



Canterbury Earthquake (Education Act) Order 2011

Anand Satyanand, Governor-General

Order in Council

At Wellington this 8th day of March 2011

Present:

His Excellency the Governor-General in Council

Pursuant to section 6 of the Canterbury Earthquake Response and Recovery Act 2010, 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 made in accordance with section 6(2) of that Act.

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Order

- 1 Title**
This order is the Canterbury Earthquake (Education Act) Order 2011.
- 2 Commencement**
This order is deemed to have come into force on 22 February 2011.
- 3 Expiry**
This order expires on the close of 1 April 2012.

4 Interpretation

- (1) In this order, unless the context otherwise requires,—
Act means the Education Act 1989
another enactment means any 1 or more of the following:
- (a) Education (Early Childhood Centres) Regulations 1998;
 - (b) Education (Early Childhood Services) Regulations 2008;
 - (c) Education (Home-Based Care) Order 1992
- 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 Response and Recovery Act 2010 has, in this order, the meaning given to it by that Act.
- (3) Any modifications and extensions to the Act or to another enactment made by this order do not affect the text of the Act or enactment but require it to be read as if it had been amended in the manner indicated in the order.

5 Modification of enrolment scheme

While this order is in force, a student who is enrolled at a school in the specified area on 22 February 2011 continues to be regarded as living in the home zone of the school for the purposes of that school's enrolment scheme.

6 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 earthquake to the network of schools and to the

education and welfare of students both within and beyond the specified area.”

7 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.”

8 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 such a variation is appropriate in the circumstances.
- “(2) An authorisation under subsection (1) must be given either unconditionally or subject to such conditions as 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 variation 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.”

9 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 earthquake

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

10 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 earthquake

- “(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 earthquake 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 subclause (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.”

11 New section 78LA

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

“78LA Action plan to manage risk resulting from Canterbury earthquake

- “(1) The Secretary may, for the purpose set out in section 78HA, approve an action plan for a school by written notice to the school’s board, if the Secretary is satisfied that such a plan is appropriate in the circumstances.
- “(2) When the Secretary has approved an action plan under subsection (1), the school’s board—
- “(a) must implement it in accordance with its terms, unless or until the Secretary directs otherwise; and
 - “(b) must make the plan available as if it were part of the school’s charter.
- “(3) Subsections (1) to (3) of section 78L do not apply to an action plan approved by the Secretary under subsection (1) of this section.”

12 Exemption with respect to annual report, audit, financial statement, etc

- (1) The board of a school in the specified area is exempt from the requirements of sections 87, 87A, and 87C(1) of the Act (which relate to the preparation of annual reports, annual fi-

financial statements and their audit, and the provision of audited annual financial statements to the Secretary) in respect of the financial year ending on 31 December 2010 until it is reasonably practicable for the board to comply with those requirements.

- (2) While this order is in force, the Minister may omit from any report prepared and presented under section 87B of the Act any information that is not available as a result of subsection (1).
- (3) While this order is in force, the Minister is exempt from providing, under section 87C(2) of the Act, copies of statements that are not available as a result of subsection (1).

13 **Extension of meaning of home-based education and care service**

While this order is in force, section 309 of the Act must be read, in relation to the specified area, as if the meaning of **home-based education and care service** were extended by substituting the following definition:

“**home-based education and care service** means—

- “(a) the provision by 1 person of education or care, for gain or reward, to fewer than 5 children under the age of 6 (in addition to any child enrolled at school who is the child of the person who provides education or care), in—
 - “(i) their own home; or
 - “(ii) the home of the person providing the education or care; or
 - “(iii) any other home nominated by the parents of the children; or
- “(b) the provision by 2 persons of education or care, for gain or reward, to fewer than 9 children under the age of 6 (in addition to any child enrolled at school who is the child of at least 1 of the persons who provides education or care), in—
 - “(i) the children’s own home; or
 - “(ii) the home of at least 1 of the persons providing the education or care; or
 - “(iii) any other home nominated by the parents of the children”.

14 Exemption from regulations made under section 314 or 317

- (1) While this order is in force, the Secretary may exempt from a provision of another enactment any of the following that is in the specified area:
 - (a) an early childhood education and care centre;
 - (b) an early childhood service;
 - (c) a home-based education and care service.
- (2) An exemption under subclause (1) must be—
 - (a) by written notice to the centre, service, or the service provider of the home-based education and care (as the case may be); or
 - (b) by notice in the *Gazette*, to a group of centres, services, or service providers of home-based education and care (as the case may be) in the specified area.
- (3) An exemption under subclause (1) may be made subject to conditions specified in the notice.

15 Modification of Education (Early Childhood Centres) Regulations 1998

- (1) Without limiting the generality of clause 14, while this order is in force the Secretary may modify the provisions of the Education (Early Childhood Centres) Regulations 1998 in relation to an early childhood education and care centre in the specified area by granting the centre a temporary relocation licence, if the centre needs to be relocated temporarily as a result of the Canterbury earthquake.
- (2) A licence under subclause (1) may be granted subject to any conditions the Secretary considers appropriate, and conditions specified in the licence may vary in duration, as specified in the licence.

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 in Council, which is deemed to have come into force on 22 February 2011 and expires on the close of 1 April 2012, modifies the operation of the Education Act 1989 (the **Act**) by—

- allowing students who were attending schools on 22 February 2011 in Christchurch or the Selwyn or Waimakariri Districts (the **specified area**) and who have to relocate temporarily to other places because of the Canterbury earthquake to have a right to enrol at those schools (see *clause 5*):
- 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 6 and 7*):
- allowing the meaning of "half-day" to be varied immediately by the Minister, without consultation requirements, and require school boards to apply the varied meaning, so as to accommodate necessary variations in the opening and operating hours of schools (see *clause 8*):
- 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 earthquake (see *clauses 9 to 11*):
- providing temporary exemptions from some financial reporting requirements in Part 8 of the Act (see *clause 12*):
- allowing home-based education and care services in the specified area to operate with 2 carers and up to 8 children (see *clause 13*):
- allowing exemption in the specified area from some provisions of the Education (Early Childhood Centres) Regulations 1998, the Education (Early Childhood Services) Regulations 2008, and the Education (Home-Based Care) Order 1992 for early childhood education and care centres, early childhood services, and the provision of home-based education and care (see *clause 14*):
- providing for the granting of temporary relocation licences for early childhood education and care centres in the speci-

fied area, if those centres have to be relocated temporarily as a result of the Canterbury earthquake (see *clause 15*).

This Order in Council is made under the Canterbury Earthquake Response and Recovery Act 2010 and its effect is temporary.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 10 March 2011.
This order is administered by the Ministry of Education.
