

Reprint
as at 1 July 2021



Canterbury Earthquake (Historic Places Act) Order 2011
(SR 2011/231)

Canterbury Earthquake (Historic Places Act) Order 2011: revoked, on the close of 30 June 2021, by clause 3.

Anand Satyanand, Governor-General

Order in Council

At Wellington this 27th day of June 2011

Present:

His Excellency the Governor-General in Council

Pursuant to section 71 of the Canterbury Earthquake Recovery Act 2011, 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 following the Canterbury Earthquake Recovery Review Panel's review of a draft of the order.

Contents

	Page
1 Title	2
2 Commencement	2
3 Revocation of this order	2
4 Application	2
5 Interpretation	2

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 Culture and Heritage.

	<i>Canterbury archaeological officer</i>	
6	Appointment and functions of Canterbury archaeological officer	4
	<i>Prohibition</i>	
7	Archaeological sites not to be modified or destroyed	5
7A	Application of Historic Places Act 1993	5
	<i>Applications for emergency authorities and general emergency authorities</i>	
8	Applications for emergency authorities	5
9	Applications for general emergency authorities relating to archaeological sites	6
	<i>Determination of applications</i>	
10	Powers of archaeological officer in determining emergency applications	6
11	Determination of application	7
12	Effect of grant of emergency authority or general emergency authority	8
13	Conditions that may be imposed on emergency authorities	8
14	Rights and obligations	9
15	Right of appeal	9
	<i>Offences and penalties</i>	
16	Offences and penalties of Act to apply	10
17	Revocation	10

Order

1 Title

This order is the Canterbury Earthquake (Historic Places Act) Order 2011.

2 Commencement

This order comes into force on 1 July 2011.

3 Revocation of this order

This order is revoked on the close of 30 June 2021.

Clause 3: replaced, on 19 April 2016, by section 147(1)(b) of the Greater Christchurch Regeneration Act 2016 (2016 No 14).

4 Application

This order applies only within greater Christchurch.

5 Interpretation

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

Act means the Historic Places Act 1993

applicant means a person or body applying under this order for an emergency authority or a general emergency authority

building has the meaning given in section 6 of the Heritage New Zealand Pouhere Taonga Act 2014

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

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

emergency authority means an authority that may be granted under clause 10 to do anything in relation to an archaeological site that—

- (a) would, but for this order, require an authority under section 42 of the Heritage New Zealand Pouhere Taonga Act 2014; and
- (b) is, directly or indirectly, necessary or desirable to promote any of the purposes of the Canterbury Earthquake Recovery Act 2011

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 10 to do anything in relation to archaeological sites within a specified area that—

- (a) would, but for this order, require an authority under section 42 of the Heritage New Zealand Pouhere Taonga Act 2014; and
- (b) is, directly or indirectly, necessary or desirable to promote any of the purposes of the Canterbury Earthquake Recovery Act 2011

greater Christchurch has the meaning given in section 4 of the Greater Christchurch Regeneration Act 2016

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

- (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 sections 11 and 12, respectively, of the Act.
- (4) To avoid doubt, a reference to the purposes of the Canterbury Earthquake Recovery Act 2011 applies, despite the repeal of that Act.

Clause 5(1) **building**: inserted, on 19 April 2016, by section 147(1)(b) of the Greater Christchurch Regeneration Act 2016 (2016 No 14).

Clause 5(1) **emergency authority**: replaced, on 19 April 2016, by section 147(1)(b) of the Greater Christchurch Regeneration Act 2016 (2016 No 14).

Clause 5(1) **general emergency authority**: replaced, on 19 April 2016, by section 147(1)(b) of the Greater Christchurch Regeneration Act 2016 (2016 No 14).

Clause 5(1) **greater Christchurch**: amended, on 19 April 2016, by section 147(1)(b) of the Greater Christchurch Regeneration Act 2016 (2016 No 14).

Clause 5(4): inserted, on 19 April 2016, by section 147(1)(b) of the Greater Christchurch Regeneration Act 2016 (2016 No 14).

Canterbury archaeological officer

6 Appointment and functions of Canterbury archaeological officer

- (1) Without limiting the powers of Heritage New Zealand Pouhere Taonga under section 14 of the Heritage New Zealand Pouhere Taonga Act 2014, Heritage New Zealand Pouhere Taonga may appoint 1 or more of its employees to be an archaeological officer.
- (2) The purpose of an appointment is to assist with any action required to assist in the recovery from the Canterbury earthquakes.
- (3) The functions of an archaeological officer are—
 - (a) to receive emergency applications under clause 8 and general emergency applications under clause 9; and
 - (b) *[Revoked]*
 - (c) to determine—
 - (i) whether to grant an emergency authority or a general emergency authority; and
 - (ii) require an emergency authority or a general emergency authority to do something that is, directly or indirectly, necessary or desirable to promote any of the purposes of the Canterbury Earthquake Recovery Act 2011; and
- (4) A person appointed under subclause (1)—
 - (a) must be suitably qualified to carry out the functions of an archaeological officer; and
 - (b) must discharge—
 - (i) the functions conferred on that officer by this order; and
 - (ii) any functions that Heritage New Zealand Pouhere Taonga delegates to the officer under the Heritage New Zealand Pouhere Taonga Act 2014.
- (5) *[Revoked]*
- (6) An archaeological officer must make any decisions under this order having regard to any of the purposes of the Canterbury Earthquake Recovery Act 2011.

Clause 6(1): replaced, on 19 April 2016, by section 147(1)(b) of the Greater Christchurch Regeneration Act 2016 (2016 No 14).

Clause 6(3)(b): revoked, on 19 April 2016, by section 147(1)(b) of the Greater Christchurch Regeneration Act 2016 (2016 No 14).

Clause 6(4)(b)(ii): replaced, on 19 April 2016, by section 147(1)(b) of the Greater Christchurch Regeneration Act 2016 (2016 No 14).

Clause 6(5): revoked, on 19 April 2016, by section 147(1)(b) of the Greater Christchurch Regeneration Act 2016 (2016 No 14).

Prohibition

7 Archaeological sites not to be modified or destroyed

- (1) This clause applies instead of section 42(1) of the Heritage New Zealand Pouhere Taonga Act 2014 in relation to archaeological sites within greater Christchurch.
- (2) No person may modify or destroy, or cause to be modified or destroyed, the whole or any part of an archaeological site if that person knows, or ought reasonably to have suspected, that the site is an archaeological site, unless—
 - (a) an authority has been granted under section 48, 56(1)(b), or 62 of the Heritage New Zealand Pouhere Taonga Act 2014 in respect of that site; or
 - (b) an emergency authority or general emergency authority has been granted under this order.

Clause 7: replaced, on 19 April 2016, by section 147(1)(b) of the Greater Christchurch Regeneration Act 2016 (2016 No 14).

7A Application of Historic Places Act 1993

The Historic Places Act 1993 applies to archaeological sites within greater Christchurch only to the extent necessary for the purposes of—

- (a) emergency authorities and general emergency authorities granted under this order; and
- (b) clauses 8 to 16 of this order.

Clause 7A: inserted, on 19 April 2016, by section 147(1)(b) of the Greater Christchurch Regeneration Act 2016 (2016 No 14).

Applications for emergency authorities and general emergency authorities

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 any part of greater Christchurch.
- (2) An application for an emergency authority must—
 - (a) be made to an 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 11 of the Act.

- (3) An application that relates to a site of Māori interest must include, in addition to the statement required by section 11(2)(d) of the Act,—
- (a) an assessment of any Māori values associated with the relevant archaeological site; and
 - (b) a statement as to whether consultation on that assessment has taken place with tangata whenua.
- (4) Despite subclause (1), an emergency authority is not required to permit work on a building that is an archaeological site unless the work will result in the demolition of the whole of the building.

Clause 8(4): inserted, on 19 April 2016, by section 147(1)(b) of the Greater Christchurch Regeneration Act 2016 (2016 No 14).

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 any part of greater Christchurch; or
 - (b) any class of archaeological sites within a specified area of land in any part of greater Christchurch.
- (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 an 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.
- (4) Clause 8(3) applies to an application under this clause, with the necessary modifications.
- (5) Despite subclause (1), a general emergency authority is not required to permit work on a building that is an archaeological site unless the work will result in the demolition of the whole of the building.

Clause 9(5): inserted, on 19 April 2016, by section 147(1)(b) of the Greater Christchurch Regeneration Act 2016 (2016 No 14).

Determination of applications

10 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 an 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 any of the purposes of the Canterbury Earthquake Recovery Act 2011; and
 - (b) is not required to consult (though may do so) with any person in relation to an application.
- (4) The archaeological officer must reject any application made under clause 8 or 9 if the applicant—
 - (a) has not included the statement required by clause 8(3)(b); or
 - (b) has not provided any other information required by clause 8(2)(b), 8(3), 9(3)(b), or 9(4), as the case requires.

11 Determination of application

- (1) The archaeological officer must, in relation to an emergency application or a general emergency application,—
 - (a) make a determination—
 - (i) not later than 5 working days after receiving an application that relates to a site of Māori interest; or
 - (ii) not later than 3 working days after receiving any other 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) tangata whenua, if the application relates to a site of Māori interest; and
 - (v) the chief executive.
- (2) The notice must advise the applicant of—
 - (a) his or her appeal rights in the Environment Court under clause 15; and
 - (b) the time and date by which any notice of appeal must be lodged.
- (3) 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 last date by which any appeal must be lodged and served in accordance with clause 15(3); or
 - (ii) on the day after the determination of an appeal, if successful; and
 - (b) expires on the close of 30 June 2021, unless an earlier date is specified by the authority.

Clause 12(2)(b): amended, on 19 April 2016, by section 147(1)(b) of the Greater Christchurch Regeneration Act 2016 (2016 No 14).

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) An 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 archaeological 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 an 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 Right of appeal

- (1) This clause applies instead of sections 16 and 20 of the Act, except to the extent that provisions of section 20 are expressly applied.
- (2) There is a right of appeal—
 - (a) for an applicant whose application under clause 8 or 9 is declined, in whole or in part, by an archaeological officer; and
 - (b) for tangata whenua, on a matter of culture or tradition associated with a site of Māori interest against—
 - (i) a decision of an archaeological officer on any application relating to a site of Māori interest:
 - (ii) any conditions imposed by or under an emergency authority or a general emergency authority.

- (3) A notice of appeal must—
- (a) state the reasons for the appeal and the relief sought; and
 - (b) be lodged with the Environment Court not later than 10 working days after the date of the notice given under clause 11(1)(b); and
 - (c) be served on each person or body referred to in clause 11(1)(b) within 5 working days of the date that the notice is lodged with the Environment Court.
- (4) Any appeal under subclause (3)—
- (a) must be determined having regard to all of the purposes of the Canterbury Earthquake Recovery Act 2011; and
 - (b) is subject to the provisions of section 20(4) to (6A) of the Act.
- (5) Except as provided for in subclause (2), there is no right of appeal for any person against a decision of an archaeological officer.
- (6) 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.

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.

17 Revocation

The Canterbury Earthquake (Historic Places Act) Order 2010 (SR 2010/333) is revoked.

Rebecca Kitteridge,
Clerk of the Executive Council.

Reprints notes

1 *General*

This is a reprint of the Canterbury Earthquake (Historic Places 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 147

Canterbury Earthquake (Historic Places Act) Order 2011 (SR 2011/231): clause 3