



# Discussion document

Education (Early Childhood Services) Amendment Regulations 2025

22 September 2025

# Discussion document

## Background

### The regulatory sector review of early childhood education

In June 2024, a regulatory sector review of early childhood education (ECE) was undertaken by the Ministry for Regulation. Over 2,285 submissions were received, including from parents, teachers and ECE service providers.

The Ministry for Regulation released its ECE Regulatory Review Report in December 2024. It made 15 recommendations to modernise the ECE regulatory system; simplify and clarify the ECE regulatory requirements; and improve support for the ECE sector. You can read the full report here: [ECE Regulatory Sector Review - Ministry for Regulation](#)

The Ministry for Regulation's Review found that the ECE regulator's enforcement toolkit is limited and relies on changing the status of a licence (i.e. reclassification as provisional, suspension or cancellation) to address a wide range of non-compliances of varying risk and complexity.

The Review found that these limited tools have led to:

- *Limited options*: the regulator is left with limited options about how to respond to non-compliances, creating situations where service providers are concerned that they may lose their licence for a minor issue.
- *Lack of transparency*: the use of licensing as an enforcement tool fails to clearly signal to parents and whānau the severity of the non-compliance, as it covers a broad range of issues of differing risk. This leads to a lack of transparency about why regulatory decisions have been made.
- *Lack of timeliness*: simple compliance actions can take longer than they should, increasing the administrative burden for the Ministry of Education, and elongating the process for service providers.

### Regulatory changes are being made in response to the review

In March 2025, Cabinet endorsed the recommendations from the Ministry for Regulation's ECE Regulatory Review Report.

Recommendation 8 identified the 'blunt' nature of the current enforcement tools, which has created an overreliance on changing the status of a licence. To address this issue and to ensure a more proportionate approach, Cabinet has agreed that amendments will be made to the Education (Early Childhood Services) Regulations 2008 to:

- introduce new graduated enforcement tools, to be used to enforce compliance with the regulations and licencing criteria;
- introduce the ability for the Director of Regulation to issue a public notification of non-compliance; and
- raise the threshold for licence reclassification and suspension.

## These regulatory changes are a part of broader ECE reform work

These regulatory amendments are intended to complement other changes that will be made through the Education and Training (Early Childhood Education Reform) Amendment Bill. This Bill is intended to be enacted by December 2025 and proposes amendments to the Education and Training Act 2020 to:

- clarify the purpose, objectives, and guiding principles of regulating ECE services;
- establish a new statutory role, the Director of Regulation, with responsibilities for performing key regulatory functions in the ECE system including those described in this discussion document; and
- clarify responsibilities relating to the prescribing of licensing criteria.

## This discussion document

This discussion document provides information and context for the Education (Early Childhood Services) Amendment Regulations 2025 ('the amendment regulations'). You will find the amendment regulations in full on our website.

These amendment regulations will provide the Director of Regulation with a new set of graduated enforcement tools and public notification provisions and will lift the threshold for licence suspensions and cancellations. These changes will ensure a more proportionate approach to enforcing compliance.

## How to have your say



We are releasing the Education (Early Childhood Services) Amendment Regulations 2025 for consultation. During consultation, we are seeking feedback on whether the amendment regulations are clear and easy to understand and what impact they may have on different stakeholders.

## Submissions process

Consultation on the amendment regulations will close at 5.00pm on Friday 17 October 2025. You can provide feedback on the amendment regulations by:

- **Completing an online survey** – you can find a link to the online survey on our website: [Have your say - Ministry of Education](#).

OR

- **Sending a written submission to [ECE.Regulations@education.govt.nz](mailto:ECE.Regulations@education.govt.nz)** – you can find a submission template on our website. Using this template is not required but may be helpful as you put together your submission.

## Next steps

After consultation closes, we will analyse submissions and any other evidence before providing Ministers with advice on the final text for the regulations.

The Education (Early Childhood Services) Amendment Regulations 2025 are intended to come into force in March 2026.

## Privacy statement

### Collecting personal information

We are not seeking personal information, though we realise that such information may be provided in feedback submissions. Any personal information which is collected will be anonymized and all reports will use aggregated information.

### Publishing submissions

We may publish a summary of the feedback we receive from this consultation. This will include aggregated information only. This will not include your personal information, even if you voluntarily provide that information to us. We will only publish your submission with your permission.

### Privacy notice

This privacy notice applies to personal and other information collected as part of this consultation. Our privacy policy is governed by the Privacy Act 2020.

We will keep your personal information secure if you voluntarily provide that information. Any personal information supplied will only be used for the purpose for which it was provided or permitted by the Privacy Act 2020. Your personal information will not be disclosed to any third party except where necessary for the provision of services, or as authorised or required by law.

If you want to check personal information that we hold, or request the correction of that information when required, please write to:

The Privacy Officer  
Ministry of Education  
PO Box 1666  
Wellington 6140

or email [privacy@education.govt.nz](mailto:privacy@education.govt.nz)

## Relevant legislation

Your submission may be subject to the Official Information Act 1982, the Privacy Act 2020, and the Public Records Act 2005. These laws cover how we handle, manage and share protected personal information given in confidence. We will never release an individual's personal information or contact details without their permission.

# Understanding the changes being made

## The early childhood education regulatory framework

There are three tiers to the regulatory framework for licensed early childhood education services.

1. The Education and Training Act 2020 defines service types and empowers regulations and criteria to be developed.
2. The Education (Early Childhood Services) Regulations 2008, establish the licensing and certification processes and set the minimum standards that services must follow.
3. The licensing criteria are used to assess compliance with the minimum standards set out in the regulations.

All ECE services must meet the requirements of their licence, the Education and Training Act 2020 and the Education (Early Childhood Services) Regulations 2008. If a licenced ECE service does not comply with these legal requirements, the regulatory framework sets out a range of enforcement tools for use by the Secretary for Education.

## Proposed changes to the current regulatory tools

The table below summarises the proposed changes to the current regulatory tools that will be made through the Education (Early Childhood Services) Amendment Regulations 2025.

Current regulatory tools	Changes being made
<p><b>Written direction - Regulation 54A</b></p> <p>If the Ministry of Education finds an immediate health and safety risk at a service, the Secretary for Education can issue the service with a written direction that includes:</p> <ul style="list-style-type: none"> <li>• the conditions that the service must meet</li> <li>• the date they must be met by – this timeframe will never be longer than 10 working days.</li> </ul>	<p>This regulation will be revoked. In its place, a new enforcement tool (Regulation 29C) will enable the Director of Regulation to, by written notice, direct a service provide to remedy a risk to health and safety.</p>

Current regulatory tools	Changes being made
<p><b>Provisional licence - Regulation 15 - 17</b></p> <p>A full or probationary licence may be reclassified as 'provisional' if:</p> <ul style="list-style-type: none"> <li>• a service does not comply with the regulations</li> <li>• a service does not comply with all the conditions subject to which its licence was issued</li> <li>• an investigation is warranted following an allegation of a service provider's non-compliance</li> <li>• the service has not complied within a reasonable time after receiving a written direction.</li> </ul>	<p><b>Higher threshold for provisional licence and licence suspension</b></p> <p>Amendments will be made to Regulation 15(1) to increase the threshold for reclassification of a full or probationary license as provisional. This change will complement new enforcement tools and will support a more proportionate enforcement approach.</p> <p><b>Conditions and duration of provisional licenses</b></p> <p>Minor amendments have been made to Regulation 16 and Regulation 17 to clarify the requirements relating to additional conditions to be added to a service provider's provisional licence.</p>
<p><b>Licence suspension - Regulation 30</b></p> <p>A licence may be suspended:</p> <ul style="list-style-type: none"> <li>• where there is serious non-compliance involving a child, this could include (among other things): <ul style="list-style-type: none"> <li>○ it is not in the interests of children attending or participating for the service to continue operating;</li> <li>○ the service provider has physically ill-treated a child; or</li> <li>○ the service provider has subjected a child to solitary confinement or deprivation or failed to ensure the child is not ill-treated.</li> </ul> </li> <li>• where the licensed early childhood service is no longer under the control of its licensed service provider.</li> </ul>	<p><b>Higher threshold for provisional licence and licence suspension</b></p> <p>Amendments will be made to Regulation 30(1) to increase the threshold for suspension of a license.</p> <p>As with amendments to regulation 15(1), this will complement new enforcement tools and will support a more proportionate enforcement approach.</p>
<p><b>Licence cancellation - Regulation 32</b></p> <p>A service's licence must be cancelled if a service provider doesn't comply with conditions set out in a provisional licence or suspension notice by the times specified.</p>	<p>A minor amendment will be made to remove a reference to regulations 15(1)(c) and (ca), as these regulations will be replaced.</p>

## Introducing new regulatory tools

The table below summarises the new regulatory tools that will be established through the Education (Early Childhood Services) Amendment Regulations 2025.

New regulatory tools	Further detail
<b>Graduated enforcement tools</b>  Regulations 29A to 29E	<p>Regulations 29A to 29E provide a new set of graduated enforcement tools for use by the Director of Regulation. As recommended in the Ministry for Regulation's review, these tools are intended to enable a more proportionate enforcement approach.</p> <p>If satisfied that a service has not complied with the regulations or the conditions of its licence, the Director will be able to use one more of the following:</p> <ul style="list-style-type: none"> <li>• a record of non-compliance</li> <li>• a formal warning</li> <li>• a written direction to carry out specified actions to address a risk to the health and safety of any person – this replaces Regulation 54A which will be revoked</li> <li>• a requirement to employ or engage specialist help</li> <li>• a requirement to prepare, implement, and complete an improvement plan</li> </ul>
<b>A public notice of non-compliance</b>  Regulation 29F	<p>Regulation 29F establishes two new types of public notifications depending on the circumstances of non-compliance.</p> <ul style="list-style-type: none"> <li>• Regulation 29F(1) provides mandatory public notification requirements. This sets out the circumstances in which the Director of Regulation must give public notice of non-compliance.</li> <li>• Regulation 29F(2) provides discretionary public notification powers. This sets out when the Director of Regulation may give public notice of non-compliance.</li> </ul>
<b>Informing parents and caregivers of investigations of complaints or incidents</b>  Regulation 59A	<p>This is intended to replace Regulation 15(1)(c) and (ca), and allows the Director of Regulation to:</p> <ul style="list-style-type: none"> <li>• give public notice of an investigation into a complaint or incident; and/or</li> <li>• require that a service provider inform parents and caregivers of children enrolled at their service of an investigation into a complaint or incident.</li> </ul>



# The Education (Early Childhood Services) Amendment Regulations 2025

This discussion document is intended to accompany the Education (Early Childhood Services) Amendment Regulations 2025. The Amendment Regulations are set out in full at the end of this document.

This section outlines the changes that we are consulting on. Guiding questions for submitters are also provided.

## Sections 1 – 3: Title, commencement and principal regulations

The title of these regulations is the Education (Early Childhood Services) Amendment Regulations 2025. The specific commencement date has not yet been confirmed, but these regulations are intended to come into force in March 2026. These regulations amend the Education (Early Childhood Services) Regulations 2008.

## Section 4: Regulation 15 amended (Director of Regulation may reclassify licence as provisional licence)

The Ministry for Regulation's review found that the current ECE regulatory toolkit is limited and that there is an over-reliance on changing the status of the service licence to provisional to enforce compliance.

Reclassification of a licence as provisional is an existing tool. To address the review findings, amendments will be made to regulation 15(1) to provide new criteria that must be met for the Director to be able to reclassify a licence as a provisional licence. These amendments will establish a higher threshold for reclassifying full or probationary licenses as provisional.

This change will be complemented by the graduated set of enforcement tools provided in regulations 29A to 29F to support the Director in a more proportionate enforcement approach to non-compliance. This will also provide clarity about the threshold for this enforcement action.

In summary, these amendments will mean that the Director of Regulation may reclassify a probationary or full licence as provisional, if satisfied that the licensed service provider—

(a) has failed to comply with one or more of the following enforcement tools:



- a written direction to remedy a risk to health and safety
- a requirement to employ or engage specialist help
- a requirement to complete an improvement plan; or

(b) has failed to comply with a requirement of these regulations or a condition of their licence; and been subject to two or more of the following enforcement tools within the previous 12 months:

- a record of non-compliance
- a formal warning
- a written direction to remedy a risk to health and safety
- a requirement to employ or engage specialist help
- a requirement to complete an improvement plan.

Please refer to regulations 29A to 29E for information about the enforcement tools.

#### Guiding questions about section 4



- Is the new threshold for reclassification clear and easy to understand?
- Do you have any suggested changes to the wording of these amendments?
- What implementation considerations (if any) do you think need to be made for these amendments?
- What unintended consequences (if any) do you think could arise from these amendments?
- What impact (if any) do you think these amendments will have for the health and safety of children attending and participating in ECE?
- Do you have any other feedback about these amendments?

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

This section outlines amendments to address a technical issue with regulation 16.

Regulations 16(1A), (2), and (2B) have been amended to make it clear that if additional conditions need to be added to a service provider's provisional licence, these conditions

will be provided in a revised provisional licence that is forwarded to the provider. This will also include clearly specified dates in which these conditions must be complied with.

This is intended to provide certainty for service providers around their regulatory requirements, reduce administrative burden and support transparency for parents and whānau about a service provider's current state of regulatory compliance.

#### Guiding questions about section 5



- Are the amendments to regulation 16(1A), (2), and (2B) clear and easy to understand?
- Do you have any suggested changes to the wording of these amendments?
- What implementation considerations (if any) do you think need to be made for these amendments?
- Do you think this amendment will provide more certainty for service providers around regulatory requirements and reduce administrative burden?
- Do you think this amendment will support transparency for parents and whānau about a service provider's current state of regulatory compliance?
- Do you have any other feedback about these amendments?

## Section 6: Regulation 17 amended (Duration of provisional licence)

This section outlines minor amendments to address a technical issue with regulation 17.

Regulations 17(2)(a) and (4)(a) have been amended to make it clear that any additional conditions must be complied with before a service provider can have their full or probationary licence returned, or in the case that the provider fails to comply with the additional conditions, allow for the Secretary to cancel the provider's licence.

#### Guiding questions about section 6



- Are the amendments to regulation 17(2)(a) and (4)(a) clear and easy to understand?
- Do you have any suggested changes to the wording of these amendments?
- What implementation considerations (if any) do you think need to be made for these amendments?
- Do you have any other feedback about these amendments?

## Section 7: New regulations 29A to 29F and cross heading inserted

The Ministry for Regulation's review recommended that the regulations be updated to allow a broader set of graduated regulatory and compliance tools to better manage varying levels of compliance risk.

To achieve this, amendments will be made to provide for enforcement tools and actions that may be taken by the Director of Regulation, if satisfied that the service provider does not comply with the regulations or does not comply with all the conditions subject to which its licence was issued.

### Graduated enforcement tools

As set out in regulations 29A to 29E, these tools include:

- *Record of non-compliance*: where a formal record is kept of an incident of non-compliance that has been subsequently rectified by the licensed service provider.
- *Formal warning*: where a warning will be issued by the Director that specifies the non-compliance, and what remedial action is required to avoid further enforcement action.
- *Written direction to remedy health and safety risk*: where non-compliance is identified that risks health and safety but can be remedied safely while the service continues to operate. Action must occur either within 24 hours, or a longer period up to a maximum of ten working days. Timing will be specified by the Director in the written notice.
- *Specialist help*: where the Director will impose a requirement for a service provider to employ or engage specified specialist help to support them addressing a non-compliance.
- *Improvement plan*: where the Director will impose a requirement for a service provider to prepare, implement, and complete an improvement plan in relation to a specified non-compliance. The improvement plan must be approved prior to implementation.

These new enforcement tools are 'graduated' and will provide the Director of Regulation with additional ways of managing differing levels of compliance risk, to ensure a more proportionate approach to non-compliance. Paired with the existing ability to change licence status, this toolkit provides a broad range of options to address non-compliance effectively.

## Public notice of non-compliance

As set out in Regulation 29F, two new types of public notifications are being established:

- Regulation 29F(1) provides mandatory public notification requirements. In summary, this sets out that the Director of Regulation must give public notice of non-compliance by a licensed service provider if the Director has taken one or more of the following actions in relation to the licence:
  - the licence has been reclassified as a provisional licence,
  - the licence has been suspended,
  - the licence has been cancelled.
- Regulation 29F(2) provides discretionary public notification powers. In summary, this sets out that the Director of Regulation may give public notice of non-compliance if satisfied that it is in the public interest to do so and the Director has taken one or more of the following enforcement actions against the licensed service provider:
  - a written direction to remedy a health and safety risk,
  - a requirement to employ or engage specialist help,
  - a requirement to complete an improvement plan.

This provision will complement the new enforcement tools, and ensure parents have access to the right information about a service provider's compliance with the regulations.

## Guiding questions about section 7



- Are the graduated enforcement tools set out in regulations 29A to 29E clear and easy to understand?
- Is the public notice of non-compliance as set out in regulation 29F clear and easy to understand?
- Do you have any suggested changes to the wording of these amendments?
- What implementation considerations (if any) do you think need to be made for these enforcement tools?
- What impact (if any) do you think these enforcement tools will have for the health and safety of children attending and participating in ECE?
- Do you have any other feedback about these amendments?

## Section 8: Regulation 30 amended (suspension of licences)

As with Section 4, this section responds to the Ministry for Regulation's review finding that the current ECE regulatory toolkit is limited and that there is an over-reliance on changing the status of the service licence to enforce compliance.

Suspension of a licence is an existing tool. Regulation 30(1)(a) currently provides for the suspension of a licence if it is not in the interests of the children attending or participating in the service for the service to continue to operate. An amendment will be made to regulation 30(1)(a) to provide an additional criterion, relating to an immediate risk to health, safety or wellbeing of children attending or participating, that must be met for the Director to suspend a licence under this regulation. This amendment will establish a higher threshold for the suspension of licences.

As with the amendments to regulation 15(1), this will be complemented by the graduated set of enforcement tools provided in regulations 29A to 29F.

### Guiding questions about section 8



- Is the new threshold for the suspension of licences clear and easy to understand?
- Do you have any suggested changes to the wording of these amendments?
- What implementation considerations (if any) do you think need to be made for these amendments?
- What impact (if any) do you think these amendments will have for the health and safety of children attending and participating in ECE?
- Do you have any other feedback about these amendments?

## Section 9: Regulation 32 amended (Cancellation of licences)

This section includes an amendment to remove a reference to regulation 15(1)(c) and (ca), as this will be replaced as part of the amendments set out in section 4.

## Section 10: Regulation 39A amended (Powers of Director of Regulation in exceptional circumstances)

Regulation 39A(3)(f) provides flexibility for the Director of Regulation to extend the date for compliance with the following enforcement tools:

- Regulation 29B: Formal warning
- Regulation 29C: Written direction to remedy health and safety risk
- Regulation 29D: Specialist help
- Regulation 29E: Improvement plan

### Guiding questions about section 10



- Is the power of the Director to extend the date for compliance with the specified enforcement tools, as set out in regulation 39A(3)(f), clear and easy to understand?
- What implementation considerations (if any) do you think need to be made for these amendments?
- What unintended consequences (if any) do you think could arise from these amendments?
- Do you have any other feedback about these amendments?

## Section 11: Regulation 54A revoked

Regulation 54A will be revoked. In its place, Regulation 29C will enable the Director of Regulation to, by written notice, direct a service provide to remedy a risk to health and safety.

## Section 12: New regulation 59A inserted (Director may give public notice, or inform parents and caregivers of, investigation of complaint or incident)

Regulation 59A will allow the Director to act when an investigation is undertaken into high-risk issues identified through complaints and reports of incidents at a service. The Director will be enabled to give public notice or require that a service provider inform parents and caregivers of investigations undertaken.

This replaces the current regulatory action of licence reclassification when a serious and high-risk complaint or incident warrants investigation. This new regulation will provide the Director a more proportionate tool that aligns with the new graduated enforcement tools and closes a potential information gap for parents and caregivers.

### Guiding questions about section 12



- Is the power of the Director to give public notice, or inform parents and caregivers clear and easy to understand?
- Do you have any suggested changes to the wording of this amendment?
- What implementation considerations (if any) do you think need to be made for these amendments?
- What unintended consequences (if any) do you think could arise from these amendments?
- Do you think this amendment will increase transparency for parents and caregivers about investigations into complaints or incidents that are undertaken by the Director of Regulation?
- What impact (if any) do you think these amendments will have for the health and safety of children attending and participating in ECE?
- Do you have any other feedback about this amendment?





**Te Tāhuhu o  
te Mātauranga**  
Ministry of Education

We **shape** an **education** system that delivers  
**equitable** and **excellent outcomes**

He mea **tārai** e mātou te **mātauranga**  
kia **rangatira** ai, kia **mana taurite** ai ōna **huanga**

[education.govt.nz](https://education.govt.nz)

**Te Kāwanatanga o Aotearoa**  
New Zealand Government