

**Reprint
as at 19 April 2011**



**Canterbury Earthquake Response
and Recovery Act 2010**

Public Act 2010 No 114
Date of assent 14 September 2010
Commencement see section 2

Canterbury Earthquake Response and Recovery Act 2010: repealed, on
19 April 2011, by section 89(1) of the Canterbury Earthquake Recovery Act
2011 (2011 No 12).

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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

This Act is administered by the Ministry of Economic Development.

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Canterbury Earthquake Response and Recovery Act 2010.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

**Part 1
Preliminary provisions**

3 Purpose

The purpose of this Act is to—

- (a) facilitate the response to the Canterbury earthquake:
- (b) provide adequate statutory power to assist with the response to the Canterbury earthquake:
- (c) enable the relaxation or suspension of provisions in enactments that—
 - (i) may divert resources away from the effort to—
 - (A) efficiently respond to the damage caused by the Canterbury earthquake:
 - (B) minimise further damage; or

- (ii) may not be reasonably capable of being complied with, or complied with fully, owing to the circumstances resulting from the Canterbury earthquake:
- (d) facilitate the gathering of information about any structure or any infrastructure affected by the Canterbury earthquake that is relevant to understanding how to minimise the damage caused by future earthquakes:
- (e) provide protection from liability for certain acts or omissions.

4 Interpretation

(1) In this Act, unless the context otherwise requires,—

appointed commissioner means a commissioner appointed under section 9(d) or 13

Canterbury earthquake means the earthquake that occurred on 4 September 2010 in Canterbury, and includes all of its aftershocks

enactment has the same meaning as in section 29 of the Interpretation Act 1999; but, for the purpose of this Act, includes any bylaw or rule made by a territorial authority or regional council

Environment Canterbury commissioner means a person who is appointed under section 10 or 15 of the Environment Canterbury (Temporary Commissioners and Improved Water Management) Act 2010

Minister means the Minister for Canterbury Earthquake Recovery

modify, in relation to a provision or liability, includes disapplying or suspending the provision or liability

recovery commission means the Canterbury Earthquake Recovery Commission established under section 9

regional council has the same meaning as in section 5(1) of the Local Government Act 2002

relevant Minister,—

- (a) in relation to an enactment other than this Act, means the Minister who is, with the authority of the Prime Min-

ister, for the time being responsible for the administration of the enactment:

- (b) in relation to a bylaw or rule made by a territorial authority or regional council, the Minister who is, with the authority of the Prime Minister, for the time being responsible for the administration of the Local Government Act 2002

responsible Ministers means—

- (a) the Minister for the Environment; and
- (b) the Minister of Finance; and
- (c) the Minister for Canterbury Earthquake Recovery

territorial authority has the same meaning as in section 5(1) of the Local Government Act 2002.

- (2) For the purposes of this Act, the Minister responsible for the administration of an enactment that is or forms part of subordinate legislation is the Minister responsible for the administration of the enactment under whose authority the legislation was made.

5 Act binds the Crown

This Act binds the Crown.

Part 2

Response and recovery provisions

6 Governor-General may make Orders in Council for purpose of Act

- (1) The Governor-General may from time to time, by Order in Council made on the recommendation of the relevant Minister, make any provision reasonably necessary or expedient for the purpose of this Act.
- (2) In making a recommendation under subsection (1), the relevant Minister must—
 - (a) take into account the purpose of this Act; and
 - (b) consult the recovery commission (if any) if practicable; and
 - (c) have regard to the recommendations of the recovery commission (if any).

- (3) The recommendation of the relevant Minister may not be challenged, reviewed, quashed, or called into question in any court.
- (4) An Order in Council made under subsection (1) may grant an exemption from, or modify, or extend any provision of any enactment, including (but not limited to)—
 - (a) the Building Act 2004:
 - (b) the Cadastral Survey Act 2002:
 - (c) the Commerce Act 1986:
 - (d) the Earthquake Commission Act 1993:
 - (e) the Health Act 1956:
 - (f) the Health and Disability Services (Safety) Act 2001:
 - (g) the Historic Places Act 1993:
 - (h) the Land Transport Act 1998:
 - (i) the Land Transport Management Act 2003:
 - (j) the Local Government Act 1974:
 - (k) the Local Government Act 2002:
 - (l) the Local Government Official Information and Meetings Act 1987:
 - (m) the Local Government (Rating) Act 2002:
 - (n) the Public Works Act 1981:
 - (o) the Rating Valuations Act 1998:
 - (p) the Reserves Act 1977:
 - (q) the Resource Management Act 1991:
 - (r) the Road User Charges Act 1977:
 - (s) the Social Security Act 1964:
 - (t) the Soil Conservation and Rivers Control Act 1941:
 - (u) the Transport Act 1962:
 - (v) the Waste Minimisation Act 2008.
- (5) An exemption from, or modification of, or extension of a provision—
 - (a) may be absolute or subject to conditions; and
 - (b) may be made—
 - (i) by stating alternative means of complying with the provision; or
 - (ii) by substituting a discretionary power for the provision.
- (6) Despite subsections (1) and (4), an Order in Council made under this section may not make or authorise—

- (a) an exemption from or a modification of 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
 - (b) an exemption from or a modification of a restriction on keeping a person in custody or detention; or
 - (c) an exemption from or a modification of a requirement or restriction imposed by the Bill of Rights 1688, the Constitution Act 1986, the Electoral Act 1993, the Judicature Amendment Act 1972, or the New Zealand Bill of Rights Act 1990; or
 - (d) an amendment to this section, or section 7, 17, or 21.
- (7) Subsections (4) and (5) do not limit subsection (1).

7 Further provisions about Orders in Council

- (1) While it remains in force, every Order in Council made under section 6 has the force of law as if it were enacted as a provision of this Act.
- (2) An Order in Council made under section 6 must provide that it comes into force on a date specified in the Order in Council and that date may be before or on or after the date on which it is made, but not earlier than 4 September 2010.
- (3) An Order in Council made under section 6 expires on a date appointed in the Order in Council, being a date not later than 1 April 2012, and different dates may be appointed for the expiry of different provisions.
- (4) An Order in Council made under section 6 may be retrospective only to the extent provided for in subsection (2).
- (5) No Order in Council made under section 6 may be held invalid because—
 - (a) it is, or authorises any act or omission that is, repugnant to or inconsistent with any other Act; or
 - (b) it confers any discretion on, or allows any matter to be determined or approved by, any person.
- (6) Subsection (5) is subject to section 6(6).

8 Regulations (Disallowance) Act 1989 applies

Despite section 7(1), the Regulations (Disallowance) Act 1989 applies to an Order in Council made under section 6.

9 Establishment of recovery commission

- (1) A recovery commission to be called the Canterbury Earthquake Recovery Commission is established, and consists of the following 7 commissioners:
 - (a) the mayor of the Christchurch City Council; and
 - (b) the mayor of the Selwyn District Council; and
 - (c) the mayor of the Waimakariri District Council; and
 - (d) 4 appointed persons with the relevant expertise or appropriate skills, 1 of whom must be an Environment Canterbury commissioner or, if there is no such commissioner, the chairperson of the Canterbury Regional Council.
- (2) The Canterbury Earthquake Recovery Commission is an organisation for the purposes of Schedule 1 of the Official Information Act 1982.

10 Functions of recovery commission

The functions of the recovery commission are to—

- (a) provide advice, on request or on its own initiative, to—
 - (i) the relevant Minister in relation to Orders in Council that may be required for the purpose of this Act; and
 - (ii) the responsible Ministers in relation to how resources may be prioritised and funding allocated for the response to the Canterbury earthquake; and
- (b) provide a central contact point between central and local government in the management of the response to the Canterbury earthquake.

11 Appointment of commissioners

- (1) The responsible Ministers must, by giving written notice of appointment, appoint the persons referred to in section 9(d).
- (2) The written notice of appointment must—
 - (a) state the date on which the appointment takes effect; and

- (b) state the term of the appointment.
- (3) The first appointment of a person as a commissioner takes effect on the date specified in the written notice of appointment given to that person.
- (4) As soon as practicable, the Minister must notify the appointment in the *Gazette*.

Compare: 2010 No 12 ss 10–12

12 Terms of reference for commissioners

- (1) The responsible Ministers must provide the commissioners with written terms of reference, which must—
 - (a) specify the secretariat services to be provided; and
 - (b) be consistent with the purpose of this Act.
- (2) The responsible Ministers—
 - (a) may at any time amend the terms of reference for the commissioners; and
 - (b) must, as soon as practicable after the amendment, notify the commissioners of the amended terms of reference.
- (3) The Minister must publish the terms of reference and any amended terms of reference in the *Gazette*.

Compare: 2010 No 12 s 13

13 Subsequent appointments

- (1) The responsible Ministers may appoint a commissioner to replace an appointed commissioner who vacates office.
- (2) Section 11 applies to the appointment of a commissioner to fill a vacancy.

Compare: 2010 No 12 s 15

14 Appointment of chairperson and deputy chairperson

- (1) The responsible Ministers must appoint one of the appointed commissioners (other than the Environment Canterbury commissioner or the chairperson of the Canterbury Regional Council, as the case may be) to be the chairperson of the recovery commission.
- (2) The responsible Ministers must appoint one of the appointed commissioners to be the deputy chairperson of the recovery commission.

- (3) The responsible Ministers must make each appointment by giving the person appointed a written notice of appointment.
- (4) As soon as practicable, the Minister must notify the appointment in the *Gazette*.
- (5) The responsible Ministers may terminate the appointment of a commissioner as chairperson or deputy chairperson by written notice to that person.

Compare: 2010 No 12 s 16

15 Term of office of appointed commissioners

- (1) The term of office of an appointed commissioner ends when the commissioner vacates office or on a date no later than 1 April 2012, whichever occurs first.
- (2) An appointed commissioner vacates office if he or she—
 - (a) is removed by written notice given by the responsible Ministers; or
 - (b) resigns by written notice given to the responsible Ministers.
- (3) The responsible Ministers may in their complete discretion remove an appointed commissioner by written notice at any time.
- (4) As soon as practicable, the Minister must notify the removal or resignation of an appointed commissioner in the *Gazette*.

Compare: 2010 No 12 s 17

16 Appointed commissioners' remuneration and expenses

- (1) An appointed commissioner is entitled to be paid—
 - (a) remuneration by way of salary, fees, and allowances at a rate determined by the responsible Ministers; and
 - (b) travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951.
- (2) However, a person appointed under section 9(d) or 13 is not entitled to any remuneration for services as a member of the recovery commission in addition to his or her remuneration in respect of his or her service as—
 - (a) an Environment Canterbury commissioner or the chairperson of the Canterbury Regional Council (as the case may be); or

- (b) a chief executive or employee of a department listed in Schedule 1 of the State Sector Act 1988.

Compare: 2010 No 12 s 18

17 When sections 6 to 16 cease to apply

Sections 6 to 16 cease to apply on the earlier of the following:

- (a) a date specified by the Governor-General by Order in Council made on the recommendation of the responsible Ministers; or
- (b) the close of 1 April 2012.

18 Exclusion of commissioners' liability

A commissioner is not liable for any act done or omitted to be done by him or her in good faith in the performance or intended performance of his or her functions, responsibilities, or duties as a commissioner, or in the exercise or intended exercise of his or her powers as a commissioner.

19 Protection from liability

- (1) This section applies to any person—
 - (a) who does or omits to do anything, if the act or omission is authorised by, or is made lawful by virtue of, an Order in Council made under section 6; or
 - (b) whose functions, responsibilities, duties, or powers are authorised, exempted, modified, or extended by, or are made lawful by virtue of, an Order in Council made under section 6.
- (2) In respect of the period beginning 4 September 2010 and ending with the expiry of this Act, a person to whom this section applies is not liable for any act done or omitted to be done by that person in good faith—
 - (a) in doing or omitting to do anything that is authorised or lawful by virtue of an Order in Council made under section 6; or
 - (b) in the performance or intended performance of his or her functions, responsibilities, or duties, or in the exercise or intended exercise of his or her powers in relation to—

- (i) any function, responsibility, duty, or power conferred or imposed by an Order in Council made under section 6; or
- (ii) any enactment affected by an Order in Council made under section 6.

20 Act does not create right to compensation

Nothing in this Act confers any right to compensation or is to be relied on in any proceedings as a basis for any claim to compensation.

21 Expiry and revocation

This Act expires, and any Order in Council made under section 6 is revoked, on the date that sections 6 to 16 cease to apply.

Canterbury Earthquake Recovery Act 2011

Public Act 2011 No 12
Date of assent 18 April 2011
Commencement see section 2

1 Title

This Act is the Canterbury Earthquake Recovery Act 2011.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

Part 2

Functions and powers to assist recovery and rebuilding

Subpart 8—Miscellaneous provisions

Other matters

89 Repeal and savings

- (1) *Amendment(s) incorporated in the Act(s).*
 - (2) Every Order in Council made under that Act and in force immediately before the commencement of this section continues in force, must be treated as having been made under this Act, and may be amended or revoked under this Act.
 - (3) The repeal of that Act does not affect any act, decision, or thing done under that Act or done under any Order in Council made under that Act, and those acts, decisions, or things are validated.
 - (4) Despite the repeal of that Act, section 19 of that Act is deemed to continue to apply to any act, decision, or thing referred to in subsection (3).
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Notes

1 *General*

This is a reprint of the Canterbury Earthquake Response and Recovery Act 2010. The reprint incorporates all the amendments to the Act as at 19 April 2011, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

2 *Status of reprints*

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 *How reprints are prepared*

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and

provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 *List of amendments incorporated in this reprint
(most recent first)*

Canterbury Earthquake Recovery Act 2011 (2011 No 12): section 89(1)
