

**Reprint
as at 2 April 2014**



**Canterbury Earthquake
(Education Legislation) Order
2013**

(SR 2013/44)

Canterbury Earthquake (Education Legislation) Order 2013: revoked, on 2 April 2014, by clause 8 of the Canterbury Earthquake (Education Legislation) Order 2014 (LI 2014/74).

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 25th day of March 2013

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

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 Education.

- (b) on the recommendation of the relevant Minister made 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 (Education Legislation) Order 2013.
- 2 Commencement**
This order comes into force on 2 April 2013.

3 Interpretation

- (1) In this order, unless the context otherwise requires,—
Act means the Education Act 1989
specified area means the districts of the following territorial authorities:
- (a) Christchurch City Council;
 - (b) Selwyn District Council;
 - (c) Waimakariri District Council.
- (2) Any term or expression that is not defined in this order but that is defined in the Education Act 1989 or the Education Act 1964 or the Canterbury Earthquake Recovery Act 2011 has, in this order, the meaning given to it by that Act.
- (3) Any modifications and extensions to the Act or to the Education (Early Childhood Services) Regulations 2008 made by this order do not affect the text of the Act or the regulations but require the Act or the regulations to be read as if the Act or the regulations had been amended in the manner indicated in the order.

4 New section 11AA

While this order is in force, the Act must be read as if the following section were inserted after section 11A of the Act:

“11AA Purpose of special enrolment scheme for school in specified area

The purpose of a special enrolment scheme under section 11CA is to manage risk that may occur as a result of the Canterbury earthquakes to the network of schools and to the education and welfare of students both within and beyond the specified area.”

5 New section 11CA

While this order is in force, the Act must be read as if the following section were inserted after section 11C of the Act:

“11CA Special enrolment scheme

- “(1) The Secretary may, for the purpose set out in section 11AA, approve a special enrolment scheme for a school in the specified area by written notice to the school’s board.

- “(2) A special enrolment scheme approved under subsection (1) may include (without limitation) any 1 or more of the following in relation to the school:
- “(a) a definition of its home zone;
 - “(b) categories or descriptions of students who are to be treated as if they live in the home zone for the purpose of section 11D(1);
 - “(c) a method for selecting applicants who live outside the home zone;
 - “(d) procedures and instructions for the operation of the scheme.
- “(3) The school’s board must comply with any procedures or instructions for the operation of the scheme that are set out in the scheme.
- “(4) A special enrolment scheme approved under subsection (1)—
- “(a) commences on the date specified in the notice; and
 - “(b) overrides, until further notice, any other enrolment scheme that the school has; and
 - “(c) may be amended or revoked by the Secretary, by written notice to the board.
- “(5) Sections 11C, 11E to 11N, and 11PA do not apply to a special enrolment scheme or to a school that has a special enrolment scheme.”

6 New section 65DA

While this order is in force, the Act must be read as if the following section were inserted after section 65D of the Act:

“65DA Minister may vary meaning of half-day immediately

- “(1) The Minister may, by written notice to a school’s board, authorise the board to apply a meaning of half-day that differs from the meaning it has in section 65B(3), if the Minister is satisfied that the varied meaning is appropriate in the circumstances.
- “(2) An authorisation under subsection (1) may be given either unconditionally or subject to any conditions that the Minister considers appropriate.
- “(3) The Minister may, by written notice to a school’s board, require the board to operate the school in accordance with a

meaning of half-day that differs from the meaning it has in section 65B(3), if the Minister is satisfied that the varied meaning and operation are appropriate in the circumstances.

- “(4) A student enrolled at a state school must comply with section 25 even if the meaning of half-day is varied under subsection (1) or (3).
- “(5) Subsection (1) or (3) (as the case may be) overrides the provisions in section 77 of the Education Act 1964 concerning the times at which state primary schools are to be kept open.”

7 New section 78HA

While this order is in force, the Act must be read as if the following section were inserted after section 78H of the Act:

“78HA Further purpose of Part in relation to managing risk resulting from Canterbury earthquakes

A further purpose of this Part is to provide for interventions to manage risk that may occur as a result of the Canterbury earthquakes to the network of schools and to the education and welfare of students both within and beyond the specified area.”

8 New section 78IA

While this order is in force, the Act must be read as if the following section were inserted after section 78I of the Act:

“78IA Further application of interventions to manage risk resulting from Canterbury earthquakes

- “(1) In addition to the reasons for interventions set out in section 78I, the Minister or Secretary (as the case may be) may apply any of the interventions described in section 78I(1)(b) to (e) to a school if he or she has reasonable grounds to believe that the intervention is needed to manage risk that may occur as a result of the Canterbury earthquakes to the network of schools and to the education and welfare of students both within and beyond the specified area.
- “(2) When applying an intervention for the reasons set out in subsection (1), the Minister or Secretary (as the case may be) must apply whichever intervention he or she considers is reasonable to manage the risk without intervening more than necessary in the affairs of the school.

- “(3) The application of an intervention under this section does not preclude the application of any other intervention, either simultaneously or at any other time.”

9 Modification of section 146 of Act

- (1) While this order is in force, section 146 of the Act must be read as if the following subsection were inserted after subsection (1):

“(1A) After consultation with the board of the relevant school and subject to subsection (2), the Minister may, by notice in the *Gazette*, re-establish a school established in the specified area under subsection (1) if the Minister has reasonable grounds to believe that the temporary or permanent relocation of the school would contribute to the efficient, effective, and economic rebuilding of the part of the school network damaged in the Canterbury earthquakes.”

- (2) Section 146(3) and (4) of the Act apply with all necessary modifications if notice is given under section 146(1A) of the Act.

10 Modification of Education (Early Childhood Services) Regulations 2008

While this order is in force, the Secretary may waive the licensing fee for a service required under regulation 25 of the Education (Early Childhood Services) Regulations 2008 if—

- (a) the Secretary is satisfied that the service—
- (i) was closed as a result of damage caused by the Canterbury earthquakes; and
 - (ii) was, immediately before being closed, a licensed service; and
- (b) the service—
- (i) is unable to reopen at the premises where it operated before it was closed owing to damage caused by the Canterbury earthquakes; and
 - (ii) applies for a licence to operate in different premises.

11 Revocation

The Canterbury Earthquake (Education Legislation) Order 2012 (SR 2012/34) is revoked.

12 Revocation of this order

This order is revoked on the close of 1 April 2014.

Michael Webster,
for 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 in Council, which comes into force on 2 April 2013 and remains in force until the close of 1 April 2014 when it is revoked (*see clause 12*), replaces the Canterbury Earthquake (Education Legislation) Order 2012 (the **2012 order**), which expires on 1 April 2013. This order carries over the provisions of the 2012 order except for clauses 5 and 11. Accordingly, the effect of this order is to modify the operation of the Education Act 1989 (the **Act**) by—

- providing for special enrolment schemes for schools in the specified area to manage risk to the school network and students' education and welfare (*see clauses 4 and 5*);
- allowing the meaning of "half-day" to be varied immediately by the Minister, without consultation requirements, and requiring school boards to apply the varied meaning, so as to accommodate necessary variations in the opening and operating hours of schools (*see clause 6*);
- extending the circumstances in which interventions can be made in schools under Part 7A of the Act to include managing risk to the school network and students' education and welfare that may occur as a result of the Canterbury earthquakes (*see clauses 7 and 8*);
- allowing the Minister to re-establish a school if its relocation would contribute to the rebuilding of the part of the school

network damaged in the Canterbury earthquakes (*see clause 9*).

This Order in Council also modifies the Education (Early Childhood Services) Regulations 2008 by allowing the Secretary for Education to waive, in certain circumstances, the licensing fee for a licensed service that was closed by the Canterbury earthquakes (*see clause 10*).

This Order in Council 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*: 28 March 2013.

Reprints notes

1 *General*

This is a reprint of the Canterbury Earthquake (Education Legislation) 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 (Education Legislation) Order 2014 (LI 2014/74):
clause 8
