

Reprint
as at 19 April 2016



Canterbury Earthquake (Resource Management Act) Order 2011 (SR 2011/34)

Canterbury Earthquake (Resource Management Act) Order 2011: revoked, on 19 April 2016, by section 146(2) of the Greater Christchurch Regeneration Act 2016 (2016 No 14).

Anand Satyanand, Governor-General

Order in Council

At Wellington this 8th day of March 2011

Present:

His Excellency the Governor-General in Council

Pursuant to section 6 of the Canterbury Earthquake Response and Recovery Act 2010, His Excellency the Governor-General makes the following order acting—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the relevant Minister made in accordance with section 6(2) of that Act.

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

This order is administered by the Ministry for the Environment.

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Order

1 Title

This order is the Canterbury Earthquake (Resource Management Act) Order 2011.

2 Commencement

This order comes into force on 15 March 2011.

3 Expiry

This order expires on the expiry of the Canterbury Earthquake Recovery Act 2011.

Clause 3: amended, on 19 April 2011, by section 90 of the Canterbury Earthquake Recovery Act 2011 (2011 No 12).

4 Application

- (1) This order applies to applications lodged by—
 - (a) any council referred to in subclause (3):
 - (b) a department of State:
 - (c) a Crown agent, as defined in section 10(1) of the Crown Entities Act 2004.
- (2) The applications to which this order applies are those made under—
 - (a) section 88 of the Act for resource consents to undertake land remediation work:
 - (b) section 127 of the Act to change or cancel any conditions of a resource consent granted in accordance with this order.
- (3) This order applies only to applications lodged with—

- (a) Christchurch City Council:
- (b) Selwyn District Council:
- (c) Waimakariri District Council:
- (d) Canterbury Regional Council.

5 Interpretation

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

Act means the Resource Management Act 1991

application means an application that complies with clause 4

infrastructure has the meaning given in section 2(1) of the Act

land remediation work means work undertaken, for the purpose of the Canterbury Earthquake Response and Recovery Act 2010,—

- (a) to protect, stabilise, or remediate land affected by the Canterbury earthquake for either or both of the following purposes:
 - (i) to enable use of the land or of adjacent land or structures to be resumed:
 - (ii) to protect the land or adjacent land or structures from damage, including damage arising from erosion, liquefaction, subsidence, slippage, or falling rocks or debris caused by the earthquake; or
 - (b) to repair or reconstruct infrastructure; or
 - (c) to provide for flood protection.
- (2) Terms used but not defined in this order, but defined in the Act, have the same meanings as in the Act.

Certain procedural matters disapplied

6 Local authority policy on discounting administrative charges

Section 36AA of the Act does not apply in relation to an application.

7 Power of waiver and extension of time limits

A consent authority must not grant an extension of time under section 37 of the Act in relation to an application unless the applicant agrees to the extension.

How applications to proceed

8 Applications deemed to be non-notified

- (1) A consent authority—

- (a) must not—
 - (i) publicly notify the application; or
 - (ii) give limited notification of the application; but

- (b) must proceed to consider and determine the application in accordance with—
 - (i) clause 10; and
 - (ii) Part 6 of the Act, unless otherwise provided by this order.
- (2) Subclause (1) applies instead of sections 95 to 99A of the Act.

9 Discretion of consent authority in respect of plan or proposed plan

Despite section 104D of the Act, a consent authority may grant a resource consent for a non-complying activity that—

- (a) will or may have adverse effects on the environment that are more than minor; and
- (b) will or may be contrary to the objectives and policies of—
 - (i) the relevant plan, if there is a plan but no proposed plan in respect of the activity; or
 - (ii) the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or
 - (iii) both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.

10 Consultation

- (1) After an application is lodged, a consent authority must consult any person that the consent authority considers will be, or is likely to be, or whose property will be, or is likely to be, adversely affected by the activity to which the application relates.
- (2) In exercising the discretion conferred by subclause (3), a consent authority must have regard to the need for the land remediation work concerned to proceed expeditiously.
- (3) Consultation may take place in such manner as the consent authority considers appropriate, having regard to the effects of the activity to which the application relates on the person or on the person's property. However, at least,—
 - (a) the consent authority must invite the person to make written comments on the application; and
 - (b) the person must be given not less than 10 working days from receiving the invitation in which to reply.
- (4) A person invited to comment under this clause on an application—
 - (a) may not appeal against the decision of the consent authority on the application; and
 - (b) has no right to object under Part 14 of the Act to the decision.
- (5) For the purposes of this clause, a person is treated as having received an invitation to comment under this clause on an application the day that the person—

- (a) receives the invitation in person; or
- (b) if that is not possible, when the invitation is delivered, by registered mail, to the person's last known place of residence or business.

Clause 10(2): amended (with effect on 15 March 2011), on 18 March 2011, by clause 4 of the Canterbury Earthquake (Resource Management Act) Amendment Order (No 2) 2011 (SR 2011/47).

Enforcement

11 Enforcement proceedings

For the purposes of land remediation work undertaken in reliance on this order, only the relevant consent authority may take enforcement proceedings (including declaratory proceedings) under Part 12 of the Act, including in any case where it is alleged that the consent holder has breached section 16 or 17 of the Act.

Rebecca Kitteridge,
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 10 March 2011.

Reprints notes

1 *General*

This is a reprint of the Canterbury Earthquake (Resource Management Act) Order 2011 that incorporates all the amendments to that order as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Greater Christchurch Regeneration Act 2016 (2016 No 14): section 146(2)

Canterbury Earthquake Recovery Act 2011 (2011 No 12): section 90

Canterbury Earthquake (Resource Management Act) Amendment Order (No 2) 2011 (SR 2011/47)