



**EDUCATION (EARLY CHILDHOOD CENTRES) REGULATIONS  
1998**

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THOMAS EICHELBAUM, Administrator of the Government

**ORDER IN COUNCIL**

At Wellington this 11th day of May 1998

Present:

HIS EXCELLENCY THE ADMINISTRATOR OF THE GOVERNMENT IN COUNCIL  
PURSUANT to the Education Act 1989, His Excellency the Administrator of  
the Government, acting by and with the advice and consent of the  
Executive Council, makes the following regulations.

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## REGULATIONS

**1. Title and commencement**—(1) These regulations may be cited as the Education (Early Childhood Centres) Regulations 1998.

(2) These regulations come into force on the 28th day after the date of their notification in the *Gazette*.

#### PART 1

##### PRELIMINARY

**2. Interpretation**—In these regulations, unless the context otherwise requires,—

“The Act” means the Education Act 1989:

“Centre” means an early childhood centre within the meaning of section 308 (1) of the Act:

“Children”, in relation to a centre, means the children attending the centre; and “child” has a corresponding meaning:

“Licence” means a licence granted under these regulations:

“Licensed centre” means a centre for which a current licence is held:

“Licensee” means the holder of a licence; and, in relation to a licensed centre, means the holder of a licence for that centre:

“Local authority”, in relation to a centre, means the territorial authority in whose district the centre is situated:

“Management” has the meaning given to that term by section 308 (1) of the Act:

“Person responsible”, in relation to a licensed centre, means a person directly involved in, and primarily responsible for, the day-to-day care, comfort, education, health, and safety, of the children:

“Secretary” means the chief executive of the department of State for the time being responsible for the administration of the Act.

## PART 2

## LICENSING

**3. Applications**—(1) Every application for a licence must be made, on a form provided by the Secretary for the purpose,—

(a) By the centre's management, where the management is one individual person; and

(b) By 1 individual person on behalf of the management, where the management is a body corporate or body of persons.

(2) Every application for a licence must include or have with it a floor plan of the buildings concerned and a site plan of the entire premises concerned, showing dimensions and clearly indicating the uses to which each part of the buildings and premises will be put.

(3) Every application for a licence must be accompanied by evidence satisfactory to the Secretary that—

(a) The premises and equipment of the centre comply with the provisions relating to premises and equipment in Part 3 and are suitable for use as a centre; and

(b) The management and staffing practices, the curriculum, and the standard of care and education in the centre are likely to comply with Part 4; and

(c) The applicant is a fit and proper person to hold a licence.

(4) For the purpose of determining whether an applicant is a fit and proper person to hold a licence, the Secretary may have regard to all or any of the following matters:

(a) Any previous conviction for any offence involving harm to children, violence, or fraud;

(b) Any history of mental illness or serious behavioural problems;

(c) Any adjudication of bankruptcy under the Insolvency Act 1967.

(5) Every application for a licence must be accompanied by—

(a) A copy of an operative evacuation scheme for public safety that meets the requirements of section 21A of the Fire Service Act 1975 and Part II of the Fire Safety and Evacuation of Buildings Regulations 1992; and

(b) Evidence that the premises comply with the Building Act 1991 in respect of their use as a centre; and

(c) A copy of—

(i) A compliance schedule issued under section 44 of the Building Act 1991; or

(ii) A current building warrant of fitness pursuant to section 45 of that Act.

**4. Grant of probationary licence for unlicensed centre**—(1) Subject to regulation 6, the Secretary must grant a probationary licence for any centre that is not a licensed centre if, and only if, satisfied on reasonable grounds that—

(a) The premises and equipment of the centre comply with Part 3 and are suitable for use as a centre; and

(b) The management and staffing practices, the curriculum, and the standard of care and education, in the centre are likely to comply with Part 4; and

(c) The applicant is a fit and proper person to hold a licence.

(2) If satisfied that the information contained in the application is complete, the Secretary must take all reasonably practicable steps to ensure that the decision to grant or refuse to grant a probationary licence for the centre is made within 30 days of the making of the application.

(3) Unless earlier cancelled or suspended, every probationary licence remains in force for 12 months from the date of issue, and then expires.

(4) At any time before the probationary licence expires, the Secretary may, on the application of the licensee, grant a full licence.

**5. Grant of full licence**—Subject to regulation 6, the Secretary must grant a full licence for a centre if, and only if, satisfied on reasonable grounds that—

- (a) The premises and equipment of the centre comply with Part 3 and are suitable for use as a centre; and
- (b) The management and staffing practices, the curriculum, and the standard of care and education, in the centre comply with Part 4; and
- (c) The applicant is a fit and proper person to hold a licence.

**6. Consents under Resource Management Act 1991**—The Secretary must not grant any licence for a centre unless satisfied that the use of the premises concerned for a centre complies with the Resource Management Act 1991.

**7. Classes of licence**—(1) Every licence must be either—

- (a) An all day licence (being a licence to operate a centre that any child attends for a period of more than 4 hours on any day); or
- (b) A sessional licence (being a licence to operate a centre that no child attends for a period of more than 4 hours on any day).

(2) Every all day licence or sessional licence must be—

- (a) A full licence granted under regulation 5; or
- (b) A probationary licence granted under regulation 4; or
- (c) A full licence that has been reclassified as a provisional licence under regulation 10.

**8. Issue of licences**—(1) Subject to subclauses (2) and (3), licences may be in any form the Secretary thinks fit.

(2) Every licence must state—

- (a) The full name of the licensee;
- (b) The premises for which it has been granted;
- (c) Whether it is an all day licence or a sessional licence;
- (d) If it is a probationary licence, the fact that it is a probationary licence and its expiry date;
- (e) If it is a provisional licence, the fact that it is a provisional licence, the period for which it will remain in force, and the reasons for reclassifying the full licence;
- (f) The date of issue of the licence;
- (g) The maximum number (being not more than 50) of children who may attend the centre at any one time;
- (h) Either—
  - (i) The maximum number (being not more than 50) of children 2 or over who may attend the centre at any one time; or
  - (ii) That no children 2 or over may attend the centre;

(i) Either—

(i) The maximum number (being not more than 25) of children under 2 who may attend the centre at any one time; or

(ii) That no children under 2 may attend the centre;

(j) The hours and days the centre is authorised to be open for children to attend;

(k) Any special conditions attached to the licence.

(3) Every licence relates only to the licensee named in the licence and to the premises for which it has been issued.

(4) Except where the licence is issued under regulations 10(5), 13(3), and 14, the Secretary may not issue any licence unless the licensee has paid the Secretary the prescribed fee.

(5) Nothing in paragraphs (g) to (i) of subclause (2) limits or affects the power of the Secretary to attach to a licence (under paragraph (k)) conditions relating to the maximum numbers of children or of children of particular kinds who may attend a centre at any one time.

(6) The licensee of a licensed centre must ensure that at all times the numbers and kinds of the children comply with—

(a) The maximum numbers stated in the centre's licence under paragraphs (g) to (i) of subclause (2); and

(b) Any relevant special conditions attached to the licence under paragraph (k) of that subclause.

**9. Licence to be displayed**—The licensee of a licensed centre must ensure that—

(a) The centre's licence is prominently displayed at the centre in such a way as to be easily inspected by people attending; and

(b) The full name and qualifications of each current person responsible is prominently displayed next to the centre's licence; and

(c) There is prominently displayed next to the centre's licence a notice that—

(i) Sets out procedures for any parent who wishes to complain about non-compliance with licence conditions; and

(ii) States that, at times reasonable and convenient to the licensee, parents may have access to a copy of the Education (Early Childhood Centres) Regulations 1998, and to Education Review Office reports on the centre, if any.

**10. Secretary may reclassify licence as provisional licence**—

(1) The Secretary may, by written notice to the licensee, reclassify the centre's licence as a provisional licence, if satisfied that—

(a) The centre does not comply with these regulations; or

(b) The centre does not comply with all the conditions subject to which its licence was issued; or

(c) A complaint has been lodged against the centre alleging non-compliance with these regulations, and the Secretary considers that the complaint warrants investigation; or

(d) Within a reasonable time after getting a written direction from the Secretary under these regulations, the licensee of a licensed centre has not complied with it.

(2) If the Secretary reclassifies a licensed centre's licence under subclause (1),—

- (a) Except where reclassification is of a suspended licence, the licensee must immediately give the Secretary the licence; and
- (b) The Secretary must immediately forward to the licensee a provisional licence that—
  - (i) Specifies the conditions that will be complied with for its classification as a full licence; and
  - (ii) Specifies the day (not more than 3 months after the day on which the notice effecting the reclassification was given to the licensee) before which those conditions will be complied with.
- (3) Subject to subclause (4), if satisfied that the conditions for the reclassification of a provisional licence as a full licence have not been complied with before the day specified under subclause (2) (b) (ii), the Secretary must cancel the licence.
- (4) The Secretary may once extend (for a further period of not more than 21 days) the period during which the conditions for the reclassification of a provisional licence as a full licence must be complied with; and in that case must not cancel the licence unless satisfied that those conditions have not been complied with before the extended period expires.
- (5) If, before being required by subclause (3) to cancel a provisional licence,—
  - (a) The Secretary is satisfied that the conditions for its reclassification as a full licence have been complied with; and
  - (b) The licence has not been cancelled,—  
the Secretary must reclassify it and (if the provisional licence is returned to the Secretary) issue a full licence in its place.

**11. Suspension of licences**—(1) If satisfied that it is not in the interests of children attending a licensed centre for the centre to continue to be open, the Secretary must, by written notice to the licensee, suspend the centre's licence.

(2) A suspension under subclause (1) takes effect on a day specified in the notice effecting it, and may be immediate.

(3) If satisfied that a licensed centre is no longer under the control of its licensee, the Secretary may, by written notice to the centre's management, suspend the centre's licence.

(4) If satisfied that the licensee of a licensed centre has not given the centre's licence to the Secretary after it has been reclassified as a provisional licence (as required by regulation 10 (2) (a)), the Secretary may, by written notice to the licensee, suspend the centre's licence.

(5) A suspension under subclause (3) or subclause (4) takes effect on a day (at least 21 days after the day on which the notice effecting it is given) specified in that notice.

(6) A notice suspending a licence must specify the conditions under which the suspension will be revoked.

(7) A person who—

(a) Has custody of a licence; and  
(b) Becomes aware that it has been suspended under this regulation,—must give it to the Secretary.

(8) If the Secretary is satisfied that—

(a) The conditions specified in the notice suspending a licence have been complied with; and  
(b) The licence has not been cancelled,—

the Secretary must either revoke the suspension and (if the Secretary has custody of the licence) return the licence to the licensee, or revoke the suspension and reclassify the licence under regulation 10.

**12. Cancellation of licences**—(1) Subject to subclause (2), if satisfied that—

- (a) Children have attended a licensed centre while its licence is suspended; or
- (b) A reasonable time has passed since the suspension of a licensed centre's licence, and the conditions specified in the notice effecting the suspension have not been complied with; or
- (c) A licensee has been convicted of an offence against these regulations or an offence involving harm to children, violence, or fraud; or
- (d) A licensed centre—
  - (i) Has permanently ceased to operate; or
  - (ii) Has ceased to be a centre; or
  - (iii) Has ceased to operate in the premises specified in the licence,—

the Secretary must, by notice in the *Gazette*, cancel the centre's licence.

(2) The Secretary may not cancel a licence under subclause (1) (b) unless—

- (a) The Secretary has taken all reasonable steps to give the licensee of the centre concerned notice of the Secretary's intention to do so; and
- (b) Either—
  - (i) The Secretary has not been able to do so; or
  - (ii) The Secretary has taken into account all representations received from the licensee within a reasonable time of the licensee's being given notice.
- (3) A person who—
  - (a) Has custody of a licence; and
  - (b) Becomes aware that it has been cancelled under this regulation,—must give it to the Secretary.

**13. Amendment of licences**—(1) The licensee of a licensed centre must apply to the Secretary for an amendment to the licence if—

- (a) The licensee wants to make any alterations to the centre that would affect the conditions of the licence; or
- (b) The licensee wants to make any changes to the operation of the centre that would make any matter specified in the licence incorrect; or
- (c) The licensee is going to be absent from New Zealand for more than 30 days;—

and in that case the Secretary must review the licence and, as seems appropriate, confirm it, suspend or cancel it, or amend any of the particulars specified in it.

(2) The management of a licensed centre must apply to the Secretary for an amendment to the licence if—

- (a) The person named in the licence as licensee permanently ceases to represent the management in relation to the centre; or
- (b) The management wants any new person to become licensee of the centre;—

and in that case, if the Secretary is satisfied that any proposed licensee is a fit and proper person to hold a licence within the meaning of regulation 3, the Secretary must review the licence and, as seems appropriate, confirm the licence, suspend or cancel it under these regulations, or amend any of the particulars specified in it.

(3) No fee is payable for any amended licence issued in accordance with this regulation.

**14. Replacement licences**—If satisfied that a licence is lost, stolen, defaced, or destroyed, or that it contains an error, the Secretary may grant a replacement licence.

**15. Consultation required in certain cases affecting kohanga reo**—(1) The Te Kohanga Reo Trust (Incorporated) may from time to time, by written notice to the Secretary, nominate people for the purposes of this regulation.

(2) Every person must be nominated in respect of a specified geographical area, the whole of New Zealand, or both.

(3) Subject to subclause (4),—

(a) If for the time being there are 1 or more people nominated in respect of a geographical area in which a centre under the control and oversight of the Trust is situated, the Secretary may not grant, refuse to grant, reclassify as a provisional licence, or suspend, a licence in respect of the centre without first making all reasonable attempts to consult a person nominated; and

(b) If for the time being—

(i) There is no person nominated in respect of a geographical area in which a centre under the control and oversight of the Trust is situated; but

(ii) There are 1 or more people nominated in respect of the whole of New Zealand,—

the Secretary may not grant, refuse to grant, reclassify as a provisional licence, or suspend, a licence in respect of the centre without first making all reasonable attempts to consult a person nominated.

(4) The Secretary is not required by subclause (3) to attempt to consult before suspending a licence under regulation 11(1); but must do so as soon as is reasonably practicable after suspending the licence.

**16. Appeals**—(1) Any person affected by any decision or direction of the Secretary under these regulations may, within 14 days after getting notice of the decision or direction, or within any further time the Court allows, appeal against the decision or direction to a District Court with civil jurisdiction.

(2) For the purposes of hearing the appeal, the Court has all the powers vested in it in its civil jurisdiction, and may make any order it thinks fit.

(3) Unless the Secretary gives the Court notice to the contrary, a decision or direction appealed against remains in full force until the Court has reached its decision.

## PART 3

## HEALTH AND SAFETY STANDARDS

**17. Premises**—(1) The licensee of a licensed centre must ensure that the centre's premises are kept in good repair, and conform with the bylaws of the local authority and the Building Act 1991.

(2) The licensee of a licensed centre must ensure that it has, to the satisfaction of the Secretary, adequate space for different types of indoor and outdoor play, including individual and group activities, quiet space, eating, sleeping, toileting, and bathing, having regard to the number and age range of the children attending and the period for which they attend.

(3) The outdoor space must be close enough to the indoor space as to allow for quick, easy, and safe access by children.

(4) The outdoor space must comprise a safe space, suitably surfaced and drained for a variety of activities, and closed in by secure fences and gates.

(5) A centre that conforms to the standards set out in Schedule 1 has adequate space for the purposes of subclause (2).

(6) The licensee of a licensed centre must ensure that the centre has adequate resource and work space for staff.

(7) The licensee of a licensed centre must ensure that where children under 2 attend the centre, safe spaces for crawling, walking, and floor play are provided to the satisfaction of the Secretary.

(8) The Secretary may direct that the outdoor space standard set out in Schedule 1 may be reduced or dispensed with for a centre that no child attends for longer than 2 hours on any day.

**18. Kitchen facilities**—(1) The licensee of a licensed centre must ensure, to the satisfaction of the Secretary, that—

(a) It is equipped with adequate and suitable kitchen facilities; or

(b) Its staff have access to adequate and reasonable kitchen facilities.

(2) The licensee of a licensed centre with an all day licence must ensure that the staff of the centre have access to cooking facilities, a refrigerator, and a dishwashing machine or other hygienic dishwashing facilities for the needs of the children.

**19. Toilets, etc**—(1) The licensee of a licensed centre must ensure that the centre has, to the satisfaction of the Secretary, sanitary facilities that are conveniently accessible, safe, and appropriate, for use by children and adults.

(2) A centre that conforms to the standards set out in Schedule 2 complies with subclause (1).

**20. Laundry facilities**—The licensee of a licensed centre must ensure that there is in place a system, satisfactory to the Secretary, for ensuring the hygienic laundering of linen used by the children or the staff.

**21. Sleeping facilities**—(1) The licensee of a licensed centre must ensure that where children under 2 attend, or where children over 2 attend for more than 4 hours on any day, the centre has adequate space and facilities, to the satisfaction of the Secretary, for undisturbed rest for those children.

(2) The licensee of a licensed centre must ensure that individual beds and bedding of a suitable and safe type are provided, to the satisfaction of the Secretary, having regard to the number and age range of the children attending and the period for which they attend.

(3) The licensee of a licensed centre must ensure that all beds used by children are so spaced or arranged as to ensure hygiene, safety, and adequate means of access.

(4) The licensee of a licensed centre must ensure that, to the satisfaction of the Secretary, there is in place a system for monitoring sleeping children.

**22. Lighting, ventilation, noise, and heating**—(1) The licensee of a licensed centre must ensure that every room in the centre that is used by children has, to the satisfaction of the Secretary, adequate natural or artificial lighting, adequate ventilation, acoustics that ensure that noise is kept at a reasonable level, and adequate heating.

(2) The heating in a room is adequate for the purposes of subclause (1) if the room is at or above a temperature of 16° Celsius measured between 0.5 m and 1 m above the floor.

**23. Fire and earthquake protection**—(1) The licensee of a licensed centre must ensure that there exists for the centre an operative evacuation scheme for public safety that meets the requirements of section 21A of the Fire Service Act 1975 and Part II of the Fire Safety and Evacuation of Buildings Regulations 1992.

(2) The licensee of a licensed centre must ensure that the centre has adequate provision for protection against earthquake damage, and for dealing with the consequences of an earthquake, to the satisfaction of the Secretary.

**24. Safety and hygiene**—(1) The licensee of a licensed centre must ensure that—

- (a) The premises, furniture, furnishings, fittings, equipment, and materials in the centre to which the children attending have access are kept safe and hygienic, and all items and surfaces comply with all applicable New Zealand standards; and
- (b) All equipment and materials are safely stored; and
- (c) All floor surfaces are suitable and safe for the activities to be carried out, and can easily be kept clean; and
- (d) The centre has at least 2 separate outside doors that allow people to get out easily; and
- (e) Where any part of the centre is not at ground level, applicable safety standards in relation to windows and balconies in that part are maintained to the satisfaction of the Secretary; and

- (f) A handrail (and, where appropriate, balusters) is fitted on all steps and ramps, except for stairways incorporating isolated steps; and
- (g) Any window that on any side has its lower edge less than 80 cm above the floor, the ground, or any deck or verandah,—

- (i) In the case of a centre established in a building completed after 1 June 1991, either has a fixed protective barrier on that side, or is made of a material approved by the Secretary for the purpose; and

- (ii) In any other case, either is not a hazard to the children in an unprotected state, or is so protected that it is not a hazard to the children; and

- (h) All electrical sockets are either out of reach of children, or adequately shielded to prevent danger to children; and

- (i) A telephone is available for emergency calls to and from the centre; and
  - (j) A plan for the evacuation and care of the children in emergencies is prominently displayed on the premises; and
  - (k) All animals are kept clean and healthy, and are able to be restrained; and
  - (l) Outside doors, fences, and gates are secure and safe enough to ensure that children are not able to leave the centre without the knowledge of a staff member; and
  - (m) Any swimming pool, excavation, structure, or site at the centre capable of holding water is secured against entry by children in the manner prescribed by the Fencing of Swimming Pools Act 1987; and
  - (n) No portable paddling pool at the centre has any water in it at any time, unless—
    - (i) A staff member is then supervising alongside; or
    - (ii) No children are then attending the centre; and
  - (o) All sandpits, bark pits, and similar facilities—
    - (i) Are covered after the last session each day; or
    - (ii) If covering is impracticable, are before the first session each day raked, and inspected, for animal droppings and dangerous objects; and
  - (p) All cleaning agents, medicines, poisons, and other hazardous material at the centre are inaccessible to children; and
  - (q) There are in place systems that prevent children from gaining access to any plant matter that is, or is capable of being, poisonous to children.
- (2) The licensee of a licensed centre must notify—
- (a) The Local Controller of Civil Defence; or
  - (b) Where there is no Local Controller or person acting as Local Controller, the Regional Controller of Civil Defence—of the centre's location.
- (3) The licensee of a licensed centre must ensure that all staff are trained in fire and earthquake drills, and in other emergency procedures, and that regular evacuation drills are carried out.
- (4) Every person responsible for the control of a centre, every staff member of a centre, and the licensee of a licensed centre must ensure that, so far as is reasonably practicable, hazards to the safety of the children are corrected, repaired, removed, or made inaccessible to the children.

**25. First aid**—(1) The licensee of a licensed centre must ensure that there is provided at the centre and kept in good condition and ready for immediate use, a first-aid cabinet equipped to a standard approved by the body that, on the commencement of these regulations, was known as the Health Funding Authority.

(2) The licensee of a licensed centre must ensure that every first-aid cabinet at the centre is fitted with a lock or other device that makes its contents inaccessible to children.

(3) The licensee of a licensed centre must ensure that there is at the centre, at all times while children are attending, at least 1 staff member

who holds a current first-aid certificate, or some other qualification recognised by the Secretary for the purpose.

**26. Food and drink**—(1) The licensee of a licensed centre must ensure that food is served in the centre at such times, and in such variety, quantity, and quality, as to meet the nutritional needs of the children.

(2) The licensee of a licensed centre must ensure that—

- (a) At all times an ample supply of potable drinking water is available to the children; and
- (b) Children under 6 months are held while being fed and are fed no infant formula unless it is a formula of a type approved by a parent or guardian; and
- (c) No child is unattended while eating; and
- (d) No child has access to any fluid while in bed (or any other sleeping or resting place); and
- (e) All food provided is clean when stored, prepared, and served; and
- (f) A record of every meal served to children at the centre, showing the type of food provided, is kept, and available for inspection, for 12 months after it is served.

**27. Travel arrangements**—(1) The licensee of a licensed centre must ensure that if children travel in a motor vehicle while in the care of the centre—

- (a) A person responsible ensures that each child is restrained as required by regulation 29A of the Traffic Regulations 1976; and
- (b) There are at least 2 adults in any motor vehicle carrying more than 3 children; and
- (c) The written permission of the parent or guardian of the child has been obtained before the travel begins.

(2) The licensee of a licensed centre must ensure that no child leaves the centre with any person, unless the person—

- (a) Has custody of the child; or
- (b) Is authorised in writing to take the child by a person who has custody of the child.

(3) The licensee of a licensed centre must ensure that if children are taken on any excursion or activity outside the centre while in the care of the centre—

- (a) There is a ratio of adults to children that, to the satisfaction of the Secretary, ensures the safety of those children; and
- (b) The parent or guardian of each child has given written approval to the ratio to be used; and
- (c) The adult to child ratio requirement for children remaining at the centre is maintained.

**28. Child health**—(1) The licensee of a licensed centre must take all reasonable steps to ensure that any child suffering from any infectious disease listed in the Second Schedule of the Health (Infectious and Notifiable Diseases) Regulations 1966 is excluded from the centre; and regulation 14 of those regulations, with necessary modifications, applies to every licensed centre as if it were a school.

(2) Any child who is suffering from any disease (other than a disease referred to in subclause (1)) or from any ailment, illness, or other condition affecting the child's health, may be excluded from attending any licensed

centre at the discretion of a person responsible, for any period the person thinks appropriate.

(3) The licensee of a licensed centre must ensure that the centre has available an area and facilities suitable for the temporary isolation and care of at least 1 sick child.

(4) The licensee of a licensed centre must ensure that where a child attending the centre has any minor illness, all practicable steps are taken to isolate the child from the others attending the centre and (subject to regulation 27 (2)) return the child to the care of an appropriate parent, guardian, or whanau member without delay.

(5) In the case of an accident to or serious illness of a child occurring or noticed at a licensed centre in circumstances that seem to call for immediate medical aid, the person responsible must without delay ensure that all reasonable steps are taken to get medical aid and to notify an appropriate parent, guardian, or whanau member.

(6) Every person responsible for a licensed centre must take all reasonable steps to ensure that medicine is not given to a child unless—

- (a) It is given by a doctor or ambulance officer in an emergency; or
- (b) It is given with the written authority of an appropriate parent, guardian, or whanau member.

(7) The licensee of every centre must ensure that a policy is developed on the prevention of child abuse and on the handling of any evidence of child abuse.

**29. Staff health**—(1) The licensee of a licensed centre must take all reasonable steps to ensure that every person working in any capacity in the centre is in good health and not suffering from any infectious disease listed in the Second Schedule of the Health (Infectious and Notifiable Diseases) Regulations 1966.

(2) The licensee of a licensed centre must take all reasonable steps to ensure that the children do not come into contact with any member of the staff of the centre, or any other person on the premises, who is suffering from a disease or condition—

- (a) Capable of being passed on to children; and
- (b) Likely to have a detrimental effect on children if passed on to them.

(3) If satisfied on reasonable grounds that the licensee of a licensed centre has failed to comply with subclause (2) in relation to the centre, the Secretary may immediately suspend the centre's licence under regulation 11 (1).

(4) The licensee of a licensed centre must ensure that no person smokes indoors at the centre in the areas used by the children or where food is prepared, or outdoors where children are playing.

(5) The licensee of a licensed centre must ensure that during the hours the centre is operating no person at the centre uses, or is affected by, alcohol or any other substance that has a detrimental effect on the person's functioning or behaviour.

**30. Health Funding Authority report**—In determining whether the health and safety standards required by regulations 18 to 22, 24 to 26, and 28 (3) have been met, the Secretary may direct the licensee of a licensed centre to obtain a report from the body that, on the commencement of these regulations, was known as the Health Funding Authority.

## PART 4

## CURRICULUM, MANAGEMENT, AND STAFFING STANDARDS

**31. Play and other equipment for use by children**—The licensee of a licensed centre must ensure that there are provided and maintained in the centre, in good condition, furniture, indoor and outdoor play equipment and materials, and educational equipment and materials, of types and of a quantity and variety considered by the Secretary to be adequate and suitable for the developmental needs of the children.

**32. Programme of activities**—The licensee of a licensed centre must, to the satisfaction of the Secretary,—

- (a) Enhance children's learning and development through planning, providing and evaluating a range of appropriate activities that cater for the learning and developmental needs of the children (including children with special needs) fostering their cognitive, creative, cultural, emotional, physical, and social development, including both individual and group experiences, indoors and outdoors; and
- (b) Demonstrate understanding of children's learning and development, and current good practice for early childhood education; and
- (c) Encourage children to become and remain confident in their own culture and to develop an understanding of and respect for other cultures of Aotearoa/New Zealand; and
- (d) Ensure that the daily activities at the centre are in accordance with the purposes and aims of the centre; and
- (e) Periodically review the programme of activities undertaken at the centre, after having regard to developments in early childhood education and the learning and developmental needs of children; and
- (f) Provide opportunities for the parents, guardians, and whanau members and staff to be involved in decision making concerning their children and their children's progress and needs.

**33. Management practice for child behaviour**—The licensee of a licensed centre must formulate and apply a written policy on management practices for child behaviour that ensures that—

- (a) Every child is given respect and dignity; and
- (b) Every child is given positive guidance promoting appropriate behaviour, having regard to the child's stage of development; and
- (c) Every child is given positive guidance, using praise and encouragement, and avoiding blame, harsh language, and belittling or degrading responses; and
- (d) Children are given guidance and control; but no child receiving guidance and control is subjected to any form of physical ill-treatment, solitary confinement, immobilisation, or deprivation of food, drink, warmth, shelter, or protection.

**34. Ill-treatment of children**—(1) The licensee of a licensed centre who becomes aware that there are reasonable grounds for believing that a member of the centre's staff, or any other person,—

- (a) Has physically ill-treated a child; or

- (b) In guiding or controlling a child, has subjected the child to solitary confinement, immobilisation, or deprivation of food, drink, warmth, shelter, or protection,—

must ensure that the person is excluded from coming into contact with the children; and, if satisfied that it is necessary to do so to ensure no child is ill-treated, ensure that the person is excluded from the centre.

(2) The Secretary may immediately suspend the centre's licence under regulation 11 (1) if satisfied on reasonable grounds that the licensee of a licensed centre—

- (a) Has physically ill-treated a child; or
- (b) In guiding or controlling a child, has subjected the child to solitary confinement, immobilisation, or deprivation of food, drink, warmth, shelter, or protection; or
- (c) Has failed to comply with subclause (1) in relation to the centre.

**35. Records**—The licensee of a licensed centre must ensure that there are kept for each child (for at least 7 years) records, available at all times for inspection and copying by authorised persons having the right of entry to the centre under section 318 of the Act, of—

- (a) The child's name, date of birth, and home address or addresses; and
- (b) The name and, if it differs from the child's address, the home address of at least 1 person who has custody of the child; and
- (c) The place at which, or the means by which, at least 1 person who—
  - (i) Has custody of the child; or
  - (ii) Has been nominated by a person with custody of the child,—  
may be reached while the child attends the centre; and
- (d) An attendance roll showing the times and dates of the child's attendance at the centre; and
- (e) Particulars of every accident and illness occurring to the child while at the centre, and of any action taken; and
- (f) Details of any chronic illness from which the child suffers, and of any medication the child has to take; and
- (g) Details of all medicine (whether prescription or non-prescription) given to the child while at the centre, the occasions on which it was administered, who administered it, and by whose authority;
- (h) The names of people who (by direction of a person who has custody of the child) should be consulted if the child is ill or injured; and
- (i) The names of the people authorised by a person who has custody of the child to collect the child and, where appropriate, people who, by law,—
  - (i) Have a right of access to the child; or
  - (ii) Are forbidden to have access to the child, or have a right of access to the child that is subject to conditions.

**36. Staffing**—(1) The licensee of a licensed centre must ensure that at all times while children attend them, or the staff members by whom they are supervised, are supervised by a person responsible.

(2) The licensee of a licensed centre must ensure that all staff members have turned 17.

(3) The licensee of a licensed centre with an all day licence must ensure that at all times it is staffed in accordance with Part 1 of Schedule 3.

(4) The licensee of a licensed centre with a sessional licence must ensure that at all times it is staffed in accordance with Part 2 of Schedule 3.

(5) For the purpose of subclauses (3) and (4), every child present at a centre (including a child of the licensee or person responsible or staff member of the centre), of whatever age, must be counted.

(6) Notwithstanding subclauses (3) and (4), the following provisions apply:

(a) Having regard to the purpose of a licensed centre, the particular needs and ages of the children, and the programme of activities available, the Secretary may direct the centre to be staffed otherwise than in accordance with Schedule 3:

(b) If satisfied that the use made of any licensed centre, or its design and construction, or any other special circumstance, makes it desirable to do so, the Secretary may direct the centre to be staffed otherwise than in accordance with Schedule 3:

(c) People who are not involved in anything beyond food preparation and serving, administrative duties, and maintenance are not to be counted for the purposes of Schedule 3:

(d) While at lunch, or having breaks or non-child contact time, staff members are not to be counted as staff for the purposes of Schedule 3.

**37. Maximum numbers of children**—(1) The licensee of a licensed centre must ensure that—

(a) No more than 50 children attend at the same time; and

(b) No more than 25 children under 2 attend at the same time; and

(c) No more than 16 children are cared for overnight at the same time; and

(d) Where children under 2 and children under 2 or over attend together, no more than 25 children attend at the same time without the Secretary's approval.

(2) The Secretary may not approve, for any centre intending to have mixed classes of children under 2 and children 2 or over, a maximum roll over 25, unless satisfied that the centre is or will be so organised that all children will be adequately cared for, and may at any time, by notice in writing to the licensee of any such centre coming into force on a day specified in the notice (being at least 21 days after the notice is given), withdraw or amend the approval, if satisfied that it is necessary to do so to ensure that the children under 2 will be adequately cared for.

**38. Secretary may recognise certain qualifications**—(1) For the purposes of these regulations, the Secretary may, by notice in the *Gazette*, recognise qualifications in respect of the education and care of children attending centres.

(2) Qualifications may be recognised in respect of the education and care of children attending centres of all kinds, or in respect of the education and care of children attending centres of a specified kind only.

**39. Persons responsible to hold recognised qualifications**—No person may be, and the licensee of a licensed centre must ensure that no person carries out the duties of, a person responsible in respect of a

licensed centre, unless the person has qualifications recognised under regulation 38 (being qualifications recognised in respect of the education and care of children attending centres of all kinds, or in respect of the education and care of children attending centres of a kind to which the centre belongs), and experience considered by the licensee to be suitable for carrying out the duties of a person responsible.

## PART 5

### MISCELLANEOUS PROVISIONS

**40. Parents' right of entry**—The parent or guardian has a right of entry to the centre whenever the child is there except where a parent or guardian of a child attending a licensed centre—

- (a) Is forbidden by law to have access to the child; or
- (b) Has access by law to the child subject to conditions that forbid access while the child attends the centre; or
- (c) Is suffering from a contagious or infectious disease likely to have a detrimental effect on the children if passed on to them; or
- (d) In the opinion of a person responsible, is under the influence of alcohol or any other substance that has a detrimental effect on the functioning or behaviour of the person; or
- (e) Is, in the opinion of a person responsible, exhibiting behaviour that is or is likely to be disruptive to the effective operation of the centre.

**41. Offences**—Every person who—

- (a) Knowingly makes any false statement in any application under these regulations; or
- (b) Knowingly makes any false statement representing premises that are not a licensed centre to be a licensed centre; or
- (c) Without reasonable excuse obstructs, hinders, resists, or deceives any person exercising a power of entry under section 318 of the Act; or
- (d) Without reasonable excuse acts in contravention of, or fails or refuses to comply with, any provision of these regulations—commits an offence against these regulations and is liable on summary conviction to a fine not exceeding \$500 and, if the offence is a continuing one, to a further fine not exceeding \$40 for every day or part of a day on which the offence has continued.

**42. Transitional**—(1) Subject to subclauses (2) and (3), every licence issued under the Child Care Centre Regulations 1985 and the Education (Early Childhood Centres) Regulations 1990 and in force on the commencement of these regulations has effect as a licence granted under these regulations.

(2) Unless earlier cancelled, every such licence expires on the day specified in the licence.

(3) Every provisional licence issued pursuant to regulation 5 of the Education (Early Childhood Centres) Regulations 1990 that is still in force on the commencement of these regulations has effect as a probationary licence.

**43. Revocations**—The following regulations are consequentially revoked:

- (a) The Education (Early Childhood Centres) Regulations 1990 (S.R. 1990/261);
  - (b) The Education (Early Childhood Centres) Regulations 1990, Amendment No. 1 (S.R. 1991/81);
  - (c) The Education (Early Childhood Centres) Regulations 1990, Amendment No. 2 (S.R. 1992/279);
  - (d) The Education (Early Childhood Centres) Regulations 1990, Amendment No. 3 (S.R. 1993/415).
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## SCHEDULES

Reg. 17 (5)

SCHEDULE 1  
SPACE STANDARDS

Part of Premises	Area Required, per Child
Indoor space, computed clear of all furniture, fittings, fixed equipment and stored goods, and excluding passageways, toilet facilities, staff rooms, specific sleeping areas for children under 2 years of age, and other areas not available for play	2.5 m <sup>2</sup>
Outdoor space	5 m <sup>2</sup>

## SCHEDULE 2

Reg. 19 (2)

## SANITARY FACILITIES REQUIRED

**1. Water-closet pans**—(1) Where the greatest number of people over 3 at any time using a centre is less than 16, the centre must have at least 1 water-closet pan.

(2) Where the greatest number of people over 3 at any time using a centre is more than 15 and less than 31, the centre must have at least 2 water-closet pans.

(3) Where the greatest number of people over 3 at any time using a centre is more than 30 and less than 46, the centre must have at least 3 water-closet pans.

(4) Where the greatest number of people over 3 at any time using a centre is more than 45, the centre must have at least 4 water-closet pans.

(5) At least 1 water-closet pan in a centre must be suitable for use by adults.

(6) For the purposes of this clause, the people over 3 using a centre at any time are all the children over 3 then attending the centre and all staff then present at the centre.

**2. Chamber pots**—The centre must have enough chamber pots, having regard to the number and age range of the children attending the centre and the numbers of children who are not fully toilet-trained.

**3. Hand-washing facilities**—(1) The centre must have at least 1 handbasin for every 15 (or part thereof) of the maximum number of people (that is to say, children attending and staff present) at any time.

(2) The handbasins must be conveniently close to the water-closet pans.

(3) The handbasins must be set at heights appropriate for the people who are to use them.

(4) The centre must have a means, with an adjustable thermostat, of providing an adequate supply of hot water to the handbasins.

(5) The temperature of the water at handbasins accessible to the children must be effectively controlled so as not to be higher than 40° Celsius at the outlet.

(6) Notwithstanding subclause (5), where a hot water cylinder is used as a means of providing hot water, the water in it must at all times when the centre is open be kept at a temperature of at least 60° Celsius.

(7) Individual washcloths and towels, or some other hygienic means of drying hands, must be available near the handbasins.

**4. Washing facilities**—The centre must have suitable facilities for washing sick or soiled children.

**5. Napkin changing facilities**—The centre must have suitable arrangements for changing napkins if children likely to wear napkins are expected to attend.

Reg. 36

**SCHEDULE 3**  
**STAFFING**

Ages of Children Attending	Number of Children Attending	Minimum Staffing
<b>PART 1</b>		
<b>ALL DAY CENTRES</b>		
ALL UNDER 2	1-5	1
	6-10	2
	11-15	3
	16-20	4
	21-25	5
ALL 2 OR OVER	1-6	1
	7-20	2
	21-30	3
	31-40	4
	41-50	5
MIXED	<i>Mixed ages</i>	
	1-3	1
<i>Under 2</i>		
	1-5	1
	6-10	2
	11-15	3
	16-20	4
	21-25	5
<i>2 or over</i>		
	1-6	1
	7-20	2
	21-30	3
	31-40	4
	41-49	5
<b>PART 2</b>		
<b>SESSIONAL CENTRES</b>		
ALL UNDER 2	1-5	1
	6-10	2
	11-15	3
	16-20	4
	21-25	5
ALL 2 OR OVER	1-8	1
	9-30	2
	31-45	3
	46-50	4

SCHEDULE 3—*continued*STAFFING—*continued*

Ages of Children Attending	Number of Children Attending	Minimum Staffing
MIXED	<i>Mixed ages</i>	
	1-3	1
	<i>Under 2</i>	
	1-5	1
	6-10	2
	11-15	3
	16-20	4
	21-25	5
	<i>2 or over</i>	
	1-8	1
	9-30	2
	31-45	3
	46-49	4

MARIE SHROFF,  
Clerk of the Executive Council.

## EXPLANATORY NOTE

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations, which come into force on the 28th day after notification in the *Gazette*, revoke and replace the Education (Early Childhood Centres) Regulations 1990 and their amendments.

Probationary licences may now be granted for any centre that is not licensed. These licences expire 12 months from the date of issue. However, if satisfied that the premises and equipment comply with Part 3, that the management and staffing practices, the curriculum, and the standard of care and education conform to Part 4, and that the applicant is a fit and proper person to hold a licence, the Secretary may grant a full licence before the expiry of the probationary licence.

The regulations also—

- (a) Enhance self-management of early childhood education centres (placing the onus on the licensee, rather than on the Secretary for Education, to perform or be satisfied that certain functions are performed); and
- (b) Allow for a greater focus on safety outcomes; and
- (c) Impose stronger sanctions for non-compliance with licence requirements and stricter requirements for applicants for a licence (requiring the Secretary to be satisfied that applicants for a licence are suitable people to run a centre).