Minister of Revenue recommends that the Committee:

- 1 note that the government has previously enacted a provision to allow the provision of tax-free accommodation to employees relocating within 6 months from the start of the relevant flooding event to a distant workplace to commence work on a limited duration project relating to the rebuild and recovery from the North Island flooding events;
- 2 note this timeframe does not match that allowed for the Canterbury earthquakes and is too short given the time required to assess recovery and rebuild projects in the affected areas;

- 3 note that Cabinet has previously approved a remedial amendment to correct this timeframe to match that permitted for the Canterbury earthquakes in the next tax bill (LEG-23-MIN-0056 refers);
- 4 note that the provision enacted contains a power to extend, by Order in Council, the time limits in that provision;
- 5 note that the Income Tax (Accommodation Expenditure—North Island Flooding Events) Order 2023 would extend the period for the relocation of employees relocating to a distant workplace to commence work on a limited duration project relating to the rebuild and recovery from the North Island flooding events from 6 months from the start of the relevant flooding event to 1 April 2024;
- 6 authorise the submission to the Executive Council of the Income Tax (Accommodation Expenditure—North Island Flooding Events) Order 2023.

Authorised for lodgement

Hon David Parker

Minister of Revenue



Cabinet Legislation Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Income Tax (Accommodation Expenditure-North Island Flooding Events) Order 2023

Portfolio **Revenue**

On 1 June 2023, the Cabinet Legislation Committee:

- 1 **noted** that the government has previously enacted a provision to allow tax-free accommodation to be provided to employees relocating within 6 months from the start of the relevant flooding event to a distant workplace to commence work on a limited duration project relating to the rebuild and recovery from the North Island flooding events;
- 2 **noted** that this timeframe does not match that allowed for the Canterbury earthquakes and is too short given the time required to assess recovery and rebuild projects in the affected areas;
- 3 **noted** that the Cabinet Legislation Committee has previously approved a remedial amendment to correct this timeframe to match that permitted for the Canterbury earthquakes in the next tax bill [LEG-23-MIN-0056];
- 4 **noted** that the provision enacted contains a power to extend, by Order in Council, the time limits in that provision;
- 5 **noted** that the Income Tax (Accommodation Expenditure—North Island Flooding Events) Order 2023 extends the period for the relocation of employees relocating to a distant workplace to commence work on a limited duration project relating to the rebuild and recovery from the North Island flooding events from 6 months from the start of the relevant flooding event to 1 April 2024;
- 6 **authorised** the submission to the Executive Council of the Income Tax (Accommodation Expenditure—North Island Flooding Events) Order 2023 [PCO 25498/2.0].

Rebecca Davies
Committee Secretary

Present:

Hon Kiri Allan
Hon David Parker
Hon Kieran McAnulty (Chair)
Tangi Utikere, MP (Chief Government Whip)

Officials present from:

Office of the Prime Minister
Officials Committee for LEG