

**Reprint
as at 1 July 2011**



Canterbury Earthquake (Historic Places Act) Order 2010

(SR 2010/333)

Canterbury Earthquake (Historic Places Act) Order 2010: revoked, on 1 July 2011, by clause 17 of the Canterbury Earthquake (Historic Places Act) Order 2011 (SR 2011/231).

Anand Satyanand, Governor-General

Order in Council

At Wellington this 23rd day of September 2010

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.

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 order is administered by the Ministry for Culture and Heritage.

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Order

- 1 Title**
This order is the Canterbury Earthquake (Historic Places Act) Order 2010.
- 2 Commencement**
This order comes into force on 23 September 2010.

3 Expiry

This order expires on the close of 1 April 2012.

Clause 3: amended, on 1 April 2011, by clause 4 of the Canterbury Earthquake (Historic Places Act) Amendment Order 2011 (SR 2011/76).

4 Application

This order applies only within the districts of the following territorial authorities:

- (a) the Christchurch City Council; and
- (b) the Selwyn District Council; and
- (c) the Waimakariri District Council.

5 Interpretation

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

Act means the Historic Places Act 1993

applicant means the person or body that applies under this order for an emergency authority or a general emergency authority

Canterbury archaeological officer and **archaeological officer** mean a person appointed under clause 6 to carry out the functions of the archaeological officer

district has the meaning given in section 5(1) of the Local Government Act 2002

emergency application means an application made under clause 8 for an emergency authority

emergency authority means an authority that may be granted under clause 11 to do anything that—

- (a) would, but for this order, require an authority under section 11(1) of the Act; and
- (b) is, directly or indirectly, necessary or desirable to promote the purpose of the Canterbury Earthquake Response and Recovery Act 2010

general emergency application means an application made under clause 9 for a general emergency authority

general emergency authority means an authority that may be granted under clause 11 to do anything that—

- (a) would, but for this order, require an authority under section 12(1) of the Act; and

(b) is, directly or indirectly, necessary or desirable to promote the purpose of the Canterbury Earthquake Response and Recovery Act 2010

territorial districts means, collectively, the districts of the 3 territorial authorities named in clause 4.

- (2) The terms **archaeological site** and **Trust** have the meanings given to those terms in section 2 of the Act.
- (3) The terms **authority** and **general authority** mean the same in this order as they do in the Act.

Canterbury archaeological officer

6 Appointment and functions of Canterbury archaeological officer

- (1) Without limiting the power of the Trust under section 54(2) of the Act, the Trust may appoint 1 or more of its employees to be a Canterbury archaeological officer.
- (2) The purpose of an appointment is to assist with any response to the Canterbury earthquake.
- (3) The functions of the archaeological officer are—
- (a) to receive emergency applications under clause 8 and general emergency applications under clause 9; and
 - (b) to receive applications made to the Trust under section 11 or 12 of the Act for an authority or a general authority (including applications made on or after 4 September 2010) if, and to the extent that, those applications—
 - (i) relate to an archaeological site in the territorial districts; and
 - (ii) require an emergency authority or a general emergency authority to do something that is, directly or indirectly, necessary or desirable to promote the purpose of the Canterbury Earthquake Response and Recovery Act 2010; and
 - (c) to determine—
 - (i) whether or not to grant an emergency authority or a general emergency authority; and
 - (ii) if so, any conditions that are to apply to the authority.
- (4) A person appointed under subclause (1)—

- (a) must be suitably qualified to carry out the functions of the archaeological officer; and
 - (b) must discharge—
 - (i) the functions conferred on that officer by this order; and
 - (ii) any functions that the Trust delegates to the officer under the Act.
- (5) The Trust must forward to the archaeological officer without delay any applications to which subclause (3)(b) refers.
- (6) The archaeological officer must make any decisions under this order having regard to the purpose of the Canterbury Earthquake Response and Recovery Act 2010.

Prohibition

7 Archaeological sites not to be destroyed, damaged, or modified

- (1) This clause applies instead of section 10(1) of the Act in relation to archaeological sites in the territorial districts.
- (2) No person may destroy, damage, or modify the whole or any part of an archaeological site knowing, or having reasonable cause to suspect, that it is an archaeological site, unless either—
 - (a) an authority to do so has been granted under section 14 of the Act; or
 - (b) an emergency authority or a general emergency authority has been granted under this order.

Applications for emergency authorities and general emergency authorities relating to archaeological sites

8 Applications for emergency authorities

- (1) This clause applies instead of section 11 of the Act if a person requires an emergency authority to destroy, damage, or modify the whole or part of an archaeological site in the territorial districts.
- (2) An application for an emergency authority must—
 - (a) be made to the archaeological officer; and

- (b) provide all the information that the archaeological officer considers reasonable in the circumstances of the emergency application, which must not, in any case, be more than would be required under section 11 of the Act.

9 Applications for general emergency authorities relating to archaeological sites

- (1) This clause applies instead of section 12 of the Act if a person requires a general emergency authority to destroy, damage, or modify the whole or any part of—
 - (a) all archaeological sites within a specified area of land in the territorial districts; or
 - (b) any class of archaeological site within a specified area of land in the territorial districts.
- (2) Subclause (1) applies even if some or all of the sites within the specified area have not previously been recorded or otherwise identified.
- (3) An application for a general emergency authority must—
 - (a) be made to the archaeological officer; and
 - (b) provide all the information that the archaeological officer considers reasonable in the circumstances of the application, which must not, in any case, be more than would be required under section 12 of the Act.

10 Sites of Māori interest

- (1) This clause applies if an application is made relating to a site within the territorial districts that the archaeological officer considers to be a site of Māori interest.
- (2) The application is not to be considered under this order as an emergency application or a general emergency application but must be determined under the Act.

Determination of applications

11 Powers of archaeological officer in determining emergency applications

- (1) This clause applies instead of section 14 of the Act in relation to—

- (a) an emergency application under clause 8;
 - (b) a general emergency application under clause 9.
- (2) An application to which this clause applies must be determined by the archaeological officer who may grant or decline the application, in whole or in part.
- (3) In determining applications referred to in subclause (1), the archaeological officer—
- (a) must take into account the provisions of the Act, to the extent that they are not inconsistent with the purpose of the Canterbury Earthquake Response and Recovery Act 2010; and
 - (b) is not required to consult (though may do so) with any person in relation to an application.
- (4) The archaeological officer must—
- (a) make a determination in relation to an emergency application or a general emergency application not later than 3 working days after receiving the application; and
 - (b) as soon as practicable, give written notice of the determination to—
 - (i) the applicant; and
 - (ii) the owner, if the applicant is not the owner; and
 - (iii) the territorial authority in whose area of jurisdiction the archaeological site is located, if the territorial authority is not the applicant; and
 - (iv) the chief executive.
- (5) In this clause, **chief executive** means the chief executive of the department that is, with the authority of the Prime Minister, for the time being responsible for the administration of the Act.

12 Effect of grant of emergency authority or general emergency authority

- (1) The grant of an emergency authority or a general emergency authority does not affect, or otherwise excuse the applicant from, any duties or responsibilities arising under any other enactment in relation to the same archaeological site.
- (2) An emergency authority or a general emergency authority—
- (a) commences, despite section 20A of the Act,—

- (i) on the day after the date of the determination of the application by the archaeological officer; or
 - (ii) if an applicant exercises the right of appeal provided for by clause 15(2), on the day after the determination of an appeal, if successful; and
- (b) expires on the close of 1 April 2012, unless an earlier date is specified.

Clause 12(2)(b): amended, on 1 April 2011, by clause 5 of the Canterbury Earthquake (Historic Places Act) Amendment Order 2011 (SR 2011/76).

13 Conditions that may be imposed on emergency authorities

- (1) This clause applies instead of section 15 of the Act in relation to an emergency authority or a general emergency authority.
- (2) The archaeological officer may grant an emergency authority or a general emergency authority subject to any conditions that the officer thinks fit.
- (3) Without limiting subclause (2), if the archaeological officer is satisfied, on reasonable grounds, that an archaeological investigation of the relevant site would be likely to provide significant information on the historical and cultural heritage of New Zealand, the officer may grant an emergency authority or a general emergency authority subject to a condition requiring an archaeological investigation of the site.
- (4) If subclause (3) applies, the investigation must be completed,—
 - (a) in the case of an archaeological site that is above ground level, not later than 10 working days after the date that the emergency authority or general emergency authority is issued; and
 - (b) for any other archaeological site, within the time specified in the authority.
- (5) Despite clause 12(2)(a), if a condition of the kind referred to in subclause (3) of this clause is imposed, the emergency authority or general emergency authority may only be exercised to the extent that it does not interfere with the investigation until—
 - (a) the archaeological officer has been advised in writing that the archaeological investigation has been completed; and

- (b) either—
 - (i) the archaeological officer confirms that the emergency authority or general emergency authority may be exercised; or
 - (ii) 5 working days have elapsed after the date on which advice was given to the archaeological officer under paragraph (a) and the archaeological officer has not notified the applicant that the emergency authority or general emergency authority must not be exercised.
- (6) In subclause (3), **archaeological investigation** means an investigation that is within the scope of paragraph (b) of the definition of archaeological site in section 2 of the Act.

14 Rights and obligations

- (1) This clause applies instead of section 17 of the Act in respect of an emergency authority or a general emergency authority granted under this order.
- (2) With the prior consent of the archaeological officer, the holder of an emergency authority or a general emergency authority may engage a person approved by the archaeological officer to carry out any work required as a condition of the emergency authority or general emergency authority.
- (3) All costs incurred in engaging a person under subclause (2) are the responsibility of the person to whom the emergency authority or general emergency authority is granted.
- (4) The person approved to carry out work in compliance with the requirements of a condition of an emergency authority or a general emergency authority must, as soon as practicable, prepare a report to the satisfaction of the archaeological officer on the work done.
- (5) The report must be given to—
 - (a) the person to whom the emergency authority or general emergency authority is granted; and
 - (b) the owner, if different from the person referred to in paragraph (a); and
 - (c) the Trust.

15 Exclusions to rights of review and appeal

- (1) This clause applies instead of sections 16 and 20 of the Act.
- (2) There is no right of review of the conditions of an emergency authority or a general emergency authority for the person to whom that authority is granted.
- (3) Except as provided for in subclause (4), there is no right of appeal for any person against a decision of the archaeological officer.
- (4) However, subclause (3) does not exclude a right of appeal of an applicant whose application for an emergency authority or a general emergency authority is declined, in whole or in part, by the archaeological officer.
- (5) Any appeal by an applicant under subclause (4)—
 - (a) must be to the Environment Court; and
 - (b) is subject to the provisions of section 20 of the Act; and
 - (c) must be determined having regard to the purpose of the Canterbury Earthquake Response and Recovery Act 2010.

*Offences and penalties***16 Offences and penalties of Act to apply**

To avoid doubt, the following sections of the Act apply, with the necessary modifications, to breaches of the specified clauses of this order:

- (a) section 99 of the Act applies to any breach of clause 7 as if the reference to an authority of the Trust were a reference to an emergency authority or a general emergency authority; and
- (b) section 100 of the Act applies to any breach of conditions imposed under clause 13 as if those conditions had been imposed under the Act on an authority of the Trust.

Rebecca Kitteridge,
Clerk of the Executive Council.

Reprinted as at
1 July 2011

**Canterbury Earthquake (Historic
Places Act) Order 2010**

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 24 September 2010.

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 - 2 Status of reprints
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Notes**1 General**

This is a reprint of the Canterbury Earthquake (Historic Places Act) Order 2010. The reprint incorporates all the amendments to the order as at 1 July 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 (Historic Places Act) Order 2011 (SR 2011/231):
clause 17

Canterbury Earthquake (Historic Places Act) Amendment Order 2011
(SR 2011/76)
