

**Reprint
as at 2 April 2013**



**Canterbury Earthquake
(Education Legislation) Order
2012**

(SR 2012/34)

Canterbury Earthquake (Education Legislation) Order 2012: revoked,
on 2 April 2013, by clause 11 of the Canterbury Earthquake (Education
Legislation) Order 2013 (SR 2013/44).

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 12th day of March 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

Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

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 2012.
- 2 Commencement**
This order comes into force on 2 April 2012.

3 Expiry

This order expires on the close of 1 April 2013.

4 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.

5 Modification of enrolment scheme

While this order is in force, a student who was 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 earthquakes 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 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.”

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 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.”

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 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.”

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

- (1) If the Secretary is satisfied that a board of a school in the specified area,—
- (a) in respect of the financial year ending on 31 December 2010, is unable to access or locate the records that it needs to comply with section 87, 87A, or 87C(1) of the Act, the board is exempt from requirements of those sections (which relate to the preparation of annual reports, annual financial statements and their audit, and the provision of audited annual financial statements to the Secretary) until it is reasonably practicable for the board to comply with those requirements:
- (b) in respect of the financial year ending on 31 December 2011, is unable to comply with the requirements of section 87, 87A, or 87C(1) of the Act, the board must comply with those requirements as soon as is reasonably practicable but no later than 30 November 2012.
- (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).

12 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.

13 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.

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 comes into force on 2 April 2012 and expires on 1 April 2013, 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 earthquakes 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 earthquakes (*see clauses 9 and 10*):
- providing temporary exemptions from some financial reporting requirements in Part 8 of the Act (*see clause 11*):
- 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 12*).

This Order in Council also modifies the Education (Early Childhood Services) Regulations 2008 by allowing the Secretary to waive, in certain circumstances, the licensing fee for a licensed service that was closed by the Canterbury earthquakes (*see clause 13*).

This Order in Council is made under the Canterbury Earthquake Recovery Act 2011 and its effect is temporary.

Reprinted as at
2 April 2013

**Canterbury Earthquake (Education
Legislation) Order 2012**

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 15 March 2012.

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Notes**1 General**

This is a reprint of the Canterbury Earthquake (Education Legislation) Order 2012. The reprint incorporates all the amendments to the order as at 2 April 2013, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

2 Status of reprints

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 How reprints are prepared

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked

are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 *List of amendments incorporated in this reprint
(most recent first)*

Canterbury Earthquake (Education Legislation) Order 2013 (SR 2013/44):
clause 11
