

Regulatory system overview

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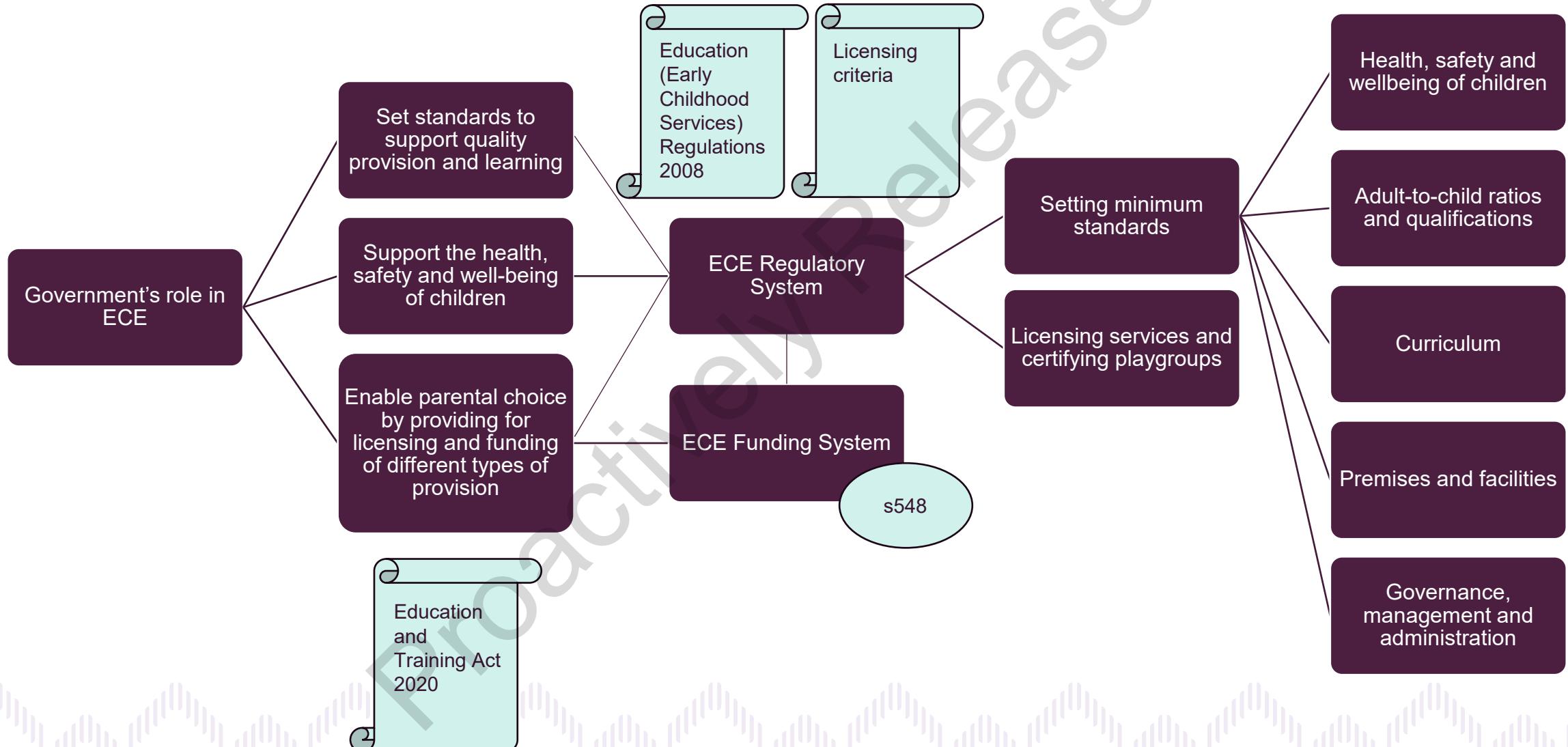
Contents

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- Linkages to funding system design
- Implementing recommendations from MfR's Regulatory Review of ECE
- Further information (final slides)



Introduction to the ECE regulatory system

The Education and Training Act 2020 sets out government's role in ECE provision



How the Act, regulations and criteria apply to early learning services

FIRST TIER	<p>Education and Training Act</p> <ul style="list-style-type: none"> › Define different ECE service types › Allows regulations and criteria to be developed › Enables the Minister of Education to legislate (by NZ Gazette notice) a national ECE curriculum framework 			
SECOND TIER	<p>ECE Regulations</p> <p>Licensed services</p> <ul style="list-style-type: none"> › Licensing process › Structural requirements such as ratios, qualifications, maximum numbers › Miscellaneous provisions › Standards 			<p>Certified playgroups</p> <ul style="list-style-type: none"> › Certification process › Miscellaneous › Standards
THIRD TIER	<p>Criteria (to assess compliance with standards)</p> <p>Centre-based services</p>	<p>Home-based services</p>	<p>Hospital-based services</p>	<p>Certified playgroups</p>
	<p>Guidance — not part of legislation</p> <ul style="list-style-type: none"> › Example, templates, etc › Things to consider › Useful information 			

Licensing process overview

Entry

- Licensed services entitled to government funding.
- New services start with a probationary licence (up to 12 months)
- Full licenses granted after meeting minimum standards
- The Ministry assesses compliance with regulations 43, 45, 46, and 47 using the licensing criteria.

Exit

- Service providers can apply to change their identity
- Secretary for Education must cancel the licence in limited circumstances

Other

- Service providers incur compliance costs from general legislation (e.g. *health and safety, employment, building, and food regulations*).
- Some requirements overlap with early learning regulations; others apply due to their business or non-profit status.
- ERO evaluates and reports on education and care quality, and carries out assurance reviews.

Linkages to funding system design: regulatory settings affect costs and funding

Licence size limits funding

The number of funded child hours (FCH) a service can generate is limited by the characteristics of its licence.

Different service types have different maximum licence size:

Service type	Maximum licence size
Education and care centre	150
Home-based service	100

The maximum reflects the number of children that can receive education and care from the service at any one time.

However, the actual maximum granted to an individual service is limited by several factors.

Premises and facilities

- For a **centre-based service**, there are space requirements – both indoors and outdoors.
- There are also requirements for facilities to be provided at a certain rate per-child/person. For example:

Indoor activity space	Outdoor activity space
2.5 sq m per child	5 sq m per child

Requirement	Rate
Taps delivering warm water	1:15 per person (includes children attending, and adults that count towards required adult:child ratios)
Toilets	1:15 persons aged 2 and older (includes children attending, and adults that count towards required adult:child ratios)
Sleep furniture (eg cots) for under 2 year olds	1:2 children under the age of 2 (all-day services)

- Resource consents may also affect the number of hours a service can be open, or the number of people that can be present.

Staffing requirements in teacher-led centres

- The key staffing requirements are:

Setting	Requirement
Person Responsible (certificated teacher who is ECE or primary qualified)	1 for every 50 children attending
Adult:child ratios (all-day service)	Under 2s - 1:5 2 and overs - 1:6, 2:7-20
Qualification requirements	50% of required staff must hold an ECE teaching qualification. Can include one person in their final year of study.

Requirements for home-based services are different

- Similar factors limit the funding that can be generated and help drive costs and
- **Limits on children:** Each home can have no more than four children receiving the service; no more than two of these can be under the age of 2 years (unless they are siblings).
- **Staffing requirements:** Whenever children attend the service, there must be one Person Responsible (certificated teacher who is ECE qualified) for every 50 children attending.
- **Qualifications:** educators must have home-based qualification or be working towards this within six months of starting



Implementing recommendations from MfR's Regulatory Review of ECE

Regulatory review of ECE

- Led by Ministry of Regulation, working with MoE and ERO.
- The review aimed to improve outcomes for children and parents by ensuring ECE is supportive, nurturing, and beneficial.
- Wide public consultation – over 2,300 submissions from service providers, parents, workforce, advocacy groups, and government agencies.
- Key issues identified included outdated rules, unclear requirements, weak accountability for low-quality services, and limited support for innovation.
- The final report (Dec 2024) listed 30 key findings and made 15 recommendations to modernise and simplify the system
- Cabinet endorsed recommendations in March 2025 with phased implementation starting April
- MfR reports and more info at: [ECE regulatory sector review](#)



Overview of recommendations

Area	Recommendations
Immediate regulatory relief	Rec 9 Revise licensing criteria
ECE reforms	Rec 1 Define outcomes, objectives and principles Rec 2 Clarify agency roles and responsibilities Rec 3 Implement more proactive, risk-based approach to compliance Rec 5 Strengthen regulatory oversight Rec 6 Establish a strategic approach to ECE regulation Rec 8 Introduce graduated compliance tools
System improvements	Rec 4 Improve pathways for appeals Rec 10 Allow greater flexibility in workforce qualifications Rec 11 Review person responsible requirements Rec 12 Develop a strategic plan for home-based services
Regulatory capability	Rec 7 Invest in workforce training Rec 13 Strengthen communication and support Rec 14 Strengthen support for services providers Rec 15 Resources and training for decision-making

Cabinet decisions

Cabinet made decisions in response to the following recommendations:

- Rec 1: Define clear outcomes, objectives and principles for ECE regulation in legislation, aligning with government priorities for early childhood education.
- Rec 2: Clearly outline the roles and responsibilities of all regulatory agencies involved, ensuring efficient collaboration and accountability, and update legislation if required.
- Rec 3: Implement a more proactive, risk-based approach to compliance to improve safety and accountability in the ECE sector.
- Rec 5: Strengthen regulatory oversight to foster trust, transparency, and effective sector stewardship.
- Rec 6: Establish a strategic, long-term approach to ECE regulation that supports innovation, quality, and growth.
- Rec 8: Update regulation to allow the development of a broader set of graduated regulatory and compliance tools to better manage varying levels of compliance risk.

Cabinet also:

- noted work underway to address rec 9 (revise the licensing criteria) by September 2025
- agreed a high-level plan for responding to other recommendations, with work expected to start in September on rec10 (allowing flexibility in workforce qualifications), rec 11 (reviewing person responsible requirements) and rec 12 (develop strategic plan for home-based services)

Modernising the ECE regulatory system

Updating the legislation through Education and Training (Early Childhood Education Reform) Amendment Bill

- Purpose and objectives for regulating ECE and guiding principles for regulatory decision making
- Establish new statutory role - Director of Regulation - in MoE
- Specify the DoR's functions

Amending the ECE regulations

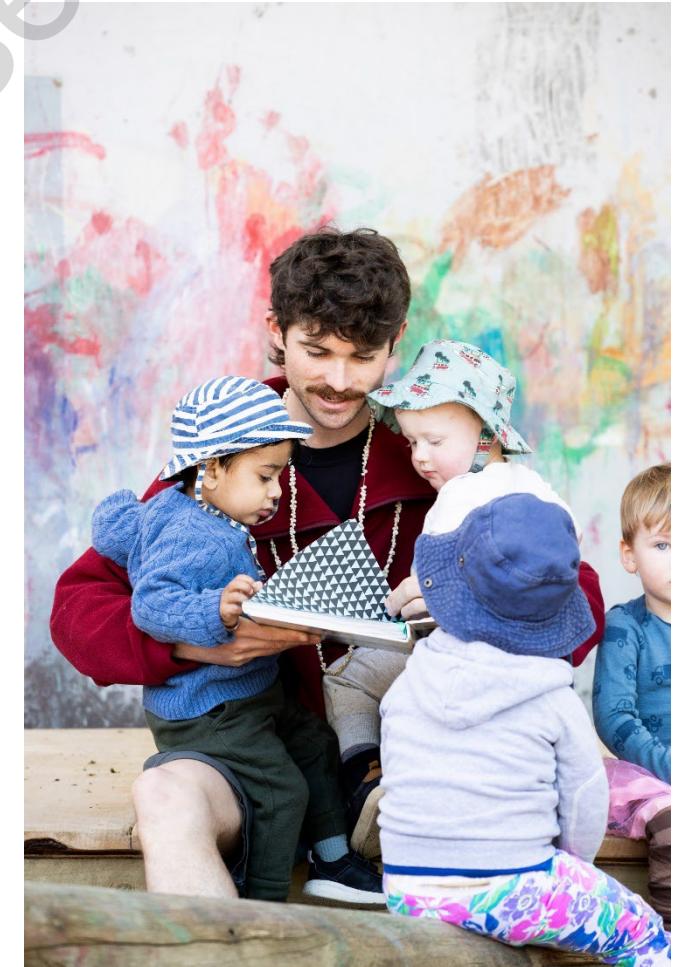
- New graduated enforcement tools
- Public notification of non-compliance
- Higher thresholds for provisional licence and licence suspension

Amending Act and ECE regulations

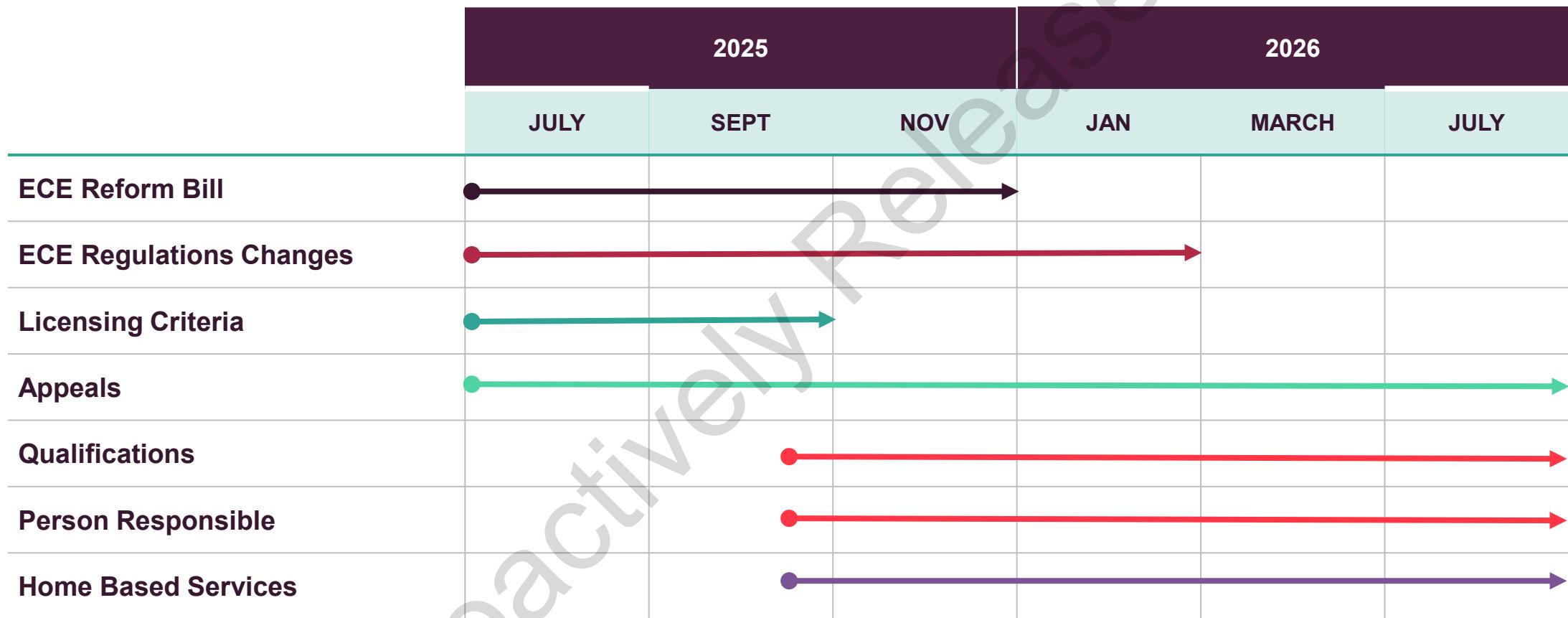
- Proposed changes to licensing criteria must outline impacts

Revising Licensing Criteria (Rec 9)

- Focused on M4R recommendations in its line-by-line review
- Separate but similar process underway working Te Kōhanga Reo National Trust
- Work is being done in two tranches because of the volume of changes proposed by MfR
- Consultation on non-curriculum changes running from 19 June to 24 July
- Around 800 responses so far
- Revised criteria to be gazetted by 30 September.
- Expect to consult on proposed changes to curriculum criteria in 2026



Timeframes



Questions and discussion

Further information on selected topics

Licensing process overview

Entry

- All licensed services are entitled to government funding.
- New services receive a probationary licence, which they hold for up to 12 months.
 - The applicant and each governance member must be assessed as a fit and proper person.
 - The service must be assessed as complying with regulation 44 (qualifications, ratios, and service-size standard) and regulation 45 (premises and facilities standard).
 - The service must be assessed as likely to comply with regulation 43 (curriculum standard), regulation 46 (health and safety practices standard) and regulation 47 (governance, management and administration standard).
- After being assessed as complying with the minimum standards, a service will move onto a full licence.
- The Ministry uses the licensing criteria to assess compliance with regulations 43, 45, 46 and 47.
- The Education Review Office (ERO) also has a significant role in the sector, as the government agency that evaluates and reports on the education and care of children in ECE. They may refer a service to the Ministry if they identify any regulatory noncompliance.

Licensing process overview

Exit

- The service provider for a service can apply to the Secretary for Education to change the identity of the service provider (regulation 33(1)(c)).
 - The applicant and governance members must be assessed as being fit and proper.
 - The Secretary for Education must review the licence.
- The Secretary for Education must cancel the licence in limited circumstances (regulation 32). Generally, this is most likely to occur when a service:
 - has had its licence reclassified to provisional, and it is currently not compliant with any one of the regulatory standards.
 - has had its licence suspended, and the conditions specified in the notice effecting the suspension have not been complied with.
 - has had its probationary licence expire because they are not eligible to move to a full licence.

Other key points

Other regs that ECE services have to comply with as business eg H&S, building, food etc

- Service providers also face compliance costs associated with non-ECE specific legislation and regulations. For example, service providers are required to comply with legislation relating to health and safety, employment relations, building and food safety.
- Some of these obligations overlap with the early learning regulatory system, while others relate to services as they are businesses or non-profit organisations.

An example of different teaching staff requirements – teacher-led, centre-based services

Component	Regulatory requirements		Funding requirements
	<i>50% qualified licensing requirements</i>	<i>Person responsible</i>	
A current practising certificate issued by the Teaching Council	Not required	Required	Required
Recognised ECE teaching qualification (or overseas qualification assessed as comparable by NZQA)	Required	Meets requirement	Meets requirement
Recognised primary teaching qualification (or overseas qualification assessed as comparable by NZQA)	Does not meet requirement	Meets requirement	Meets requirement
Staff enrolled in a course of study that will result in a recognised ECE teaching qualification within 12 months	Can count 1 staff member towards requirement	Does not meet requirement	Does not meet requirement

Changes to legislation and ECE regulations

Purpose of regulating ECE services (Rec 1)



Amend the Education and Training Act 2020 (the Act) to be clear that the purpose of **regulating** the provision of early childhood services is to:

- set and implement minimum standards for the provision of quality early childhood services that allow children to establish strong foundations for learning and positive well-being and that support the choice of parents and caregivers to participate in labour markets

Objectives of regulating ECE services (Rec 1)

Amend the Act to include the objectives of **regulating** the provision of early childhood services:

- a. protect the health, safety and wellbeing of children who attend early childhood services;
- b. improve educational and developmental outcomes for children who attend early childhood services;
- c. support accessibility and choice for parents, including by providing for licensing and certification of different types of provision;
- d. provide information and improve knowledge about the quality of early childhood services, including to inform parental choice; and
- e. implement a licensing regime that provides ECE service providers and parents with certainty and clarity about the minimum standard of quality provision required of early childhood services.

Guiding principles to inform decision making (Rec 1)

Amend the Act to include guiding principles to inform regulatory decision making:

- a. the health, safety and wellbeing of children is paramount;
- b. children's learning and development is essential, and supports their readiness to transition to school;
- c. the role of parents and families in their children's education and care is respected and supported;
- d. regulatory best practice is expected of the regulator; and
- e. unnecessary regulatory cost and burden for service providers, parents and children should be avoided.

Establish a Director of Regulation (Rec 2 and 6)

Amend the Act to establish a new statutory role of Director of Regulation (DoR) that will be employed by and be accountable to the Secretary for Education (the Secretary) for the performance of their functions and duties

The Director will be required to perform the following functions:

- licensing and certification
- undertaking proactive regular risk-based monitoring and enforcement of compliance, including undertaking investigations and prosecutions as appropriate;
- providing information, support and guidance to service providers regarding regulatory requirements and compliance;
- providing information on compliance to parents and other interested parties, and helping build their knowledge about the quality of early childhood services;
- responding to complaints about service provision and undertaking investigations in response to accidents and incidents at early childhood services where appropriate;
- responding to complaints and appeals from service providers regarding regulatory decisions and decision-making;
- collecting and providing information to the Secretary necessary for the Secretary to perform their role and functions, including in relation to system stewardship and monitoring, funding, and child protection;
- publishing and regularly updating information on its regulatory approach, including a regulatory strategy; and
- working collaboratively with other agencies that have a role in regulating early childhood services, including sharing information where appropriate.

Establish a Director of Regulation (cont.)

The DoR will be required to give effect to the purpose, objectives and guiding principles when performing their functions and duties under the Act and associated secondary legislation.

Amend the Act to introduce new provisions to require the DoR to act independently from direction of the Minister when performing the following regulatory functions:

- a. licensing of early childhood services and certification of playgroups
- b. enforcing compliance, including licence suspensions and cancellations, and undertaking investigations and prosecutions.

The DoR will be able to delegate their functions, duties and powers in writing, while retaining overall responsibility for how these are exercised.

Amend the Act to give the DoR the necessary powers to perform their functions and duties, eg require the service provider of a licensed early childhood service to keep records and make these available to the DoR on request

Licensing criteria (Rec 5)

Changes will be made to the relevant sections of the Act and Regulations to:

- a. provide for the Minister of Education, upon receipt of advice from the Secretary and following consultation with affected parties, including the Director of Regulation, to prescribe criteria to be used by the Director of Regulation to assess compliance with the minimum standards set in the regulations
- b. require the Secretary to outline the impacts of proposed licensing criteria, and who is affected, as part of advice to the Minister

Graduated enforcement tools (Rec 8)

Amend the ECE Regulations to introduce new provisions that establish a set of graduated enforcement tools in addition to the existing tools that the DoR can use (alongside other non-regulatory measures) to enforce compliance with the regulations and licensing criteria, including:

- a. a record of non-compliance**, where a formal record is kept of an incident of non-compliance that was identified by the DoR and immediately addressed by the licence holder;
- b. written warning**, specifying the non-compliance that has been identified and the remedial action that must be taken by a specified date to avoid further compliance action;
- c. a written direction to comply either immediately or within a period of no more than 10 days**, where non-compliance is identified that poses a health and safety risk but can be remedied safely while the service continues to operate;
- d. requirement to engage specialist help**, where the service provider must employ or engage a specialist or expert in a specified area to support them to address non-compliance;

Graduated enforcement tools (cont.)

- e. **requirement to develop, implement and complete an improvement plan**, where the service provider must, within 15 working days, set out the specific actions that will be taken to address non-compliance, including timeframes where they will implement and complete the plan, to the satisfaction of the DoR;
- f. **reclassification of the licence as provisional**, an existing tool whereby the status of the service licence is downgraded to provisional, and conditions are set that must be met within the timeframes specified by the DoR, or the licence is cancelled;
- g. **suspension of the service licence**, an existing tool whereby the service provider is prevented from operating until the DoR is satisfied compliance with the regulations has been achieved; and
- h. **cancellation of the service licence**, an existing tool whereby the service provider's licence to operate a service is permanently cancelled;

Public notification of non-compliance

As part of the graduated enforcement tools, the Regulations will be amended to enable the DoR to issue a public notice of non-compliance, including details of enforcement action that has been taken, if they are satisfied this is in the public interest, and one or more of the following enforcement actions have been taken:

- a. written direction to comply either immediately or within a period of no more than 10 days;
- b. requirement to engage specialist help; or
- c. requirement to develop, implement and complete an improvement plan.

The DoR will be required to issue a public notice of non-compliance, including details of the enforcement action that has been taken, if one of the following enforcement actions have been taken:

- a. reclassification of the licence as provisional;
- b. suspension of the service licence; or
- c. cancellation of the service licence.

Higher threshold for provisional licence

As part of graduated enforcement, the threshold reclassifying a licence as provisional will be increased

Amend Regulation 15(1) so the DoR can reclassify a probationary or full licence as provisional if satisfied that the service provider has:

- a. been issued with one or more of the following enforcement actions and failed to comply:
 - i. written direction to comply either immediately or within a period of no more than 10 days;
 - ii. requirement to engage specialist help; and
 - iii. requirement to develop, implement and complete an improvement plan; or
- b. has been found to be non-compliant and has been issued with two or more of the following enforcement actions in the preceding 12 months:
 - i. record of non-compliance;
 - ii. formal written warning;
 - iii. written direction to comply either immediately or within a period of no more than 10 days;
 - iv. requirement to engage specialist help; and
 - v. requirement to develop, implement and complete an improvement plan

Higher threshold for licence suspension

As part of graduated enforcement, the threshold for suspending a licence will also be increased

Amending Regulation 30(1)(a) so that to suspend a service licence, the DoR must be satisfied, on reasonable grounds:

- a. there is an immediate risk to the health, safety or wellbeing of children attending or participating in the service; and
- b. it is not in the children's interests that the service continues to operate.



He mea tārai e mātou te mātauranga
kia rangatira ai, kia mana taurite ai ūna huanga.

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

