

Reprint
as at 19 April 2016



Canterbury Earthquake (Building Act) Order 2013 (SR 2013/390)

Canterbury Earthquake (Building Act) Order 2013: revoked, on the close of 18 April 2016, by clause 3.

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 16th day of September 2013

Present:

The Right Hon John Key presiding 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 Minister for Building and Construction made following the Canterbury Earthquake Recovery Review Panel's review of a draft of the order.

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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 of Business, Innovation, and Employment.

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Order

1 Title

This order is the Canterbury Earthquake (Building Act) Order 2013.

2 Commencement

This order comes into force on 17 September 2013.

3 Revocation

This order is revoked on the close of 18 April 2016.

4 Interpretation

In this order, unless the context otherwise requires,—

2011 modification means the modification of the definition of dangerous building in section 121 of the Act that was made by clause 7 of the 2011 order

2011 order means the Canterbury Earthquake (Building Act) Order 2011

Act means the Building Act 2004.

5 Certain notices continue in force

(1) This clause applies to—

(a) a notice that was attached on, or adjacent to, a building by the Christchurch City Council or the Waimakariri District Council before the close of 16 September 2013 under section 124(1)(b) of the Act in reliance on the 2011 modification; and

(b) a notice that was given by the Waimakariri District Council before the close of 16 September 2013 under section 124(1)(c) of the Act in reliance on the 2011 modification.

(2) Every notice to which this clause applies continues in full force and effect, as if the 2011 order had not expired, until the earlier of—

(a) the close of 18 April 2016; and

(b) the date on which the notice is removed by the relevant council or ceases to be in force for any other reason under the Act.

6 Other notices expire with 2011 order

Every other notice attached, given, or issued in reliance on the 2011 modification ceases to have effect on the close of 16 September 2013.

Rebecca Kitteridge,
Clerk of the Executive Council.

Explanatory note

This note is not part of the order, but is intended to indicate its general effect.

This order, which comes into force on 17 September 2013, provides for the continuance of certain notices that are due to expire on the close of 16 September 2013 with the expiry of the Canterbury Earthquake (Building Act) Order 2011 (the **2011 order**). The notices are continued until the expiry of the Canterbury Earthquake Recovery Act 2011 on 18 April 2016, unless they are lifted earlier.

The notices continued by this order are those given in reliance on the extended definition of dangerous building in the 2011 order as follows:

- prohibited access notices that were attached on, or adjacent to, a building by the Christchurch City Council or the Waimakariri District Council under section 124(1)(b) of the Building Act 2004 (the **Act**). These notices warn people not to approach the building and prohibit use and occupation of the building; and
- repair notices that were given by the Waimakariri District Council under section 124(1)(c) of the Act. These notices require work to be carried out on the building to reduce or remove danger or to prevent the building from remaining insanitary.

This order does not continue other notices, for example,—

- notices attached or issued by the Selwyn District Council in reliance on the 2011 order;
- repair notices given by the Christchurch City Council under section 124(1)(c) of the Act;
- other notices under section 124 of the Act, eg, restricted access notices issued under section 124(1)(d) of the Act (as added by clause 9 of the 2011 order) or other notices given in reliance on other provisions of the 2011 order.

Clause 7 of the 2011 order extended the definition of a dangerous building in section 121 of the Act to allow the Christchurch City Council, the Selwyn District Council, and the Waimakariri District Council to issue a notice (an **extended section 124 notice**) in respect of a building that is not itself dangerous but that meets 1 of the following tests:

- there is a risk that the building could collapse or otherwise cause injury or death to any person in the building as a result of an earthquake that generates shaking that is less than a moderate earthquake;
- there is a risk that adjacent, adjoining, or nearby buildings or land could collapse (including collapse by way of rock fall, landslip, cliff collapse, or subsidence) or otherwise cause injury or death to any person in the building;

- a territorial authority has not been able to undertake an inspection to determine whether the building is dangerous under paragraph (a) or (d) of section 121(1) of the Act (as modified by the 2011 order).

The power to issue extended section 124 notices is the only power in the 2011 order that is still in use. New extended section 124 notices will not be able to be issued after the 2011 order expires on 16 September 2013, but notices that are continued by this order will continue in full force and effect.

The order is reasonably necessary or expedient for the purposes stated in section 3(a) to (g) of the Canterbury Earthquake Recovery Act 2011. The continuation of the extended section 124 notices will assist the relevant councils to respond to the impacts of the Canterbury earthquakes by ensuring that the users of the buildings that are subject to extended section 124 notices continue to be protected from health and safety risks following the Canterbury earthquakes. Affected building owners have access to the determination process under the Act under which the chief executive of the Ministry of Business, Innovation, and Employment may confirm, reverse, or modify the relevant council's decision in respect of an extended section 124 notice.

This order is made under the Canterbury Earthquake Recovery Act 2011 and its effect is temporary.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 16 September 2013.

Reprints notes

1 *General*

This is a reprint of the Canterbury Earthquake (Building Act) Order 2013 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*

Canterbury Earthquake (Building Act) Order 2013 (SR 2013/390): clause 3