

Reprint  
as at 1 April 2018



## Hurunui/Kaikōura Earthquakes Emergency Relief Act 2016

Public Act 2016 No 97  
Date of assent 5 December 2016  
Commencement see section 2

Hurunui/Kaikōura Earthquakes Emergency Relief Act 2016: repealed, on 1 April 2018, by section 25.

### Contents

	Page
1 Title	2
2 Commencement	2
<b>Part 1</b>	
<b>Preliminary provisions</b>	
3 Interpretation	3
4 Act binds the Crown	3
<b>Part 2</b>	
<b>Modifications to application of RMA</b>	
Subpart 1—Modification of emergency powers	
5 Modified requirements for exercise of emergency powers under section 330 of RMA	4
6 Modified application of section 330(2) of RMA to local authority	4
7 Modified requirements for exercise of emergency powers to which section 330B of RMA applies	4

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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 Act is administered by the Ministry for the Environment.**

8	Limitation on application of subpart	5
	Subpart 2—Emergency activities undertaken by certain rural landowners and occupiers	
	<i>[Repealed]</i>	
9	Application of this subpart <i>[Repealed]</i>	5
10	Owner or occupier of rural land may take emergency preventive or remedial actions <i>[Repealed]</i>	5
11	Requirement for owner or occupier to give notice <i>[Repealed]</i>	5
12	Duty to gather information, monitor, and keep records <i>[Repealed]</i>	5
13	Enforcement proceedings <i>[Repealed]</i>	5
14	Repeal of subpart and its effect <i>[Repealed]</i>	5
	Subpart 3—Rehabilitation of Kaikōura harbour	
15	Interpretation	6
16	Meaning of rehabilitation work	6
17	Deeming of certain rehabilitation work to be controlled activity	7
18	Application of emergency powers to deemed controlled activity	7
19	Process for consent authority considering resource consent application for deemed controlled activity	8
20	Application of RMA to resource consent application for deemed controlled activity	9
21	Summary of responses	9
22	Enforcement proceedings	10
	<b>Part 3</b>	
	<b>Miscellaneous provisions</b>	
23	Order in Council may specify additional local authorities	10
24	Application of Legislation Act 2012	10
25	Repeal of this Act	10

**The Parliament of New Zealand enacts as follows:**

- 1 Title**  
This Act is the Hurunui/Kaikōura Earthquakes Emergency Relief Act 2016.
- 2 Commencement**  
This Act is deemed to have come into force on 14 November 2016.

## Part 1 Preliminary provisions

### 3 Interpretation

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

**earthquake-affected area** means, to the extent that they are affected (whether directly or indirectly) by the Hurunui/Kaikōura earthquakes,—

- (a) the districts and regions of the local authorities; and
- (b) the parts of the coastal marine area that are part of, or adjacent to, the districts and regions of the local authorities

**Hurunui/Kaikōura earthquakes** or **earthquakes**—

- (a) means the earthquakes that occurred on 14 November 2016 in Hurunui and Kaikōura; and
- (b) includes any earthquake that occurs in, or significantly affects, the earthquake-affected area on or after 14 November 2016

**local authority**, for the purposes of subpart 1 of Part 2, means—

- (a) the Hurunui District Council, the Kaikōura District Council, the Marlborough District Council, the Wellington City Council, the Hutt City Council, the Canterbury Regional Council, and the Wellington Regional Council; and
- (b) a local authority specified for the purposes of this definition in an Order in Council made under section 23

**Minister** means the Minister of the Crown who, with the authority of the Prime Minister, is responsible for the administration of this Act

**plan**—

- (a) has the meaning given in section 2 of the RMA; and
- (b) includes a proposed plan

**RMA** means the Resource Management Act 1991.

- (2) A term defined in the RMA that is used, but not defined, in this Act has the same meaning as in the RMA.
- (3) An example used in this Act is only illustrative of the provision to which it relates. It does not limit the provision.
- (4) If an example and a provision to which it relates are inconsistent, the provision prevails.

### 4 Act binds the Crown

This Act binds the Crown.

## Part 2

### Modifications to application of RMA

#### Subpart 1—Modification of emergency powers

##### **5 Modified requirements for exercise of emergency powers under section 330 of RMA**

- (1) This section applies if, because of or in connection with the Hurunui/Kaikōura earthquakes, a person, local authority, consent authority, network utility operator, or lifeline utility (or a person acting on their behalf) undertakes an activity in the earthquake-affected area under section 330 of the RMA.
- (2) The time within which advice of the activity must be given under section 330A(1) is extended to 60 working days.
- (3) The time within which any application for a resource consent must be lodged under section 330A(2) is extended to 120 working days.
- (4) Section 330A(3) applies subject to the time periods as modified by subsections (2) and (3).

##### **6 Modified application of section 330(2) of RMA to local authority**

- (1) This section applies if, because of or in connection with the Hurunui/Kaikōura earthquakes, a local authority or consent authority acting under section 330(2) of the RMA enters a place on land within the earthquake-affected area when the occupier is not there.
- (2) Section 330(3) is satisfied, and the local authority or consent authority is not required to take further action to contact the occupier, if—
  - (a) there is displayed in a prominent place on the land a notice that gives the date and purpose of entry and the contact details of a person who can provide further information; and
  - (b) as soon as practicable after entering the land, the local authority or consent authority serves written notice (containing the same information as in paragraph (a)) on the person who is the ratepayer for the land for the purposes of the Local Government (Rating) Act 2002.

##### **7 Modified requirements for exercise of emergency powers to which section 330B of RMA applies**

- (1) This section applies if, because of or in connection with the Hurunui/Kaikōura earthquakes, a person (or a person acting on their behalf) undertakes an activity to which section 330B of the RMA applies in that part of the earthquake-affected area to which a state of emergency or transition period under the Civil Defence Emergency Management Act 2002 applies.
- (2) The time within which advice of the activity must be given under section 330B(2) is extended to 60 working days.

- (3) The time within which any application for a resource consent must be lodged under section 330B(3) is extended to 120 working days.
- (4) Section 330B(4) and (5) applies subject to the time periods as modified by subsections (2) and (3).

## **8 Limitation on application of subpart**

This subpart applies subject to the limitation set out in section 18 (which relates to the use of emergency powers for certain activities in respect of the rehabilitation of Kaikōura harbour).

### **Subpart 2—Emergency activities undertaken by certain rural landowners and occupiers**

*[Repealed]*

Subpart 2: repealed, on 31 July 2017, by section 14(1).

## **9 Application of this subpart**

*[Repealed]*

Section 9: repealed, on 31 July 2017, by section 14(1).

## **10 Owner or occupier of rural land may take emergency preventive or remedial actions**

*[Repealed]*

Section 10: repealed, on 31 July 2017, by section 14(1).

## **11 Requirement for owner or occupier to give notice**

*[Repealed]*

Section 11: repealed, on 31 July 2017, by section 14(1).

## **12 Duty to gather information, monitor, and keep records**

*[Repealed]*

Section 12: repealed, on 31 July 2017, by section 14(1).

## **13 Enforcement proceedings**

*[Repealed]*

Section 13: repealed, on 31 July 2017, by section 14(1).

## **14 Repeal of subpart and its effect**

*[Repealed]*

Section 14: repealed, on 31 July 2017, by section 14(1).

### Subpart 3—Rehabilitation of Kaikōura harbour

#### 15 Interpretation

In this subpart, unless the context otherwise requires,—

**consent authority** means the Kaikoura District Council or the Canterbury Regional Council (or both)

**deemed controlled activity** means an activity to which section 17 applies

**Kaikōura harbour** or **harbour** means—

- (a) the area of the sea (and adjacent foreshore) on the northern side of the Kaikōura Peninsula that falls more or less within the arc of a circle that has a radius of 0.6 nautical miles centred on the Ingles Bay wharf front lead light; and
- (b) the area of the sea (and adjacent foreshore) on the southern side of the Kaikōura Peninsula that falls more or less within the arc of a circle that has a radius of 0.6 nautical miles centred on the South Bay Boat Harbour green flashing aid to navigation

**rehabilitation work** has the meaning given in section 16.

#### 16 Meaning of rehabilitation work

- (1) In this subpart, **rehabilitation work** means an activity described in subsection (2) if, because of or in connection with the Hurunui/Kaikōura earthquakes, it is necessary or desirable to undertake the activity so that the Kaikōura harbour and its facilities are able to be used fully, effectively, and safely.
- (2) The activities are as follows:
  - (a) disturbing the foreshore or seabed within the harbour, including by dredging, excavating, drilling, tunnelling, or blasting;
  - (b) removing foreshore or seabed from the harbour and dumping it in, on, or under—
    - (i) foreshore within the Kaikōura district;
    - (ii) land within the Kaikōura district;
  - (c) erecting, reconstructing, repairing, altering, extending, removing, or demolishing a structure within the harbour;
  - (d) using or storing machinery or hazardous material within the harbour or in, on, or under other areas of—
    - (i) foreshore within the Kaikōura district;
    - (ii) seabed within the Kaikōura district;
    - (iii) land within the Kaikōura district;
  - (e) an activity associated with an activity described in any of paragraphs (a) to (d), including—

- (i) the discharge of any thing associated with disturbing the foreshore or seabed; and
  - (ii) the discharge of any thing associated with moving foreshore or seabed material and depositing it elsewhere.
- (3) In this section, **Kaikōura district** means the district of the Kaikoura District Council and the coastal marine area adjacent to that area.

### **17 Deeming of certain rehabilitation work to be controlled activity**

- (1) This section applies to rehabilitation work that has any status other than that of a permitted activity under any of the following:
  - (a) the district plan of the Kaikoura District Council;
  - (b) a regional plan of the Canterbury Regional Council.
- (2) If the work is undertaken by or on behalf of an authorised person, the work is deemed—
  - (a) to be a controlled activity; and
  - (b) to satisfy the requirements of section 107(2)(a) to (c) of the RMA.
- (3) Despite sections 87A(2)(b) and 104A(b) of the RMA, a consent authority may impose on a resource consent granted for an activity to which subsection (2) applies any conditions under section 108 of the RMA that it considers appropriate for the purposes of managing or monitoring the environmental effects of the activity.
- (4) In this section, **authorised person** means any of the following:
  - (a) the Kaikoura District Council;
  - (b) the Canterbury Regional Council;
  - (c) a person authorised by the Kaikoura District Council or the Canterbury Regional Council (or both).

### **18 Application of emergency powers to deemed controlled activity**

The modifications to the RMA set out in subpart 1 do not apply in respect of a deemed controlled activity undertaken by or on behalf of the Kaikoura District Council or the Canterbury Regional Council unless the council concerned,—

- (a) before the activity is undertaken, considers the environmental effects of the activity (including the effects on fish, marine mammals, and seabirds) and how the effects may be avoided, remedied, or mitigated; and
- (b) while the activity is being undertaken,—
  - (i) monitors the environmental effects of the activity (including the effects on fish, marine mammals, and seabirds); and
  - (ii) avoids, remedies, or mitigates those effects as far as is practicable.

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**Example**

A person authorised by the Canterbury Regional Council (**A**) needs to dump seabed material that has been dredged from the Kaikōura harbour.

When choosing the area of foreshore or land on which to dump the material, the Council must consider various things, including the sensitivity of the site (for example, whether it is a culturally significant site), the mechanics of dumping at that site (for example, whether at that site the spoil could be unstable or enter any waterway or water body) and whether the material is being dumped in the location on a temporary or permanent basis.

While A is dumping the spoil, the Council must monitor, among other things, how it is affecting the site (for example, how much fine material is moving into the surrounding area) and take steps to minimise that effect.

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**19 Process for consent authority considering resource consent application for deemed controlled activity**

- (1) As soon as practicable after an application for a deemed controlled activity is lodged with a consent authority, the consent authority—
  - (a) must advise the persons specified in subsection (2) that an application has been lodged; and
  - (b) must invite written comments from those persons; and
  - (c) may, if the consent authority considers it appropriate, hold a meeting to allow those persons to orally present their comments.
- (2) The persons are—
  - (a) Te Rūnanga o Ngāi Tahu and any relevant Papatipu Rūnanga identified by Te Rūnanga o Ngāi Tahu; and
  - (b) the Kaikoura District Council; and
  - (c) Te Korowai o Te Tai o Marokura, Kaikoura Coastal Marine Guardians Incorporated; and
  - (d) Maritime New Zealand; and
  - (e) the Minister of Conservation; and
  - (f) the Minister for the Environment; and
  - (g) the Minister of Defence; and
  - (h) the Minister for Primary Industries; and
  - (i) the Canterbury Regional Harbourmaster; and
  - (j) the Canterbury Regional Council; and
  - (k) the owners and occupiers of land directly adjacent to where the activity is being undertaken; and
  - (l) any other person as the consent authority considers appropriate, including the public generally.
- (3) For the purposes of subsection (1), the consent authority must—



- (a) invite each person referred to in subsection (2) to make written comments on the application; and
  - (b) give those persons 10 working days from the making of an invitation within which to make their comments to the consent authority; and
  - (c) specify in the invitation the date by which written comments are to be received by the consent authority; and
  - (d) if applicable, specify the date on which the consent authority will hold a meeting to hear the comments.
- (4) An invitation under this section is to be treated as a document to be served for the purposes of the RMA, and section 352 of that Act applies accordingly.
- (5) A person invited to make written comments under this section on an application—
- (a) may not appeal under the RMA against the consent authority's decision on the application; and
  - (b) may not object under Part 14 of the RMA against the consent authority's decision on the application.
- (6) To avoid doubt, a person who makes written comments to a consent authority under this section is not to be treated under the RMA as a person making a submission on the application.

## **20 Application of RMA to resource consent application for deemed controlled activity**

For the purposes of this subpart,—

- (a) an application for a deemed controlled activity must not be publicly notified or given limited notification; and
- (b) section 19 applies to the application instead of sections 95 to 99A of the RMA; but
- (c) otherwise the application must be determined in accordance with Part 6 of the RMA (applied with all necessary modifications) except that—
  - (i) the consent authority need not have regard to the matters in section 104(1)(b) of the RMA when considering the application; and
  - (ii) for the purposes of section 115 of the RMA, the period during which comments are sought under section 19 of this Act is excluded from the time limits in section 115.

## **21 Summary of responses**

- (1) Before a consent authority makes a decision on an application for a deemed controlled activity, the consent authority must—
- (a) consider the comments made on the application under section 19; and

- (b) prepare a summary of the comments (both written and oral, if applicable).
- (2) The summary, together with the consent authority's response to the issues raised in the comments, must be made publicly available on an Internet site at the same time as, or before, the decision on the application is notified under the RMA.

## **22 Enforcement proceedings**

For the purposes of activities undertaken in reliance on this subpart, only a consent authority or a Minister of the Crown may take enforcement proceedings (including declaratory proceedings) under Part 12 of the RMA, including in any case where it is alleged that a consent holder has breached section 16 or 17 of the RMA.

## **Part 3 Miscellaneous provisions**

### **23 Order in Council may specify additional local authorities**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, specify 1 or more additional local authorities for the purposes of the definition of local authority in section 3(1) or the application provision in section 9(1) (or both).
- (2) The Minister may make a recommendation only if he or she is satisfied that—
  - (a) an earthquake has occurred in, or significantly affected, the earthquake-affected area after this Act is enacted; and
  - (b) the district or region, or any part of the district or region, of the local authority is affected by the earthquake to the extent that it is necessary or desirable to apply the measures available under this Act to that area.

### **24 Application of Legislation Act 2012**

- (1) An Order in Council made under section 23 is a disallowable instrument for the purposes of the Legislation Act 2012.
- (2) An Order in Council made under section 23 is also a legislative instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

### **25 Repeal of this Act**

This Act is repealed on 1 April 2018, with the exception set out in section 14.

## **Reprints notes**

### **1    *General***

This is a reprint of the Hurunui/Kaikōura Earthquakes Emergency Relief Act 2016 that incorporates all the amendments to that Act 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***

Hurunui/Kaikōura Earthquakes Emergency Relief Act 2016 (2016 No 97): sections 14(1), 25