



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

Report: Consultation feedback on the ECE Amendment Regulations

To:	Hon Erica Stanford, Minister of Education		
	Hon David Seymour, Associate Minister of Education		
Date:	19/11/2025	Deadline:	28/11/2025
Security Level:	In-Confidence	Priority:	Medium
From:	9(2)(a) Senior Policy Manager	Phone:	9(2)(a)
Drafter:	9(2)(a)	METIS No:	1354528
Title ok for release?	Yes		

Why are we sending this to you?

- This report provides you with consultation feedback on the Education (Early Childhood Services) Amendment Regulations 2025 (the Amendment Regulations) and seeks your joint agreement to proposed changes.

What action do we need, by when?

- Based on consultation feedback, we are proposing changes to the Amendment Regulations. We are seeking your joint decisions on these proposed changes and to a revised timeline.
- Please return the signed report by 28 November.

Key facts, issues and questions

- The Amendment Regulations raise the threshold for using licence reclassifications to enforce compliance and introduce new graduated tools to be used by the Director of Regulation.
- Consultation on an exposure draft of the Amendment Regulations was undertaken from 22 September to 19 October 2025. Feedback showed that there is support for the intent of the changes, however, there are also concerns about how these changes will be implemented.
- This report summarises the feedback received and proposes changes to the Amendment Regulations and the timeline for this work.

Alignment with Government priorities

1. This report aligns with the Coalition Government's commitment to carry out a regulatory sector review of early childhood education (ECE) and to improve the quality of ECE regulation.

Background

2. As approved by Cabinet, amendments will be made to the Education (Early Childhood Services) Regulations 2008 to amend the thresholds for using licence reclassification to enforce compliance and to introduce new graduated enforcement tools for use by the Director of Regulation ('the Director') [CAB-25-MIN-0123].
3. To give effect to this, we have worked with the Parliamentary Counsel Office ('PCO') to draft the Education (Early Childhood Services) Amendment Regulations 2025 ('the Amendment Regulations') [METIS 1351369 refers]. Public consultation on an exposure draft of these Amendment Regulations was undertaken from late September. This report provides you with a summary of the feedback that we received.
4. To support the development process of these Amendment Regulations, Cabinet authorised Ministers to make additional joint decisions on policy and drafting issues without the need to go to Cabinet. Based on consultation feedback, we are seeking your joint decisions on three minor changes to improve the clarity and flexibility of the amendment regulations. Due to recent changes to the timing of the Education and Training (Early Childhood Education Reform) Amendment Bill ('the ECE Reform Bill'), we are also seeking your joint agreement to a revised timeline for these regulatory changes.

Consultation summary

5. Consultation on the exposure draft of the Amendment Regulations was undertaken from Monday 22 September to Sunday 19 October. This consultation was conducted online, with the Amendment Regulations and accompanying discussion document published on the Ministry of Education website.
6. Details of the consultation were shared with the sector through the Early Learning Bulletin. We also informed members of the Ministry's Early Childhood Advisory Committee and the Early Learning Regulatory Advisory Group. Respondents were invited to provide feedback via email or online survey.
7. Through consultation, we sought feedback on:
 - whether the amendment regulations were clear and easy to understand,
 - potential impacts they may have on different stakeholders, and
 - implementation considerations.

Written responses

8. We received 16 written responses via email. Most respondents expressed support for some or all of the Amendment Regulations, while three opposed the amendments. Overall, most respondents found that the regulations were clear and easy to understand. The changes to the threshold for licence reclassification and suspensions (Regulations 15 and 30) and the new graduated tools (Regulations 29A – 29E) had the strongest support.
9. The major themes from the written responses included:
 - **Support for the graduated enforcement approach**— many respondents supported this as a proportionate and potentially more improvement-focused framework.

- **Consistent and fair application of the regulations** – to support consistency and fairness many respondents called for the development of clear guidance and templates as well as training for relevant Ministry staff.
 - **Clarity will be needed on how the new regulations will be used** – respondents sought further detail on this and recommended a range of sector guidance be developed and published.
 - **Concerns about potential disproportionate impacts (i.e. costs, administrative burden, lack of availability of specialist help) on small, rural and kaupapa Māori services** – to support these service types, respondents recommended the Director be enabled to make equitable considerations where relevant.
 - **Concerns about reputational harm from public notifications (Regulation 29F and 59A) for services and their staff** – while there was some opposition, there was also support for the intent of these regulations. Respondents recommended clear criteria for notices be published, and that notifications be factual and non-prejudicial.
10. A summary of feedback from written responses is provided in **Annex 1**.

Survey responses

11. A total of 319 survey responses were received. Around two-thirds of survey respondents provided demographic information about themselves. For these respondents:
- most were making individual submissions (31%), this was followed by submissions from parents (16%), ECE service managers (16%) and ECE teachers (16%).
 - most respondents were affiliated with education and care services (51%), this was followed by kindergartens (24%) and puna reo (11%).
12. Overall, the survey responses reflected the same themes as the written responses. Unlike the written responses, survey respondents did not readily express clear support or opposition to the Amendment Regulations but instead noted potential benefits, concerns and suggested changes and implementation considerations.
13. Most survey respondents agreed that the Amendment Regulations were clear and easy to understand. Many valued the move toward graduated enforcement, which would allow for tools such as improvement plans to be applied before more severe actions would be taken. However, many raised concerns about clarity and accessibility of information regarding the new regulatory regime and requirements. It was frequently noted that plain language guidance, implementation detail and communications would be needed.
14. There were mixed views on the impact of these proposals on health and safety. Some felt they would improve safety, others feared that delays in enforcement could increase risks. There were also mixed views on the potential administrative burden for services, with some respondents concerned about increased complexity and unclear expectations.
15. There were some differences in the feedback from different survey respondent types:
- **Parents, caregivers and whānau** supported the public notification regulations noting that this could improve transparency for families about their services. They also supported regulations that could better prioritise child safety. However, concerns were raised around the potential for delayed enforcement actions and the impact of unclear processes and standards.
 - **ECE service managers and owners** had mixed responses and shared concerns around potential increases in administrative and compliance burdens, and the impact of these proposals on existing operational pressures (particularly workforce issues). Concerns around equity between different service types were also raised.

- **ECE teachers** shared many of the same concerns as service managers and owners. They also noted concerns around the perceived lowering of standards (and the impact of this on the quality of education and care) and the potential for increased workloads. Some teachers supported the proposals due to the focus on fairness and clarity.
 - **ECE organisations and peak bodies** shared a range of implementation considerations and called for training of relevant Ministry staff and sector support (such as guidance and templates). They noted systemic issues that could result in disproportionate impacts on smaller, rural, community and kaupapa Māori services.
16. A summary of survey feedback is provided in **Annex 2**.

Proposed changes to the amendment regulations

17. We assessed proposed changes from consultation feedback against the following criteria:
- the policy intent of these Amendment Regulations, as approved by Cabinet,
 - clarity of the wording of the regulation,
 - potential mitigation of unintended impacts, and
 - effective implementation.
18. Against these criteria, we identified three potential changes for the Amendment Regulations. We also received a range of feedback on operational considerations and suggestions. Where relevant, these will be considered through implementation planning.

Proposed change to Regulation 29C: Written direction to remedy risk to health and safety

19. Consultation feedback identified a potential risk with Regulation 29C in that the Director may receive new information about non-compliance for which a written direction has already been issued.
20. Without amendment, the Director would need to wait out the pre-specified timeframe in the written direction (of up to 10 working days) before taking further action. Alternatively, the Director may escalate to suspension. However, suspension may be disproportionate for the compliance issue. A revision to the written direction may be a more appropriate action.
21. We recommend that you approve an amendment be made to Regulation 29C to allow the Director to revise a written direction, if they consider this to be necessary, following the receipt of new information, and to address an immediate risk to the health and safety of children. This amendment will also make clear that a revised written direction may not exceed the 10-working day limit.

Proposed changes to Regulation 59A: Director may give public notice, or inform parents and caregivers of, investigation of complaint or incident

22. Following your joint agreement, Regulation 59A was included in the exposure draft of Amendment Regulations for public consultation [METIS 1352043 refers]. This regulation allows for the Director to:
- give public notice that an investigation into a complaint or an incident involving a licensed service provider is underway; and/or
 - require that a service provider inform parents and caregivers of children enrolled at their service that an investigation into a complaint against, or an incident involving, the service provider is underway.

23. Consultation feedback showed a range of views on Regulation 59A. Many respondents supported the intent of the regulation. They noted that this would build trust with parents and whānau, improve child safety, empower parents to make informed decisions and motivate services to act appropriately and transparently. Respondents emphasised the need for balanced implementation to protect privacy and avoid panic on the part of parents. A small number of respondents opposed this regulation. Their concerns focused on the reputational risks for services and the risk of prematurely notifying before complaints or incidents are substantiated.
24. In practice, we intend for the Director to use their judgement based on the known circumstances of a complaint or incident. As set out in ss27C and 27D of the ECE Reform Bill, the Director must give effect to the purpose and objectives and have regard to the guiding principles in applying Regulation 59A. The Director would also need to consider the risks of making a notification when this could unnecessarily and adversely impact a service and the children attending. These factors will inform the threshold applied. Based on feedback, we are proposing minor changes to clarify this action.
25. Regarding Regulation 59A, we recommend that you:
 - approve minor amendments be made to 59A(1) to clarify that not every complaint or incident will be necessarily investigated. Our current proposed wording is: *The Director may give notice "of their decision to undertake" an investigation into a complaint against, or an incident involving a licensed service.* We will work with PCO on appropriate wording.
 - approve amendments be made, including to the heading, to clarify that the Director may require service providers to give notice to parents and caregivers of an investigation. We will work with PCO on appropriate wording.

Risks

26. Implementation of these regulatory changes was intended for within two months of the passage of the ECE Reform Bill [CAB-25-SUB-0123]. Under our current timeline, the Amendment Regulations are expected to come into effect in March 2026. However, this is no longer aligned with the timing of the Bill, which is likely to pass earlier than expected. This means the Amendment Regulations will need to come into effect at the same time as the Bill, which has a commencement date of 23 January 2026. This timing is not workable, as this would require Cabinet decisions to be made, and the final amendments to be gazetted, before the end of this year. We also consider that such a constrained timeframe will not allow for effective implementation planning.
27. Consultation feedback emphasised the importance of this. While there was support for the intent of the Amendment Regulations, respondents stressed a need for high quality and clear guidance and support, including further detail on operational procedures and pathways. Implementation of these changes will require significant time and resource. For example, further work is needed to develop a compliance strategy and enforcement strategy for the new graduated tools, develop and deliver staff training in the administration of the new tools and processes, and make required changes to IT systems. The effectiveness of this work will be limited by tight timelines. In addition, these regulatory changes will likely coincide with licensing criteria changes. This is a significant level of change that will also increase the risk of ineffective implementation.
28. To address and mitigate these risks, we are seeking your joint agreement to revised timing for these regulatory changes. A proposed timeline is set out in the following section. This is intended to strike a balance between allowing sufficient time for implementation planning and delivering of effective regulatory relief for the sector. While this timeline proposes moving the effective date of the Amendment Regulations to 29 June 2026, we will

progress work to confirm and gazette final Cabinet decisions as quickly as possible. This will give the sector as much prior notice of the final regulations as possible, before they come into effect.

Next steps

29. Subject to your decisions in this report, we will work with PCO to draft final changes to the Amendment Regulations.
30. We will provide Minister Seymour with a follow-up report that will include, for Ministerial and departmental consultation:
 - the final Amendment Regulations,
 - a draft Cabinet paper,
 - a draft regulatory impact statement (RIS).
31. Due to recent changes to the timing of the Education and Training (Early Childhood Education Reform) Amendment Bill, we are seeking your joint agreement to a revised timeline for these regulatory changes. This revised timeline will mean that these Amendment Regulations will come into effect from 29 June 2026.
32. Our proposed timeline is provided in the table below.

Key milestone	Timing
Development of Cabinet paper and RIS Final changes to the Amendment Regulations	December 2025
Cabinet paper to Minister Seymour for Ministerial and departmental consultation	Tuesday 20 January
Ministerial and Departmental consultation on LEG paper	Monday 2 February - Monday 16 February
Final Cabinet paper to Minister Seymour for lodging	Tuesday 24 February
LEG Committee meeting	Thursday 5 March
Cabinet meeting and Executive Council	Monday 9 March
Regulatory amendments gazetted	Friday 13 March
Regulations come into effect	Monday 29 June

Annexes

The following are annexed to this paper:

- Annex 1: Summary of feedback from written responses from ECE groups and organisations
- Annex 2: Summary of feedback from survey responses

Recommended actions

The Ministry of Education recommends you:

- a. **note** that Cabinet has jointly authorised you to make decisions on policy and drafting issues arising from work to implement ECE reform regulatory changes [CAB-25-MIN-0123], and that we are seeking your joint agreement on changes to the amendment regulations and a revised timeline.

Noted

Minister of Education

Noted

Associate Minister of Education

- b. **agree** to a revised timeline for this work so that the amendments to the Education (Early Childhood Services) Regulations 2008 will come into effect on 29 June 2026.

Agree / Disagree

Minister of Education

Agree / Disagree

Associate Minister of Education

- c. **agree** that *Regulation 29C Written direction to remedy risk to health and safety* be amended to allow the Director of Regulation to revise a written direction that may not exceed the 10-working day limit:

- i. if the Director considers this to be necessary;
- ii. following the receipt of new information; and
- iii. to address an immediate risk to the health and safety of children.

Agree / Disagree

Minister of Education

Agree / Disagree

Associate Minister of Education

- d. **agree** that *Regulation 59A Director may give public notice, or inform parents and caregivers of, investigation of complaint or incident* be amended to:

- i. clarify that not every compliant or incident will be necessarily investigated (i.e. the Director of Regulation may give notice of "of their decision to undertake" an investigation); and
- ii. clarify that the Director of Regulation may instruct service providers to give notice to parents and caregivers.

Agree / Disagree

Minister of Education

Agree / Disagree

Associate Minister of Education

- e. **note** that we will provide Minister Seymour with a final version of the Education (Early Childhood Services) Amendment Regulations 2025 that reflects your joint decisions on recommendations (c) and (d), along with a draft Cabinet paper and RIS.

Noted

Associate Minister of Education

Proactive Release:

- f. **agree** that the Ministry of Education release this paper after final decisions have been made by Cabinet with any information needing to be withheld done so in line with the provisions of the Official Information Act 1982.

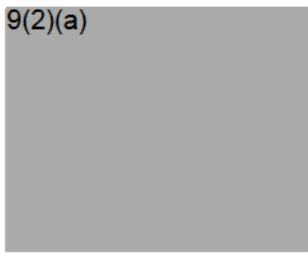
Agree / Disagree

Minister of Education

Agree / Disagree

Associate Minister of Education

9(2)(a)



**Senior Policy Manager
Te Pou Kaupapahere**

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**Hon David Seymour
Associate Minister of Education**

19/11/2025

21/11/25

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**Hon Erica Stanford
Minister of Education**

1/12/25