



## Education (Early Childhood Services) Amendment Regulations (No 2) 2023

Cindy Kiro, Governor-General

### Order in Council

At Wellington this 21st day of August 2023

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 636 of the Education and Training Act 2020 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 (No 2) 2023.

### 2 Commencement

These regulations come into force on 26 February 2024.

### 3 Principal regulations

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

### 4 Regulation 3 amended (Interpretation)

- (1) In regulation 3, insert in its appropriate alphabetical order:

**excluded service** means a kōhanga reo affiliated to Te Kōhanga Reo National Trust Board or a playcentre affiliated to Te Whānau Tupu Ngātahi o Aotearoa—Playcentre Aotearoa (other than a kōhanga reo or playcentre that has been approved by the Secretary, after consultation with Te Kōhanga Reo National Trust Board or Te Whānau Tupu Ngātahi o Aotearoa—Playcentre Aotearoa, as a centre that is to comply with the qualification requirements for a teacher led centre)

- (2) In regulation 3, definition of **recognised qualification**, paragraph (ab), replace “item 2” with “items 2 and 3”.

### 5 Regulation 16 amended (Conditions of provisional licence)

- (1) After regulation 16(1), insert:

- (1A) If the Secretary is satisfied that there has been any additional instance of a type described in regulation 15(1)(a) to (e) after reclassifying a probationary licence or a full licence as a provisional licence, the Secretary—
- (a) may, by written notice to the service provider, specify additional conditions that must be complied with for the revocation of the provisional licence and the return of the probationary licence or full licence, as the case may be; and
  - (b) must, in the notice, specify for each condition the date by which the condition must be complied with.
- (2) After regulation 16(2), insert:
- (2A) A date specified under subclause (1A)(b) will usually be a date not more than 3 months after the day on which the notice under subclause (1A)(a) was given to the service provider.
- (3) In regulation 16(3), after “subclause (1)(b)”, insert “or (1A)(b)”.
- (4) In regulation 16(4), after “subclause (1)(b)”, insert “, (1A)(b),”.

## 6 New regulation 19 and cross-heading inserted

After regulation 18, insert:

### *Temporary closure*

#### **19 Temporary closure of early childhood services**

- (1) The Secretary may, on application by the service provider of an early childhood service, do any of the following:
- (a) allow the provider to temporarily close their service for a period that is no longer than 3 months;
  - (b) extend the period for which the provider may temporarily close their service under paragraph (a) to a period that is no longer than 6 months in total;
  - (c) further extend the period for which the provider may temporarily close their service under paragraph (a) (following an extension under paragraph (b)) to a period that is no longer than 12 months in total, but only if the Secretary is satisfied that—
    - (i) the provider has shown that they intend to reopen the service before the period expires; and
    - (ii) the provider is not able to be granted a temporary relocation licence under regulation 18.
- (2) However, the Secretary must not exercise a discretion under subclause (1) if the Secretary is satisfied that the service provider’s licence has been, or is likely to be, suspended.

**7 Regulation 32 amended (Cancellation of licences)**

- (1) Revoke regulation 32(1)(d)(i).
- (2) After regulation 32(1)(d), insert:
  - (da) the service provider has notified the Secretary that it has permanently ceased to operate; or
  - (db) at least 2 of the following situations apply with regard to the service for a period of at least 3 months:
    - (i) there are no children enrolled in, or attending or participating in, the service;
    - (ii) there are no staff employed or engaged in the service;
    - (iii) the service provider has not claimed any grant that would ordinarily be available in respect of the service; or
- (3) After regulation 32(2), insert:
  - (2A) The Secretary must not cancel a licence under subclause (1)(d) or (db) if the only reason that subclause applies is because the service provider has temporarily closed their service pursuant to an application granted under regulation 19.

**8 Regulation 44 amended (Qualifications, ratios, and service-size standard: general)**

- (1) In regulation 44(3), delete “at a teacher led early childhood service”.
- (2) In regulation 44(3)(a), delete “of a teacher led early childhood service”.
- (3) In regulation 44(4), revoke the definition of **excluded service**.
- (4) In regulation 44(4), definition of **required staff**,—
  - (a) paragraph (a),—
    - (i) delete “early childhood” in each place; and
    - (ii) replace “other than an” with “other than a”; and
  - (b) paragraph (b), delete “early childhood” in each place.

**9 New Part 3 inserted**

After regulation 59, insert:

**Part 3****Additional duties of person responsible****60 Additional duties of person responsible for licensed early childhood education and care centre (other than excluded service)**

A person responsible for a licensed early childhood education and care centre (other than an excluded service) must—

- (a) supervise, and be actively involved with, children in attendance and staff providing education and care (even when children and staff are located in separate spaces); and
- (b) provide education and care to children in attendance and guidance to staff providing education and care; and
- (c) ensure that staff are implementing any prescribed curriculum framework and know how to use it in providing education and care; and
- (d) ensure that day-to-day health and safety risks and hazards are identified, and appropriate steps are taken to address those risks or hazards when children attend.

**61 Additional duties of person responsible for licensed hospital-based education and care service**

A person responsible for a licensed hospital-based education and care service must—

- (a) supervise, and be actively involved with, children participating in the service, staff providing education and care, and any adults in an activity room (even when children, staff, and adults are located in separate spaces); and
- (b) provide education and care to children participating in the service and guidance to staff providing education and care; and
- (c) ensure that staff are implementing any prescribed curriculum framework and know how to use it in providing education and care; and
- (d) ensure that there is at least 1 adult present when children are in an activity room.

**62 Additional duties of person responsible for licensed home-based education and care service**

(1) A person responsible for a licensed home-based education and care service must—

- (a) take all reasonable steps to observe, support, and provide guidance on the implementation of the prescribed curriculum framework by the service and keep records of these activities; and
- (b) provide professional development to educators on a regular basis and keep records of any such activity.

(2) A person responsible for a licensed home-based education and care service must not act as a person responsible—

- (a) for more than 1 licensed early childhood service at the same time;
- (b) for more than 2 licensed early childhood services in any month.

**10 Schedule 1 amended**

In Schedule 1, replace the table with:

Item	Service or centre	Requirements
1	Licensed early childhood education and care centres affiliated with either of the following: <ul style="list-style-type: none"> <li>• Te Whānau Tupu Ngātahi o Aotearoa—Playcentre Aotearoa:</li> <li>• Te Kōhanga Reo National Trust Board</li> </ul>	A Person responsible must hold recognised qualification
2	Licensed early childhood education and care centres not affiliated with either of the following: <ul style="list-style-type: none"> <li>• Te Whānau Tupu Ngātahi o Aotearoa—Playcentre Aotearoa:</li> <li>• Te Kōhanga Reo National Trust Board</li> </ul>	A Until 26 August 2024, person responsible must hold recognised qualification and practising certificate B On and after 26 August 2024, person responsible must hold recognised qualification and full practising certificate C At least 50% of required staff must hold a recognised qualification D Person responsible must hold a first aid qualification from a first aid training provider accredited by the New Zealand Qualifications Authority
3	Licensed hospital-based education and care services	A Until 26 August 2024, person responsible must hold recognised qualification and practising certificate B On and after 26 August 2024, person responsible must hold recognised qualification and full practising certificate C At least 50% of required staff must hold a recognised qualification

**11 Schedule 1A amended**

In Schedule 1A, after the first item relating to 1 June 2022, insert:

From 26 August 2024	Person responsible must hold home-based services qualification and full practising certificate
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**12 Schedule 3 amended**

In Schedule 3, item relating to Home-based education and care service, replace “80 children” with “100 children”.

Rachel Hayward,  
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 26 February 2024, amend the Education (Early Childhood Services) Regulations 2008 (the **principal regulations**).

*Regulation 4* amends the definition of recognised qualification to correct certain cross-references to the new table inserted into Schedule 1 and makes other consequential changes.

*Regulation 5* amends regulation 16 of the principal regulations to allow the Secretary for Education (the **Secretary**) to add further conditions to a provisional licence if there have been any further breaches of the type described in regulation 15(1).

*Regulation 6* inserts into the principal regulations *new regulation 19*, which provides for the temporary closure of early childhood services.

*Regulation 7* amends regulation 32 of the principal regulations to specify the instances in which a service has permanently ceased to operate (with the result that its licence must be cancelled). It also allows the Secretary to permit providers to temporarily close their service for a period of up to 3 months without triggering the requirement to cancel the licence.

*Regulation 8* amends regulation 44 of the principal regulations, as a consequence of other changes made by these regulations.

*Regulation 9* inserts into the principal regulations *new Part 3*, which imposes new duties on persons responsible, including duties to supervise, and be actively involved with, staff and children in attendance at a relevant centre or service.

*Regulation 10* replaces the table in Schedule 1 of the principal regulations with a new table that lists new requirements for the qualifications of staff who work at certain centres and services. The new table provides that a person responsible at a licensed early childhood education and care centre that is teacher led must hold an appropriate first aid qualification. On and after 26 August 2024, a person responsible at certain centres and services will also need to hold a full practising certificate (rather than just any practising certificate). Other consequential changes and clarifications are made in the new table.

*Regulation 11* amends the table in Schedule 1A of the principal regulations to provide that a person responsible for a home-based education and care service must hold a full practising certificate on and after 26 August 2024.

*Regulation 12* amends the table in Schedule 3 of the principal regulations to provide that the maximum number of children that may attend a home-based education and care service is increased from 80 to 100.

### **Regulatory impact statement**

The Ministry of Education produced regulatory impact statements on 24 November 2022 and 5 May 2023 to help inform the decisions taken by the Government relating to the contents of this instrument.

Copies of these regulatory impact statements can be found at—

- <https://www.education.govt.nz/our-work/information-releases/issue-specific-releases/early-learning-regulatory-system/>
- <https://treasury.govt.nz/publications/informationreleases/ris>

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These regulations are administered by the Ministry of Education.