



Education (Early Childhood Services) Amendment Regulations 2020

Patsy Reddy, Governor-General

Order in Council

At Wellington this 21st day of April 2020

Present:

The Right Hon Jacinda Ardern presiding in Council

These regulations are made under section 317 of the Education Act 1989 on the advice and with the consent of the Executive Council.

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Regulations

1 Title

These regulations are the Education (Early Childhood Services) Amendment Regulations 2020.

2 Commencement

These regulations come into force on the day after the date of their notification in the *Gazette*.

3 Principal regulations

These regulations amend the Education (Early Childhood Services) Regulations 2008 (the **principal regulations**).

4 New regulation 39A and cross-heading inserted

After regulation 39, insert:

Exceptional circumstances

39A Powers of Secretary in exceptional circumstances

- (1) The purpose of this regulation is to enable the Secretary to respond to and mitigate the practical effects on service providers of a state of emergency or an epidemic notice, while ensuring that the safety of children is not compromised.
- (2) This regulation applies in the following periods of time:
 - (a) the period beginning on the first day on which a state of emergency is in force and ending 3 months after the day on which the state of emergency expires or is terminated:
 - (b) the period beginning on the first day on which an epidemic notice is in force and ending 3 months after the day on which the epidemic notice expires or is revoked.
- (3) The Secretary may exercise 1 or more of the following powers:
 - (a) extend, by not more than 3 months, the period for processing an application for a probationary licence under regulation 11(2):
 - (b) extend, by not more than 3 months, the period for which a probationary licence or temporary relocation licence remains in force, which may exceed the maximum period specified in regulation 11(3) or 18(3):
 - (c) extend, by not more than 3 months, the date for compliance with any condition of a provisional licence beyond the period specified in regulation 16(4):
 - (d) extend, by not more than 3 months, the date for compliance with any condition specified under regulation 31(3) in a notice of suspension:
 - (e) impose additional special conditions on a licence under regulation 22(5) that apply for a period not exceeding 3 months:
 - (f) suspend, for a period not exceeding 3 months, compliance with 1 or more of the requirements specified in regulation 28 for licensed home-based education and care services:

- (g) suspend, for a period not exceeding 3 months, compliance with 1 or more criteria prescribed under regulation 41(1):
 - (h) defer taking action under these regulations that is otherwise required of the Secretary, for a period not exceeding 3 months.
- (4) If the Secretary exercises any of the powers, the Secretary must give written notice to the service provider, or class of service providers, affected by the exercise of the powers.
- (5) The notice must—
- (a) state the reason for the exercise of the power; and
 - (b) in the case of a power exercised under—
 - (i) subclause (3)(a) to (d), specify the extended period; and
 - (ii) subclause (3)(e), specify the additional special conditions and the period for which those conditions will apply; and
 - (iii) subclause (3)(f), specify the 1 or more requirements and the period for which compliance with those requirements is suspended; and
 - (iv) subclause (3)(g), specify the 1 or more prescribed criteria and the period for which compliance with the criteria is suspended; and
 - (v) subclause (3)(h), specify the regulation and the period for which the action under the regulation is deferred.
- (6) The Secretary may give more than 1 written notice.
- (7) For the purpose of this regulation,—
- epidemic notice** means an epidemic notice under section 5(1) of the Epidemic Preparedness Act 2006
- state of emergency** means a state of national emergency or a state of local emergency under the Civil Defence Emergency Management Act 2002.

Rachel Hayward,
for the Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on the day after the date they are notified in the *Gazette*, amend the Education (Early Childhood Services) Regulations 2008 (the **principal regulations**).

New regulation 39A is inserted into the principal regulations. The new regulation provides the Secretary for Education with powers that may be exercised in response to a state of emergency or an epidemic notice. The Secretary may—

- extend some time periods:
- impose additional special conditions on licences:
- suspend compliance with specified requirements:
- suspend the application of 1 or more criteria that are used in assessing compliance with minimum standards:
- defer taking regulatory action that is otherwise required of the Secretary.

The Secretary must provide written notice immediately to a service provider, or class of service providers, when exercising these powers.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 21 April 2020.

These regulations are administered by the Ministry of Education.