

18 February 2014

Sir John Hansen
Convenor
Canterbury Earthquake Recovery Review Panel
c/- Canterbury Earthquake Recovery Authority
Private Bag 4999
CHRISTCHURCH 8140

Raoul.AsareBediako@cera.govt.nz

Dear Sir John

Canterbury Earthquake (Education Legislation) Order 2014

Proposal

Attached for the Review Panel's consideration is a draft Order in Council (Order) to make temporary amendments to education legislation under the Canterbury Earthquake Recovery (CER) Act 2011. It replaces the Canterbury Earthquake (Education Legislation) Order 2013 which expires on 1 April 2014.

The new Order covers the period from 2 April 2014 to 1 April 2015.

Although three years since the major earthquakes, the education renewal programme in greater Christchurch continues to involve major changes and developments which impact significantly on the day to day operation of schools and Early Childhood Education (ECE) services.

Many strategic and operational decisions have been made about the future shape of schooling and ECE in greater Christchurch, and various temporary powers that were given to the Minister of Education or Secretary for Education in previous Orders are no longer deemed necessary or warranted in this new Order.

However, several situations have been identified, each arising as a direct result of the earthquakes, where existing legislation does not protect individuals and their educational communities from unintended consequences occurring during the education renewal process.

Policy Objectives

The Order is intended to avert:

- outcomes prejudicial to students and families in terms of their access to schooling, and unnecessary increased Crown expenditure to provide for temporary changes in school enrolment patterns;
- an unreasonable financial impact on some ECE providers;
- the forced closure of some ECE services, including some which provide services to priority groups of students or are the only ECE provider in a particular area.

The Order contains three provisions to mitigate the impact of the identified contingencies.

Content of the Order

Two of the provisions are carried over from the 2013 Order and one is new. The table below sets out the proposed temporary powers and their effect.

Provision	Effect	Status
Draft Order clauses 4 & 5 Establishment of a special enrolment scheme for a school in the specified area.	Allows the Secretary for Education to approve a special enrolment scheme for a school by written notice to the school's Board, without the consultation required by existing legislation.	Repeated from the 2013 Order.
Draft Order clause 6 Extension of the period for ECE services transitional licences from 18 to 24 months.	Allows the Secretary for Education to extend a transitional licence for a service up to 24 months in cases where a service has sustained earthquake damage or has been affected by damage to adjacent land and buildings. This would apply where issues remain unresolved and a service is unable to meet the 2008 regulatory standards by 30 November 2014.	New provision
Draft Order clause 7 Waiving of the ECE Services licensing fee.	Allows the Secretary for Education to waive the licensing fee for a service to operate in different premises, where it is unable to reopen at the premises where it operated before it was closed owing to damage caused by the earthquakes.	Repeated from the 2013 Order.

Process to date

The policy paper on the proposed Order was reviewed by the CER Officials Committee (OCER) and amended as a result of OCER feedback.

The policy paper was subsequently submitted to the Cabinet Committee (CER) by the Minister of Education and Minister of Earthquake Recovery on 17 February 2014. Approval was given to draft the Order as attached as a consultation draft.

We now request formal review of the draft Order by the CER Review Panel.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Leo Trompetter', with a horizontal line above the name.

Leo Trompetter
Acting Group Manager
Sector Enablement and Support

DRAFT FOR CONSULTATION

Canterbury Earthquake (Education Legislation) Order 2014

Governor-General

Order in Council

At Wellington this day of 2014

Present:
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
- (b) on the recommendation of the relevant Minister made following the Canterbury Earthquake Recovery Review Panel's review of a draft of the order.

Contents

	Page
1 Title	2
2 Commencement	2
3 Interpretation	2
4 New section 11AA (Purpose of special enrolment scheme for school in specified area)	3

**Canterbury Earthquake (Education
Legislation) Order 2014**

	11AA Purpose of special enrolment scheme for school in specified area	3
5	New section 11CA (Special enrolment scheme)	3
	11CA Special enrolment scheme	3
6	Modification of section 319K of Act (Existing early childhood centres deemed to be licensed)	4
7	Modification of Education (Early Childhood Services) Regulations 2008	4
8	Revocation	4
9	Revocation of this order	4

Order

1 Title

This order is the Canterbury Earthquake (Education Legislation) Order 2014.

2 Commencement

This order comes into force on 2 April 2014.

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 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 (Purpose of special enrolment scheme for school in specified area)

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 (Special enrolment scheme)

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 Modification of section 319K of Act (Existing early childhood centres deemed to be licensed)

While this order is in force, section 319K must be read as if the following paragraph were inserted in place of subsection (5)(a):

“(a) expires on a date specified in the licence (being a date that is not later than 24 months after the date of issue); and”.

7 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.

8 Revocation

The Canterbury Earthquake (Education Legislation) Order 2013 (SR 2013/44) is revoked.

9 Revocation of this order

This order is revoked on the close of 1 April 2015.

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 comes into force on 2 April 2014 and remains in force until the close of 1 April 2015, when it is revoked (*see clause 9*). This order replaces the Canterbury Earthquake (Education Legislation) Order 2013 (the **2013 order**) (*see clause 8*). This order carries over clauses 4, 5, and 10 of the 2013 order (*see clauses 4, 5, and 7*) and adds a new provision (*see clause 6*). Accordingly, the effect of this order is to modify the operation of the Education Act 1989 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 Secretary to increase the period of transitional licences from 18 months to 24 months for an early childhood centre damaged in the Canterbury earthquakes (*see clause 6*).

This order 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 7*).

This order 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*:

This order is administered by the Ministry of Education.
