

## Cabinet Paper material Proactive release

Minister & portfolio	Hon David Seymour Associate Minister of Education
Name of package	Approval to Introduce the Education and Training (Early Childhood Education Reform) Amendment Bill
Date considered	28 July 2025
Date of release	12 September 2025

### These documents have been proactively released:

#### **Approval to Introduce the Education and Training (Early Childhood Education Reform) Amendment Bill**

Date considered: 28 July 2025

Author: Office of the Associate Minister of Education

#### **Cabinet Legislation Committee Minute LEG-25-MIN-0139**

Date considered: 24 July 2025

Author: Committee Secretary

#### **Cabinet Minute CAB-25-MIN-0251**

Date considered: 28 July 2025

Author: Secretary for the Cabinet

### Material redacted

Some deletions have been made from the documents in line with withholding grounds under the Official Information Act 1982. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

The applicable withholding grounds under the Act are as follows:

Section 9(2)(f)(iv) to protect the confidentiality of advice tendered by Ministers of the Crown and officials

Some deletions have been made from the documents as the information withheld does not fall within scope of the Minister's portfolio responsibilities, and is not relevant to the proactive release of this material.

You can read the Official Information Act 1982 here:

<http://legislation.govt.nz/act/public/1982/0156/latest/DLM64785.html>

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**In Confidence**

Office of the Associate Minister of Education

Cabinet Legislation Committee

**Approval to Introduce the Education and Training (Early Childhood Education Reform) Amendment Bill**

**Proposal**

- 1 This paper seeks approval to introduce the Education and Training (Early Childhood Education Reform) Amendment Bill (the Bill).

**Policy**

- 2 The Bill proposes legislative amendments to the Education and Training Act 2020 (the Act) and associated regulations to respond to the recommendations of the early childhood education (ECE) regulatory sector review conducted by the Ministry for Regulation (the Review) in 2024. The Review fulfilled a commitment in the Act and National Party Coalition Agreement to carry out a regulatory sector review of ECE and legislate to improve the quality of regulation.

*Tranche One*

- 3 The Review found a lack of clarity in the purpose, objectives, and guiding principles for regulating early childhood services, and a lack of role clarity and accountability of the current regulator. In response, on 14 April 2025, Cabinet agreed to clarify the purpose, objectives, and guiding principles, and create a Director of Regulation role to enhance role clarity and ensure accountability [CAB-25-MIN-0123].

*Tranche Two*

- 4 The Review also found ongoing confusion and tension between the Ministry of Education and ERO's roles in the ECE sector. In response, on 30 June 2025 Cabinet agreed to further policy decisions, that will transfer the newly formed Director of Regulation role and the corresponding ECE regulatory functions and responsibilities from the Ministry of Education to the Education Review Office (ERO) 9(2)(f)(iv) [CAB-25-MIN-0208].

- 5 9(2)(f)(iv) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED].

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- 6 The Bill gives effect to the first tranche of Cabinet's decisions relating to the purpose, objectives, and guiding principles, the creation of a new Director of Regulation role, and the functions that must be performed by the Director as follows.

***Clarifying the purpose, objectives, and guiding principles for regulating ECE services***

- 7 To clarify the purpose, objectives, and guiding principles for regulating ECE, the Bill proposes new provisions that set out:
- 7.1 the purpose of Part 2 of the Act, including to regulate an early childhood education system to:
    - 7.1.1 set and implement minimum standards to provide for quality early childhood education that allows children to establish strong foundations for learning, well-being and life outcomes; and
    - 7.1.2 support the choice of parents and caregivers to participate in the labour market.
  - 7.2 the objectives of Part 2 of the Act, which are:
    - 7.2.1 protect the health, safety, and well-being of children receiving early childhood education;
    - 7.2.2 improve educational and developmental outcomes for those children;
    - 7.2.3 support accessibility and choice for parents and caregivers, including by providing for licensing and certification of different types of services, and enabling their funding; and
    - 7.2.4 provide information to parents, caregivers, and others to improve knowledge about the quality of early childhood education, including to inform parental choice; and
    - 7.2.5 implement a licensing and certification system that provides service providers, parents, and caregivers with certainty and clarity as is reasonably practicable, regarding minimum standards for quality services.
  - 7.3 the principles that the Director of Regulation must have regard to when performing a function or duty, or exercising a power under the Act:
    - 7.3.1 the health, safety, and well-being of children receiving education and care is paramount;
    - 7.3.2 the learning and development of those children is essential and supports their readiness to transition to school;
    - 7.3.3 the role of parents and caregivers in the early childhood education of their children is recognised and supported;

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- 7.3.4 principles relating to good regulatory practice, including without limitation, decision-making that —
  - 7.3.4.1 are risk-based, proportionate, fair, and transparent; and
  - 7.3.4.2 avoid the imposition of unnecessary costs on parents, caregivers, and service providers.

***Director of Regulation role established***

- 8 The Bill establishes a new role, the Director of Regulation, and transfers responsibility for regulatory functions currently performed by the Secretary to the new role. The Secretary for Education (the Secretary) must appoint the Director of Regulation and be satisfied that the person has appropriate experience and expertise to perform the role. The Director of Regulation:
  - 8.1 must be employed by the Ministry of Education (the Ministry) but does not need to be a current employee; and
  - 8.2 will be accountable to the Secretary for performance of their functions, duties, and exercises of their powers.
- 9 These changes address the ongoing concerns identified in the Review about the lack of role clarity, and accountability of the regulator.

***Functions of the Director of Regulation***

- 10 To respond to concerns raised by the Review about the lack of role clarity, lack of accountability of the regulator, and inconsistent enforcement, the Bill requires that the core regulatory functions to be performed by the Director of Regulation are:
  - 10.1 issue licenses to early childhood services and certification of playgroups;
  - 10.2 enforce compliance by service providers with applicable requirements under this Act, including by undertaking investigations and prosecutions, as appropriate;
  - 10.3 provide support, information, and guidance to service providers on applicable requirements under the Act;
  - 10.4 provide information to parents, caregivers, and other interested parties on the compliance by service providers with applicable requirements under this Act;
  - 10.5 carry out proactive, regular, risk-based monitoring of compliance by service providers with applicable requirements under the Act;
  - 10.6 help improve the knowledge of parents, caregivers, and other interested parties in relation to the quality of early childhood education;
  - 10.7 assess and respond to —
    - 10.7.1 complaints about licensed early childhood services and play groups;

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- 10.7.2 complaints and appeals from service providers regarding decisions under the Act;
  - 10.7.3 incidents at early childhood services and certified playgroups;
  - 10.8 collect and provide information to the Secretary that is necessary for the Secretary to perform their functions, duties, and powers under the Act and other legislation, including in relation to system stewardship, monitoring, funding, and child protection;
  - 10.9 publish and regularly update information on the Director's general regulatory approach, including a regulatory strategy;
  - 10.10 collaborate with other agencies involved in regulating early childhood services and playgroups, including to share information with those agencies if permitted or authorised under the law; and
  - 10.11 carry out any other functions conferred or imposed on the Director of Regulation under the Act or any other legislation.
- 11 In performing their functions, duties, and exercising their powers the Director of Regulation must give effect to the purpose and objectives as referred to above in paragraph 10.

*Statutorily independent functions*

- 12 The Bill will require that the Director of Regulation act independently from direction of the Minister of Education (the Minister) when performing the following functions:
- 12.1 licensing of early childhood services and certification of playgroups; and
  - 12.2 enforcing compliance of service providers with applicable requirements under this Act, including undertaking investigations and prosecutions, as appropriate.
- 13 This aims to ensure that parents, service providers, and potential investors have confidence in the ECE regulatory system and are assured that decisions of the regulator are independent and free from potential bias or undue influence. To further these aims, the Director must also have arrangements in place to avoid or manage conflicts of interest relating to the performance of their functions, duties, and exercises of their powers.

*Delegations*

- 14 The Bill will enable the Director of Regulation to delegate their functions, duties and powers. The Director of Regulation can delegate to a person who is not an employee of the Ministry, but only with the Secretary's written consent, and for a specified period. The Director of Regulation will also not be able to delegate their general power of delegation. This is in accordance with the Legislation Design and Advisory Committee Guidelines around delegation of powers.

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**IN C O N F I D E N C E*****Update the powers of the Director of Regulation***

- 15 The Bill amends the Act and associated regulations to ensure the Director of Regulation has the necessary powers to perform the functions outlined in paragraph 10, to ensure that the core regulatory functions can be performed effectively. This involves giving the Director of Regulation the same powers as the Secretary with respect to ECE services that are necessary to perform their functions, including:
- 15.1 requiring service providers to keep records and make these available on request;
  - 15.2 making it an offence for a service provider to cease operating a centre without telling the Director of Regulation and the Secretary of their intention (in circumstances other than an emergency);
  - 15.3 requiring, by written notice, service providers to provide information for the administration of Part 2 of the Act; and
  - 15.4 authorising any person who, in the Director of Regulation's opinion is suitably qualified and trained, to exercise the powers of entry and inspection without a warrant.

***Prescribing criteria for assessing minimum standards***

- 16 Under the Act the Minister can prescribe criteria to be used by the Secretary to assess compliance with minimum standards imposed by the regulations. To incorporate the role of the Director in assessing compliance with the minimum standards imposed by the regulations, the Bill amends the Act and associated regulations, to:
- 16.1 provide for the Minister to prescribe criteria to be used by the Director of Regulation after consultation with affected parties (including the Director of Regulation);
  - 16.2 specify that the Secretary is the Minister's principal policy advisor for the purpose of prescribing criteria;
  - 16.3 specify that in advising the Minister, the Secretary must set out the effects of the proposed criteria (and who will be affected).

***Transitional and savings provisions***

- 17 The Bill includes transitional and savings provisions relating to the transfer of functions from the Secretary to the Director of Regulation. These provisions ensure that matters begun before commencement of the Bill can be completed by the Director of Regulation and confirm the validity of decisions made by the Secretary prior to commencement are not affected by the transfer.

***Consequential amendments to secondary legislation***

- 18 The Bill makes consequential amendments to the Education (Early Childhood Services) Regulations 2008 and the Education (Playgroups) Regulations 2008, these

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primarily relate to the transfer of functions from the Secretary to the Director of Regulation. This is outlined below.

**Contentious aspects of the Bill**

- 19 There has been no public consultation on the changes being progressed through the Bill, other than that which was undertaken by the Ministry for Regulation during the Review (discussed below).
- 20 Additionally, there are some aspects of the Bill which may be considered controversial to some groups, these include:
  - 20.1 the purpose refers to the setting and implementation of minimum standards of quality provision. Some may consider that higher levels of quality should be regulated for;
  - 20.2 the purpose includes supporting the choice of parents to participate in the labour market. Some may consider that the only purpose for regulating ECE should be children's education;
  - 20.3 the guiding principle of 'good regulatory practice', including decision making that avoids imposing unnecessary costs on parents, caregivers, and service providers. Some may consider that the inclusion of this principle risks weakening the Director's focus on ensuring quality provision of ECE;
  - 20.4 the creation of a new statutory role for the performance of regulatory functions. In particular, the fact that some of these functions must be performed independently of influence from the Minister. Some may think that the Minister should be able to influence regulatory decisions.

**Further detail for already approved policy decisions**

- 21 On 14 April 2025, Cabinet authorised the Associate Minister of Education and the Minister of Education to make additional joint decisions on policy and drafting issues arising from the matters under CAB-25-SUB-0123, as necessary [CAB-25-MIN-0123].
- 22 There are two changes required to better improve the workability of the Bill by ensuring the new provisions are clear, and do not lead to unnecessary compliance burden or challenge. These are:
  - 22.1 clarifying that the Director of Regulation must "have regard" to the guiding principles but "give effect to" the purpose and objectives. This change responds to an unintentional inconsistency in the policy decisions whereby Cabinet simultaneously agreed to "establish guiding principles to **inform** regulatory decision making", but that the Director of Regulation must "**give effect** to the purpose, objectives and guiding principles". Requiring the Director of Regulation to 'give effect' to the guiding principles would give the guiding principles unintended weighting in regulatory decision making, unduly restrict the flexibility of the Director of Regulation, and may increase the risk of challenge; and

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- 22.2 replacing the guiding principle of “regulatory best practice” with the principle of “good regulatory practice” and being clear that this includes practices that are risk-based, proportionate, fair, transparent, and avoid the imposition of unnecessary costs on parents, caregivers, and service providers. This change was made to aide interpretation and ensure the Director of Regulation has sufficient specificity to perform their functions. It also provides greater certainty for parents, service providers, and other interested parties affected in the exercise of regulatory decision-making powers.

**Other matters**

- 23 Cabinet also agreed that proposals relating to the introduction of graduated enforcement tools and increasing the threshold for provisional licences and licence suspension should be progressed through amendments to the Education (Early Childhood Services) Regulations 2008. These regulations are intended to come into force shortly after the Bill’s commencement.

**Impact analysis**

- 24 A Regulatory Impact Statement was completed for these proposals in April 2025 and was submitted at the time that Cabinet approval of policy decisions was sought in April [SOU-25-MIN-0050]. This has been published and is available online on both the Ministry of Education and the Ministry for Regulation websites.

**Compliance**

- 25 I consider the Bill complies with:
- 25.1 the principles of the Treaty of Waitangi;
  - 25.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993 (see below);
  - 25.3 the [disclosure statement](#) requirements (see the agency disclosure statement attached to this paper);
  - 25.4 the principles and guidelines set out in the Privacy Act 2020;
  - 25.5 relevant international standards and obligations; and
  - 25.6 the 2021 edition of the Legislation Design and Advisory Committee Guidelines.

*Compliance with the New Zealand Bill of Rights Act 1990*

- 26 The Ministry of Justice has completed vetting of the Bill with respect to its consistency with the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993 and has provided provide advice to the Attorney-General accordingly.

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**IN C O N F I D E N C E****Consultation**

27 The following consultation has been taken on the Bill.

*Agency consultation*

28 A draft of this paper was shared with the Ministry for Regulation, Ministry of Justice, Education Review Office, Public Service Commission, Office of the Privacy Commissioner and Treasury. This paper reflects their feedback. The Department of the Prime Minister and Cabinet was informed.

*Public consultation*

29 No public consultation has been undertaken on the proposals, due to timing constraints. However, stakeholder feedback captured by the Ministry for Regulation from over 2,320 submissions as part of the Review has been considered throughout this process. This feedback was collected from a range of stakeholders from early June to mid-September 2024, including regulated parties (i.e., ECE service providers), regulators (i.e., the Ministry and ERO), unions, child advocacy organisations, research bodies, the ECE workforce, and parents/caregivers who use ECE services.

**Binding on the Crown**

30 As the Act is binding on the Crown, the Bill will also be binding on the Crown.

**Creating new agencies or amending law relating to existing agencies.**

31 This Bill does not create new agencies or amend law relating to existing agencies.

**Allocation of decision-making powers**

32 The Bill does not involve the allocation of decision-making power between the executive, courts, and tribunals. However, it does allocate certain regulatory decision-making powers to the new statutory Director of Regulation role and specifies the allocation of functions between this role and the Secretary.

33 There is Cabinet agreement, that within two months of the Education and Training (System Reform Part 1) Amendment Bill passing, responsibility for employing the Director of Regulation will transfer to the Chief Executive of ERO as part of the wider transfer of ECE regulatory functions and powers [CAB-25-MIN-0208].

**Associated regulations**

34 The Bill makes consequential amendments to the associated regulations to transfer responsibility for regulatory functions from the Secretary to the Director of Regulation. These minor and technical changes are set out in Annex 1.

**Other instruments**

35 No other instruments are being created in the Bill.

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- 36 The Bill does not propose amending the definition of Minister or department.

**Commencement of legislation**

- 37 The Bill is intended to come into force two months after the date on which the Bill receives Royal Assent.

**Parliamentary stages**

- 38 To ensure a timely response to the review, the Bill should be introduced into the House of Representatives by 31 July 2025, enacted by 18 December 2025 and commence two months after enactment.
- 39 The Bill should be referred to the Education and Workforce Committee. At the first reading of the Bill, I intend to request a shorter than usual timeframe for Select Committee to report back (approximately 4 months) so that the Bill can be enacted by 18 December.

**Proactive Release**

- 40 I intend to proactively release this Cabinet paper subject to redactions as appropriate under the Official Information Act 1982.

**Recommendations**

I recommend that the Cabinet Legislation Committee:

- 1 9(2)(f)(iv) [REDACTED]
- 2 **note** that the Bill amends the Education and Training Act 2020 and associated regulations by specifying the purpose, objectives, and principles for regulating ECE services, and establishing a new statutory role (Director of Regulation) and specifying the functions and powers of this role;
- 3 **note** that the Bill makes minor and technical consequential amendments to the Education (Early Childhood Services) Regulations 2008 and the Education (Playgroups) Regulations 2008;

*Further details on approved policies*

- 4 **note** that the Associate Minister of Education and the Minister of Education, under delegated authority to act for Cabinet, have jointly made changes to policy decisions agreed by Cabinet [CAB-25-MIN-0123] as part of the drafting of the Bill to improve workability, including:
- 4.1 clarifying the effect of the proposed guiding principles for regulating ECE services to require that the Director of Regulation must “have regard to” the principles; and

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- 4.2 amending one of the proposed guiding principles for regulating ECE services to make it clear that the Director of Regulation must have regard to good regulatory practice, including as appropriate and without limitation, practices that are risk-based, proportionate, fair, transparent, and avoid the imposition of unnecessary regulatory cost;

*Approval for introduction*

- 5 **agree** that Parliamentary Counsel Office will continue to make minor and technical changes to the Bill consistent with Cabinet's previous policy decisions and related changes made jointly by the Associate Minister of Education and the Minister of Education, up until the introduction of the Bill;
- 6 **approve** the Education and Training (Early Childhood Education Reform) Amendment Bill for introduction into the House of Representatives;
- 7 **agree** that the Bill be introduced on 31 July 2025;
- 8 **agree** that the Government propose that the Bill be:
- 8.1 referred to the Education and Workforce committee for consideration with a shorter than usual timeframe of approximately four months; and
- 8.2 enacted by 18 December 2025, subject to parliamentary processes and the Government's legislative priorities.

Authorised for lodgement

Hon David Seymour

Associate Minister of Education



# Cabinet Legislation Committee

## Minute of Decision

*This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.*

### Education and Training (Early Childhood Education Reform) Amendment Bill: Approval for Introduction

**Portfolio** Associate Education

On 24 July 2025, the Cabinet Legislation Committee:

- 1 9(2)(f)(iv) [REDACTED]
- 2 **noted** that the Bill amends the Education and Training Act 2020 and associated regulations by specifying the purpose, objectives, and principles for regulating early childhood education (ECE) services, and establishing a new statutory role (Director of Regulation) and specifying the functions and powers of this role;
- 3 **noted** that the Bill makes minor and technical consequential amendments to the Education (Early Childhood Services) Regulations 2008 and the Education (Playgroups) Regulations 2008;

#### Further details on approved policies

- 4 **noted** that the Associate Minister of Education and the Minister of Education, under delegated authority to act for Cabinet [CAB-25-MIN-0123], have jointly made changes to policy decisions agreed by Cabinet as part of the drafting of the Bill to improve workability, including:
  - 4.1 clarifying the effect of the proposed guiding principles for regulating ECE services to require that the Director of Regulation must “have regard to” the principles; and
  - 4.2 amending one of the proposed guiding principles for regulating ECE services to make it clear that the Director of Regulation must have regard to good regulatory practice, including as appropriate and without limitation, practices that are risk-based, proportionate, fair, transparent, and avoid the imposition of unnecessary regulatory cost;

#### Approval for introduction

- 5 **authorised** the Parliamentary Counsel Office to continue to make minor and technical changes to the Bill, consistent with Cabinet’s previous policy decisions and related changes made jointly by the Associate Minister of Education and the Minister of Education, up until the introduction of the Bill;

- 6 **approved** the Education and Training (Early Childhood Education Reform) Amendment Bill [PCO 26190/3.0] for introduction;
- 7 **agreed** that the Bill be introduced by 31 July 2025;
- 8 **agreed** that the Government propose that the Bill be:
- 8.1 referred to the Education and Workforce committee for consideration with a shorter than usual timeframe of approximately four months;
- 8.2 enacted by 18 December 2025, subject to parliamentary processes and the Government's legislative priorities.

Tom Kelly  
Committee Secretary

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**Present:**

Hon David Seymour  
Rt Hon Winston Peters  
Hon Chris Bishop (Chair)  
Hon Simeon Brown  
Hon Louise Upston  
Hon Judith Collins KC  
Hon Brooke van Velden  
Hon Simon Watts  
Hon Nicole McKee  
Hon Chris Penk  
Hon James Meager  
Stuart Smith, MP  
Todd Stephenson, MP  
Jamie Arbuckle, MP

**Officials present from:**

Officials Committee for LEG  
Office of the Minister for the Public Service



Cabinet

Minute of Decision

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Report of the Cabinet Legislation Committee: Period Ended 25 July 2025

On 28 July 2025, Cabinet made the following decisions on the work of the Cabinet Legislation Committee for the period ended 25 July 2025:

LEG-25-MIN-0139	<b>Education and Training (Early Childhood Education Reform) Amendment Bill: Approval for Introduction</b> Portfolio: Associate Education	CONFIRMED
Out of scope		

Rachel Hayward  
Secretary of the Cabinet