

# NSW Reconstruction Authority Regulation 2023

[2023-32]



New South Wales

## Status Information

### Currency of version

Current version for 18 October 2024 to date (accessed 27 November 2024 at 19:10)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Staged repeal status**

This legislation is currently due to be automatically repealed under the [Subordinate Legislation Act 1989](#) on 1 September 2028

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 18 October 2024

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# NSW Reconstruction Authority Regulation 2023



New South Wales

## 1 Name of Regulation

This Regulation is the *NSW Reconstruction Authority Regulation 2023*.

## 2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

## 3 Definitions

In this Regulation—

**essential service** means an essential service, within the meaning of the *Essential Services Act 1988*, other than a service declared to be an essential service under that Act, section 4(2).

**the Act** means the *NSW Reconstruction Authority Act 2022*.

### Note—

The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

## 4 Authority may direct certain planning authorities—the Act, s 13

(1) For the Act, section 13(1)(c), for a planning authority other than the Minister administering the *Environmental Planning and Assessment Act 1979*, the action of exercising the planning authority's relevant planning functions is prescribed.

(2) In this section—

**relevant planning functions** has the same meaning as in the *Environmental Planning and Assessment Act 1979*, section 2.21(2).

## 5 Authority may direct local councils and other relevant entities—the Act, s 13

For the Act, section 13(1)(b)(ii) and (d), the following actions by a local council or other relevant entity are prescribed—

- (a) providing an essential service,
- (b) carrying out development under *State Environmental Planning Policy (Transport and Infrastructure) 2021*.

**6 Implementation of State disaster mitigation plan and disaster adaptation plans by relevant entities—the Act, s 38**

For the Act, section 38(1), the following functions of a relevant entity are prescribed—

- (a) applying for development consent under the *Environmental Planning and Assessment Act 1979*,
- (b) applying for State significant infrastructure approval under the *Environmental Planning and Assessment Act 1979*, Division 5.2,
- (c) carrying out development under *State Environmental Planning Policy (Transport and Infrastructure) 2021*,
- (d) providing an essential service,
- (e) reviewing the State Emergency Management Plan and recommending alterations to it under the *State Emergency and Rescue Management Act 1989*, section 15(d).

**7 Implementation of State disaster mitigation plan and disaster adaptation plans by Authority—the Act, s 38**

For the Act, section 38(2), the Authority's functions under the Act are prescribed.

**8 Ministerial authorisations in exceptional circumstances—the Act, s 68**

For the Act, section 68(7), definition of **exceptional circumstances**, the prescribed circumstances are as follows—

- (a) a disaster that has resulted in significant and widespread harm to life or damage to property or the environment has occurred,
- (b) a disaster may occur that is likely to result in significant and widespread harm to life or damage to property or the environment.

**9 Fees—the Act, s 84**

- (1) For the Act, section 84(2)(b), the Minister or the chief executive officer may determine, either generally or in a particular case, the fee for the relevant service or action.
- (2) In determining the fee, the Minister or the chief executive officer must consider the cost of the relevant service or action to the following persons—
  - (a) the Minister,

- (b) the Authority,
  - (c) the chief executive officer,
  - (d) a person who provides the relevant service or action on behalf of the Minister, the Authority or the chief executive officer.
- (3) A fee determination by the Minister prevails over a fee determination by the chief executive officer to the extent of an inconsistency.
- (4) The maximum fee that may be imposed under the Act, section 84(2)(b) is 120% of the total cost of the relevant service or action to the persons specified in subsection (2)(a)–(d).
- (5) For the Act, section 84(3), the Minister or the chief executive officer may require the payment of a deposit for, or full or partial prepayment of, a fee charged under the Act, section 84(2)(b).

**10 Reference to Resilience NSW in relevant contracts and agreements—the Act, Sch 3, s 1**

- (1) A reference in a relevant contract or agreement to Resilience NSW, which was taken on the commencement of the *Administrative Arrangements (Administrative Changes—Miscellaneous) Order (No 10) 2022* to be read as a reference to the NSW Reconstruction Authority Staff Agency under the order, section 4(4), is taken to be a reference to the NSW Reconstruction Authority.

- (2) In this section—

**relevant contract or agreement** means a contract or agreement, other than an employment contract or agreement, that was—

- (a) entered into by Resilience NSW on behalf of the Crown, and
- (b) in force immediately before the commencement of the *Administrative Arrangements (Administrative Changes—Miscellaneous) Order (No 10) 2022*.