



Canterbury Earthquake (Earthquake Commission Act) Order 2012

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 2nd day of April 2012

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.

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Order

- 1 Title**

This order is the Canterbury Earthquake (Earthquake Commission Act) Order 2012.
- 2 Commencement**

This order is deemed to have come into force on 4 September 2011.
- 3 Expiry**

This order expires on the expiry of the Canterbury Earthquake Recovery Act 2011.
- 4 Interpretation**
 - (1) In this order, unless the context otherwise requires,—

Act means the Earthquake Commission Act 1993

Commission means the Earthquake Commission constituted under the Act.
 - (2) A term used but not defined in this order that is defined in the Act or the Canterbury Earthquake Recovery Act 2011 has the meaning given by the relevant Act.
- 5 Purposes of order**

This order is made for the purposes stated in section 3(d) and (f) of the Canterbury Earthquake Recovery Act 2011.

6 Exemption from 1-year time limit in Act if settling claims by reinstatement

- (1) This clause applies if the Commission decides to settle by reinstatement a claim relating to a residential building or residential land affected by the Canterbury earthquakes.
- (2) The Commission is exempted from section 29(4) of the Act to the extent that the provision requires that any payments or expenditure for which the Commission may be liable under section 29 of the Act must be made not later than 1 year after the amount of the damage has been duly determined.
- (3) To avoid doubt, this clause does not exempt the Commission from the requirements that—
 - (a) the Commission must determine the amount of the damage as soon as reasonably practicable; and
 - (b) the Commission must make any payments or expenditure for which the Commission may be liable under section 29 of the Act as soon as reasonably practicable.

7 Modification to Act to allow Commission to invoice claimants to recover excesses if settling claims by reinstatement

- (1) If the Commission decides to settle by reinstatement a claim relating to a residential building or residential land affected by the Canterbury earthquakes, the Commission may—
 - (a) enter into an agreement with the claimant relating to the payment (or deduction) of the amount of any excess due to the Commission as a condition of the insurance provided by the Commission; or
 - (b) demand payment from the claimant of the amount of that excess by issuing an invoice.
- (2) If payment has been demanded under subclause (1)(b), the amount of the excess is recoverable as a debt due to the Commission in any court.
- (3) For the purpose of this order, **excess** is the amount determined in accordance with regulation 4 of the Earthquake Commission Regulations 1993.

8 Order does not limit Commission's discretion as to settlement of claims

This order does not limit the Commission's discretion under the Act to settle any claim by payment, replacement, or reinstatement.

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 supports the Earthquake Commission's policy, in some cases, of reinstating residential buildings or residential land affected by the Canterbury earthquakes rather than making payments. This policy contributes to the managed rebuilding of communities affected by the Canterbury earthquakes.

The order—

- exempts the Earthquake Commission from the 1-year settlement deadline in section 29(4) of the Earthquake Commission Act 1993 (while retaining the requirement that the claims be settled as soon as reasonably practicable). The 1-year deadline is not reasonably capable of being complied with, or complied with fully, owing to the circumstances resulting from the Canterbury earthquakes:
- authorises the Commission to enter into agreements with, or invoice, claimants to recover excesses due to the Commission (for the purpose of ensuring the co-ordinated repair and rebuilding of residential buildings and residential land affected by the Canterbury earthquakes, and to ensure that the quality of the housing stock in greater Christchurch is maintained).

This order is made under the Canterbury Earthquake Recovery Act 2011 (the **Act**) and its effect is temporary. It is deemed to have come into force on 4 September 2011 and expires on the expiry of the Act.

This order is made for the following purposes in accordance with the Act:

- to facilitate the rebuilding and recovery of communities affected by the Canterbury earthquakes, including the repair and rebuilding of property:
- to enable a focused, timely, and expedited recovery of greater Christchurch:
- to enable the relaxation or suspension of provisions in the Earthquake Commission Act 1993 that—
 - may divert resources away from the effort to efficiently respond to the damage caused by the Canterbury earthquakes; or
 - may not be reasonably capable of being complied with, or complied with fully, owing to the circumstances resulting from the Canterbury earthquakes.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 5 April 2012.

This order is administered by the Treasury.
