



Christ Church Cathedral Reinstatement Act 2017

Public Act 2017 No 52
Date of assent 21 December 2017
Commencement see section 2

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Christ Church Cathedral Reinstatement Act 2017.

2 Commencement

This Act comes into force on the day after the date of Royal assent.

Part 1

Preliminary provisions

3 Background to this Act

- (1) This Act fulfils part of the Government's offer to support the reinstatement of the Cathedral.
- (2) The proposed reinstatement is the culmination of a long period of facilitation, negotiation, and investigations, and is intrinsically linked to 2 key reports facilitated by the Government, including the CWG Report.

4 Purpose

- (1) The purpose of this Act is to facilitate reinstatement of the Cathedral, recognising its contribution to cultural, social, and economic wellbeing in Christchurch, its importance to Christchurch's regeneration, and its heritage value.
- (2) The purpose of this Act includes, in particular, any 1 or more of the following:
 - (a) to facilitate reinstatement in an expedited manner compared with processes and requirements outside this Act:
 - (b) to provide a cost-effective process for reinstatement compared with processes outside this Act:
 - (c) to achieve earlier or greater certainty for the owner of the Cathedral and the Christchurch community generally as to the reinstatement of the Cathedral than would be likely under processes and requirements outside this Act.

5 Interpretation

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

Cathedral—

- (a) means Christ Church Cathedral in Cathedral Square in Christchurch; and
- (b) includes all ancillary structures and improvements that are existing or new and that are proximate to, or directly associated with, the Cathedral

Cathedral area—

- (a) means the land that is legally described as Lot 1 DP 39475, Lot 2 DP 39475, Part Reserve 1 (shown as Lot 1 on SO 6659), and Section 1193 Town of Christchurch; and
- (b) includes any adjacent land vested in Christchurch City Council as road; and
- (c) is shown by the different shaded areas inside the red dotted line on the map set out in Schedule 3, which is indicative only of the land described in paragraphs (a) and (b)

CWG Report means the Cathedral Working Group Recommendation Report dated November 2016, including its appendices

enactment has the same meaning as in section 29 of the Interpretation Act 1999, and also includes any plan, programme, bylaw, or rule made under any Act or regulations

Minister means the Minister of the Crown who, under the authority of a warrant or with the authority of the Prime Minister, is responsible for the administration of this Act

order means an Order in Council made under section 8

Panel means the Christ Church Cathedral Reinstatement Review Panel established under section 13

reinstatement includes 1 or more of the following:

- (a) any activity in relation to any part of the Cathedral that the CWG Report contemplates as being a reinstatement activity:
 - (b) seismic strengthening of any part of the Cathedral:
 - (c) demolition or deconstruction of any part of the Cathedral:
 - (d) construction, reconstruction, or restoration of any part of the Cathedral:
 - (e) improvement or enhancement of any part of the Cathedral or the design of any part of the Cathedral:
 - (f) repair of any part or materials of the Cathedral:
 - (g) reuse of any materials of the Cathedral:
 - (h) use of any new materials:
 - (i) any activity that is ancillary to any activity described in paragraphs (b) to (h).
- (2) An activity in relation to any part of the Cathedral does not cease to be reinstatement for the purpose of this Act merely because the activity is neither full reinstatement nor reinstatement to the original condition or state.

6 Transitional, savings, and related provisions

The transitional, savings, and related provisions (if any) set out in Schedule 1 have effect according to their terms.

7 Act binds the Crown

This Act binds the Crown.

Part 2

Orders in Council

8 Governor-General may make Orders in Council

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, grant exemptions from, modify, or extend an enactment, or any provisions of an enactment, referred to in Schedule 2 in connection with the whole or a part of the Cathedral area.
- (2) An exemption from, modification of, or extension of an enactment or a provision—
 - (a) may be absolute, or subject to terms or conditions; and
 - (b) may be made by—
 - (i) stating alternative means of complying with the enactment or provision; or
 - (ii) substituting a discretionary power for the provision.
- (3) Subsection (2) does not limit subsection (1).
- (4) To avoid doubt, the power to make an Order in Council under this section includes the power to amend any Order in Council in force under this section.
- (5) In this Act, **modify**,—
 - (a) in relation to an enactment, includes to add provisions:
 - (b) in relation to an enactment, includes to grant any statutory authorisation or other permission or right under that enactment:
 - (c) in relation to a provision, includes to replace, disapply, or suspend the provision:
 - (d) includes to limit or exclude the jurisdiction of a court under an enactment.

Compare: 2016 No 102 s 7

Key restrictions on orders

9 Minister may recommend order only for purpose of Act, etc

- (1) The Minister must not recommend the making of an order unless—
 - (a) the Minister is satisfied that—
 - (i) the order is necessary or desirable for the purpose of this Act; and
 - (ii) the order does not breach section 12; and
 - (b) a draft of the order has been reviewed by the Panel; and
 - (c) a draft of the order has been provided to—
 - (i) the Committee of the House of Representatives that is responsible for the review of disallowable instruments; or

- (ii) if the House of Representatives is adjourned, each leader of a political party represented in Parliament (unless a leader cannot be contacted after reasonable efforts have been made); and
 - (d) the Minister has had regard to—
 - (i) the Panel’s recommendations on the draft order; and
 - (ii) the comments on the draft order (if any) that are provided by the Committee or a leader referred to in paragraph (c) and that are provided within 15 working days after the date on which the draft order is first provided under paragraph (c) or any longer time allowed by the Minister; and
 - (e) the Minister has consulted the Minister of the Crown who, with the authority of the Prime Minister, is for the time being responsible for the administration of any Act that is subject to the draft order; and
 - (f) the engagement process under section 10 has been complied with.
- (2) The draft order provided to the Panel and under subsection (1)(c) must be accompanied by a draft of the Minister’s reasons for a recommendation under subsection (1) (including why the draft order is appropriate).
- (3) Where a draft of the order has been subject to the process under subsection (1)(b), (c), (d), (e), or (f), that paragraph applies to a subsequent draft of the order only if the Minister considers that, given the differences between the drafts, it would be appropriate to repeat the process.
- (4) Only the joint venture or entity that is managing the reinstatement of the Cathedral, or the Panel, may propose to the Minister that he or she recommend the making of an Order in Council under this Act.

Compare: 2016 No 102 s 8

10 Engagement about proposal

- (1) For the purposes of section 9(1)(f), the Minister must—
- (a) make available a document referred to in subsection (2) to—
 - (i) the relevant local authorities and the persons or representatives of persons that the Minister considers appropriate given the proposed effect of the order; or
 - (ii) the public generally; and
 - (b) invite those persons to make written comments about the document; and
 - (c) give those persons 15 working days from the making of the invitation within which to make their comments to the Minister or any longer time allowed by the Minister; and
 - (d) have regard to those comments that are received within the 15-working-day period or within the longer time allowed by the Minister.
- (2) The document must include—

- (a) an explanation of what the proposal is intended to achieve; and
 - (b) a description of the proposed effect of the order; and
 - (c) an explanation of why the Minister considers that the order is necessary or desirable for the purpose of this Act.
- (3) Subsection (1) and section 9(1)(f) do not apply, or do not apply to a person or class of persons, if the Minister is satisfied that—
- (a) engagement is impracticable in the circumstances; or
 - (b) the urgency of the situation requires that the order be made as soon as practicable without that engagement.
- (4) If subsection (3) is relied on, the Minister’s reasons for relying on that subsection must be published together with the order.

Compare: 2016 No 102 s 9

11 Reasons for order must be published

If the Minister makes a recommendation under section 8, the Minister’s reasons for making the recommendation (including why the order is appropriate) must be published together with the order.

Compare: 2016 No 102 s 10

12 Further restrictions on orders

- (1) Despite anything else in this Act, an order must not—
- (a) grant an exemption from or modify a requirement to—
 - (i) release a person from custody or detention; or
 - (ii) have any person’s detention reviewed by a court, Judge, or Registrar; or
 - (b) grant an exemption from or modify a restriction on keeping a person in custody or detention; or
 - (c) grant an exemption from or modify a requirement or restriction imposed by the Bill of Rights 1688, the Constitution Act 1986, the Electoral Act 1993, the Judicial Review Procedure Act 2016, the New Zealand Bill of Rights Act 1990, or the Parliamentary Privilege Act 2014; or
 - (d) contain any provision that has the effect of amending a provision of this Act.
- (2) Subsection (1)(d) does not limit section 19.

Compare: 2016 No 102 s 11

*Christ Church Cathedral Reinstatement Review Panel***13 Christ Church Cathedral Reinstatement Review Panel**

- (1) The Minister must appoint a Christ Church Cathedral Reinstatement Review Panel of up to 6 persons who have appropriate knowledge, skills, and experience to assist the Panel to perform its functions.
- (2) One of the members must be a former or retired Judge of the High Court (and that member will be the convener).
- (3) In appointing a person as a member, the Minister must consider whether the person has knowledge, skills, or experience relating to 1 or more of the following:
 - (a) law, public administration, or local government:
 - (b) mātauranga Māori (Māori traditional knowledge) and tikanga Māori (Māori protocol and culture):
 - (c) matters relevant to reinstatement of the Cathedral.
- (4) A member of the Panel must be appointed by notice of appointment in writing that—
 - (a) states the date on which the appointment takes effect; and
 - (b) states the term of the appointment.
- (5) If, for any reason, the convener is unable or unwilling to act in relation to a matter or class of matters,—
 - (a) the convener may designate any other member of the Panel to act in the convener's place; or
 - (b) if the convener is unable or unwilling to act under paragraph (a), the Minister may designate any other member of the Panel to act in the convener's place.
- (6) If a person (A) is designated to act in the convener's place under subsection (5) in relation to a matter or class of matters, references in this section and sections 14 and 15 to the convener must, in relation to the matter or matters, be treated as references to A.
- (7) An appointed member vacates office if he or she—
 - (a) is removed by written notice given by the Minister; or
 - (b) resigns by written notice given to the Minister.
- (8) The department that is, with the authority of the Prime Minister, for the time being responsible for the administration of this Act must provide administrative support for the Panel.

Compare: 2016 No 102 s 12

14 Panel may act by division

- (1) The convener may determine that the Panel may act in separate divisions of the Panel in relation to any matter or class of matters.
- (2) A division must consist of—
 - (a) the convener; and
 - (b) at least 3 other members of the Panel selected by the convener.
- (3) Subsection (2) is subject to section 13(5) and (6).
- (4) For the purposes of acting in relation to any matter or class of matters referred to a division of the Panel, the Panel consists of the division and section 15 applies with any necessary modifications.

Compare: 2016 No 102 s 13

15 Functions of Panel

- (1) The functions of the Panel are—
 - (a) to review draft orders; and
 - (b) to provide advice on request to the Minister in relation to orders that may be required for the purpose of this Act.
- (2) Within 15 working days after the date on which a draft order is received for review, or any longer time allowed by the Minister, the Panel must—
 - (a) review the draft; and
 - (b) give the Panel's recommendations to the Minister.
- (3) A review by the Panel may be conducted in any manner that the convener thinks appropriate, including by telephone or video conference.
- (4) The convener has a casting vote if there are more than 2 members voting and there is an equality of votes.
- (5) The Minister must ensure that the Panel's recommendations on a draft order are publicly available on an Internet site.
- (6) The Panel's recommendations must include the Panel's reasons for making the recommendations.
- (7) The Minister must, as soon as practicable after receiving the Panel's recommendations on a draft order, present a copy of the recommendations to the House of Representatives.

Compare: 2016 No 102 s 14

*Further provisions about orders***16 Orders revoked after 15 years**

Every order is revoked on the close of the period of 15 years beginning with the date of the commencement of this Act (unless sooner revoked).

Compare: 2016 No 102 s 15

17 Validity of orders

- (1) An order may not be held invalid just because—
 - (a) it is, or authorises any act or omission that is, inconsistent with any enactment referred to in Schedule 2; or
 - (b) it confers any discretion on, or allows any matter to be determined or approved by, any person.
- (2) So far as it is authorised by this Act, an order has the force of law as if it were enacted as a provision of this Act.
- (3) This section is subject to section 12.

Compare: 2016 No 102 s 16

18 Actions taken before determination of invalidity

- (1) This section applies if a court determines, on an application for review, that—
 - (a) the whole or part of an order under section 8 is not authorised by this Act; or
 - (b) the whole or part of a recommendation or decision under this Act is invalid.
- (2) Any action taken under, or in reliance on, the order, recommendation, or decision before the determination is made must be treated as valid and effective to the extent that it would have been had the order, recommendation, or decision been authorised or otherwise valid when it was made.
- (3) However, if the court considers that it is just to do so, the court may order that subsection (2) does not apply (whether generally or in particular circumstances).

Compare: 2016 No 102 s 17

*Other orders***19 Order in Council may specify additional Acts**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, specify 1 or more Acts for the purposes of Schedule 2.
- (2) The Minister may make a recommendation for an Order in Council under subsection (1) only if—
 - (a) the Minister is satisfied that—
 - (i) the order is necessary or desirable for the purpose of this Act; and
 - (ii) the order does not breach section 12(1)(a) to (c); and
 - (b) a draft of the order has been provided to each leader of a political party represented in Parliament; and
 - (c) the Minister is satisfied that there is unanimous or near unanimous support for the order from those leaders.

- (3) The draft order provided under subsection (2)(b) must be accompanied by a draft of the Minister's reasons for a recommendation under subsection (2) (including why the draft order is appropriate).
- (4) Where a draft of the order has been subject to the process under subsection (2)(b) or (c), that paragraph applies to a subsequent draft of the order only if the Minister considers that, given the differences between the drafts, it would be appropriate to repeat the process.

Compare: 2016 No 102 s 18

20 Order to add Acts revoked if not approved by House

- (1) An Order in Council under section 19 is revoked on the expiry of the relevant period (unless it is earlier revoked) if no motion to approve the order is agreed to by the House of Representatives within that period.
- (2) The **relevant period** is the longer of the following:
 - (a) the period of 10 sitting days of the House of Representatives after the date on which the order is made:
 - (b) the period of 28 days after the date on which notice that the order has been made is given in the *Gazette*.
- (3) An order under section 8 that relates to an Act specified by an Order in Council under section 19 that is revoked under subsection (1) is also revoked at the same time.

Compare: 2016 No 102 s 19

21 Reasons for order must be published

If the Minister makes a recommendation under section 19, the Minister's reasons for making the recommendation (including why the Order in Council is appropriate) must be published together with the order.

Compare: 2016 No 102 s 20

Application of Legislation Act 2012

22 Application of Legislation Act 2012

- (1) Despite section 17(2), an Order in Council made under this Act is a disallowable instrument for the purposes of the Legislation Act 2012.
- (2) An Order in Council made under this Act 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.

Compare: 2016 No 102 s 21

Time restriction on judicial review

23 Restriction on judicial review of Orders in Council and related matters

- (1) This section applies to—

- (a) recommendations of the Minister that an Order in Council be made under section 8 or 19 and the related decisions of the Minister;
 - (b) Orders in Council made under section 8 or 19.
- (2) An application for review under the Judicial Review Procedure Act 2016 (or any proceeding required by that Act to be treated and disposed of as if it were an application for judicial review) that relates to any recommendation, decision, or order to which this section applies must be made to the High Court—
- (a) not later than 28 days after the date of the publication of the Minister's reasons for recommending that the relevant order be made; or
 - (b) within any further time allowed by the High Court on application made before the expiry of that 28-day period.

Report on operation of Act

24 Report on operation of Act

- (1) The Minister must, at least once every 12 months, present to the House of Representatives a report relating to the operation of this Act since the last report was presented (or, in the case of the first report, since the commencement of this Act).
- (2) The report must, for the period covered by the report, include—
 - (a) a list of the Orders in Council made under this Act during the period; and
 - (b) a brief description of those orders.

Compare: 2016 No 102 s 22

Cathedral land

25 Restrictions and conditions relating to Cathedral land cancelled

- (1) The following restrictions and conditions that apply to the Cathedral land, as noted on the record of title CB18K/1392, are cancelled:
 - (a) a restriction imposed under the Cathedral Square Ordinance 1872 on the erection of buildings on part of the land formally held in Certificate of Title 405/151 while holding some land as a site for the erection of the Cathedral;
 - (b) a restriction imposed under section 8 of the Mining Act 1971;
 - (c) a restriction imposed under section 168A of the Coal Mines Amendment Act 1950;
 - (d) conditions imposed by Resolution 571660 of the Christchurch City Council, which relates to an application to construct a basement.
- (2) The Registrar-General of Land is directed to do anything necessary to give effect to subsection (1).

*Repeal***26 Repeal of this Act**

This Act is repealed on the close of the period of 15 years beginning with the date of the commencement of this Act.

Schedule 1
Transitional, savings, and related provisions

s 6

Part 1
Provisions relating to this Act as enacted

There are no transitional, savings, or related provisions relating to this Act as enacted.

Schedule 2

Enactments referred to in section 7

s 8

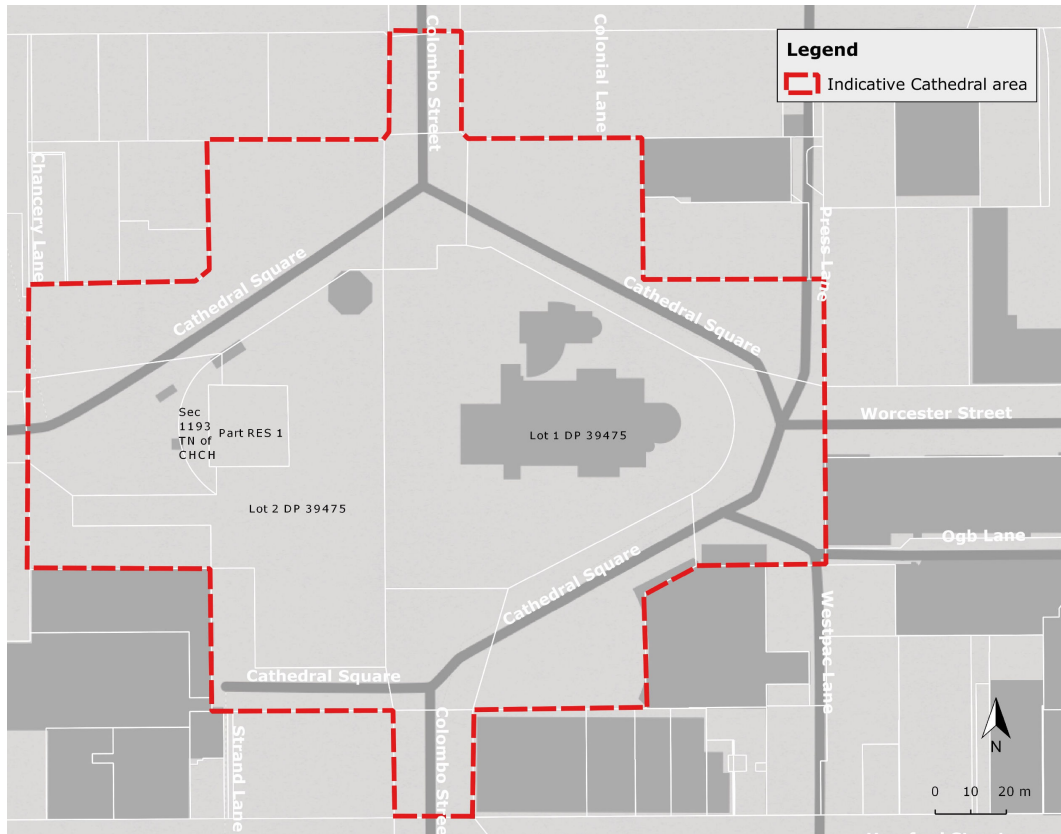
The enactments referred to in section 8 are—

- (a) the Building Act 2004:
- (b) the Heritage New Zealand Pouhere Taonga Act 2014:
- (c) the Land Transfer Act 2017:
- (d) the Local Government Act 1974:
- (e) the Local Government Act 2002:
- (f) the Public Works Act 1981:
- (g) the Reserves Act 1977:
- (h) the Resource Management Act 1991:
- (i) an Act that replaces (in whole or in part) an Act referred to in any of paragraphs (a) to (h):
- (j) an Act specified for the purposes of this schedule in an Order in Council made under section 19:
- (k) regulations made under an Act referred to in any of paragraphs (a) to (i) or specified under paragraph (j):
- (l) any plan, programme, bylaw, or rule made under an enactment referred to in any of paragraphs (a) to (k).

Schedule 3

Indicative map of Cathedral area

s 5(1)



Legislative history

4 December 2017	Introduction (Bill 2–1)
5 December 2017	First reading and referral to Environment Committee
18 December 2017	Reported from Environment Committee (Bill 2–2)
19 December 2017	Second reading
20 December 2017	Committee of the whole House, third reading
21 December 2017	Royal assent

This Act is administered by the Department of the Prime Minister and Cabinet.