

Cabinet Paper material

Proactive release

Minister & portfolio Minister Hipkins, Education
Name of package Education (Early Childhood Services) Amendment Regulations (No 2) 2021
Date considered 13 December 2021
Date of release 25 January 2022

These documents have been proactively released:

Cabinet paper: Education (Early Childhood Services) Amendment Regulations (No 2) 2021

Date considered: 13 December 2021
Author: Minister of Education

Cabinet Minute: CAB-21-MIN-0529

Date considered: 13 December 2021
Author: Cabinet Office

Cabinet Minute: LEG-21-MIN-0215

Date considered: 9 December 2021
Author: Cabinet Office

1278874 Briefing Note: Talking points for Amendment Regulations, LEG Committee and Executive Council
6 December 2021

1273891 Education Report: Next steps for implementing a qualified home-based educator workforce
22 October 2021

Material redacted

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

The applicable withholding grounds under the Act are as follows:

Section 9(2)(a) to protect the privacy of natural persons

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

You can read the Official Information Act 1982 here:

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

In Confidence

Office of the Minister of Education

Cabinet Legislation Committee

Education (Early Childhood Services) Amendment Regulations (No 2) 2021

Proposal

- 1 This paper seeks authorisation to submit the Education (Early Childhood Services) Amendment Regulations (No 2) 2021 (the Amendment Regulations) to the Executive Council.
- 2 The Amendment Regulations would require home-based early childhood education (ECE) services to gradually increase the percentage of qualified educators listed on the licence over the 2022 to 2025 period.

Executive Summary

- 3 In January 2019, Cabinet agreed to move towards a fully qualified home-based ECE workforce, with the phasing in of a requirement for educators in home-based services to hold a Level 4 or higher ECE qualification (or equivalent) from 1 January 2022 [CBC-19-MIN-0002 refers]. These changes were first signalled and consulted on in 2018 as part of the Government's Review of Home-based ECE.
- 4 In June 2020, Cabinet agreed to the implementation of the qualification requirements for educators in home-based ECE services [SWC-20-MIN-0078 refers]. This requires amending the Education (Early Childhood Services) Regulations 2008 (the Regulations).
- 5 In June 2021, Cabinet agreed to issue drafting instructions to amend the Regulations and to publicly consult on the following regulatory changes [SWC-21-MIN-0081 refers]:
 - 5.1 Creating a requirement for educators in home-based ECE services to hold an approved ECE qualification and for these qualifications to be listed on the New Zealand Qualifications Framework, or recognised by the Teaching Council for the purposes of registration;
 - 5.2 Introducing requirements for unqualified educators to be training towards a required qualification for up to two years, or in an induction period of up to six months, from 1 January 2025;
 - 5.3 Introducing minimum percentages of qualified educators that will apply to home-based services, which will progressively increase over the next four years until 1 January 2025, after which all educators must be either qualified or in training or in induction;

- 5.4 Setting parameters around how the minimum percentages of qualified educators will apply, by establishing a week-by-week basis for their application and certain restrictions on which educators can count;
- 5.5 Creating a requirement for home-based services to maintain a list of educators and evidence of their qualifications for each licence.
- 6 The Ministry of Education conducted public consultation on the draft Amendment Regulations from 27 August to 27 September 2021.
- 7 Consultation feedback was largely positive. I only consider it necessary to make the following minor amendments:
- 7.1 delaying the commencement date of the Amendment Regulations to 1 June 2022 to reflect the impact of COVID-19;
- 7.2 amending the date for when 10% of educators need to hold an approved qualification to 1 June 2022;
- 7.3 amending the date by which educators need to complete a Level 3 ECE qualification to be considered qualified to 1 June 2022;
- 7.4 recognising overseas ECE qualifications assessed by the New Zealand Qualifications Authority (NZQA) as comparable to an approved ECE qualification;
- 7.5 providing educators actively studying towards a Level 7 ECE teaching qualification four years to complete the qualification;
- 7.6 using Swedish/standard rounding when applying the percentage-based qualification requirement;
- 7.7 amending the week-by-week approach of calculating percentage requirements to a monthly approach so that educators can count towards the required percentage if they have provided education and care at least once a week or four days within each calendar month;
- 7.8 specifying that educators can count towards the percentage requirements on no more than one licence of a service provider over each calendar month.
- 8 It is my view that these changes are matters of detail and are consistent with the intent of the original policy decisions approved by Cabinet [SWC-21-MIN-0081 refers]. Following Cabinet approval of the Amendment Regulations and assent at Executive Council, the Amendment Regulations will come in force on 1 June 2022.

Background

- 9 In response to the Review of Home-based Early Childhood Education in 2018, Cabinet agreed to move towards a fully qualified home-based ECE workforce,

with all educators holding or working towards, a Level 4 ECE qualification or equivalent [CBC-19-MIN-0002].

- 10 Cabinet agreed to phase in new qualification requirements for educators in all services from 1 January 2022 [SWC-20-MIN-0078 refers]. These changes require amendments to the Regulations. The implementation profile is outlined in table 1.

Table 1: Minimum percentages of qualified educators for home-based services

| Date requirement would be effective | Percentage of qualified educators in a service |
|--|---|
| 1 January 2022 | 10% |
| 1 January 2023 | 30% |
| 1 January 2024 | 60% |
| 1 January 2025 | 80% (Full implementation) |

Policy

- 11 On 2 June 2021, Cabinet agreed to issue drafting instructions and start public consultation on the regulatory changes [SWC-20-MIN-0081 refers]. These changes include:
- 11.1 Creating a requirement for educators in home-based ECE services to hold an approved ECE qualification and for these qualifications to be listed on the New Zealand Qualifications Framework, or recognised by the Teaching Council for the purposes of registration;
 - 11.2 Introducing requirements for unqualified educators to be training towards a required qualification for up to two years, or in an induction period of up to six months, from 1 January 2025;
 - 11.3 Introducing minimum percentages of qualified educators that will apply to home-based services, which will progressively increase over the next four years until 1 January 2025, after which all educators must be either qualified or in training or in induction;
 - 11.4 Setting parameters around how the minimum percentages of qualified educators will apply;
 - 11.5 Creating a requirement for home-based services to maintain a list of educators and evidence of their qualifications for each licence.
- 12 I was authorised by Cabinet to make decisions on any issues of detail that may arise during the drafting process without further reference to Cabinet, subject to the decisions being consistent with the decisions from that paper [SWC-20-MIN-0081 refers].

- 13 The Ministry released a public consultation document and survey on 27 August 2021, with consultation being open until 27 September 2021. The Ministry received 156 survey responses and 10 written submissions. Overall, respondents supported the proposed changes.
- 14 Based on consultation feedback, and in accordance with the authority provided to me by Cabinet to make decisions on issues with detail, I propose minor changes in relation to some of the draft Regulations that were consulted on.

Qualification requirements for educators in home-based services

- 15 In January 2019, Cabinet agreed to establish minimum qualification requirements for home-based educators, with qualified educators being required to hold one of the following:
- 15.1 a Level 4 or higher ECE qualification;
 - 15.2 a 'grand-parented' Level 3 qualification completed prior to 1 January 2022;
 - 15.3 a specific Gazetted qualification;
 - 15.4 Te Ara Tuarua (the level 5 kōhanga reo qualification) or higher [CBC-19-MIN-0002 refers];
 - 15.5 In June 2020, Cabinet also agreed to extend recognition to primary teaching qualifications [SWC-20-MIN-0078 refers].
- 16 Overall, consultation revealed agreement with the qualification types set out in the draft Amendment Regulations.
- 17 A common theme from consultation was that COVID-19 lockdowns significantly delayed educators successfully completing Level 3 and Level 4 qualifications. Educators studying towards Level 3 ECE qualifications have been most affected, as the draft Amendment Regulations would require them to complete these qualifications by 1 January 2022.
- 18 In response to this feedback, I propose delaying the commencement date of the Amendment Regulations from 1 January 2022 to 1 June 2022. This would provide additional time for educators to complete approved ECE qualifications and allow more flexibility for home-based services given the impacts of COVID-19.
- 19 This would also require amending the date in the Amendment Regulations for when 10% of educators need to hold a relevant qualification and for when educators need to complete a Level 3 ECE qualification to be considered qualified.
- 20 Some stakeholders also indicated that the draft Amendment Regulations exclude overseas qualifications, which is not the intention. I propose providing

for overseas ECE qualifications to be recognised if the qualification is assessed by NZQA as comparable to an approved ECE qualification.

- 21 I do not seek approval to allow the Secretary for Education to recognise qualifications for home-based ECE services by Gazette notice at this time, as it is currently *ultra vires* of s 636(2)(h) of the Education and Training Act 2020 (the Act).
- 22 I will be seeking a change to s 636(2)(h) of the Act as part of the Education and Training Amendment Bill (No 2) (the Bill) so that regulations can provide for the making of Gazette notices. Once the Bill has passed, I will seek Cabinet Legislation Committee's agreement to include this change in the Regulations.

Time period for unqualified educators to become qualified

- 23 Cabinet agreed that from January 2025, all remaining unqualified educators (up to 20% of educators) working in home-based services would need to be enrolled in an approved ECE programme within six months of when they first join a service. They would then have two years to complete the programme [SWC-20-MIN-0078 refers]. The intent of this requirement is to ensure that all home-based educators become qualified over time.
- 24 In consultation, respondents generally supported the proposal. However, some respondents were concerned that the two-year training window does not provide sufficient time for educators to complete a Level 7 ECE teaching qualification. This means that someone with an incomplete Level 7 ECE teaching qualification cannot be counted as qualified, but someone with a lower-level qualification can.
- 25 I propose allowing educators actively studying towards a Level 7 ECE teaching qualification to complete this qualification within four years once enrolled. This would enable educators to complete these Level 7 qualifications even if they study part time and continue to work as a home-based educator over this time.

How the minimum percentage would be assessed and applied

- 26 Cabinet agreed that the percentage requirements:
 - 26.1 should be assessed on a weekly (Monday-Sunday) basis to minimise day-to-day variability created by educators' hours of work and employment patterns;
 - 26.2 should only count educators that work for a home-based service within the Monday-Sunday period, except for when a probationary licence is first applied for;
 - 26.3 would be rounded up to the nearest whole number, where the percentage results in a fraction;

- 26.4 should only count educators on the first licence of a service provider that they work for in each Monday-Sunday period [SWC-21-MIN-0081 refers].
- 27 In consultation, respondents generally supported the proposal to use a headcount and week-by-week approach in measuring and maintaining the percentage requirements.
- 28 However, there was concern that the week-by-week approach would be difficult to maintain given home-based educators are generally self-employed contractors with variable working schedules. This approach also means that if all children in a home were absent (due to illness or holidays), the educator would not be counted, even though they may be able to provide education and care.
- 29 In response to this feedback, I propose changing the week-by-week approach to a monthly approach. Educators can count towards the required percentage if they work in the service at least once each week, or for a minimum of four days in a calendar month.
- 30 I also propose to allow educators to count towards the percentage requirements on no more than one licence of a service provider over each calendar month. This is to allow some flexibility for educator movement over the period of a month, while preventing 'double counting' of qualified educators within the licences of a service provider.
- 31 These changes are comparable to the week-by-week approach, which requires minimum percentage requirements to be maintained consistently. Extending the period in which educators are counted creates more flexibility for the educators or children to be absent for a short period of time without affecting the required percentage. This proposal would also alleviate some of the administrative burden of complying with the percentage requirements on a weekly basis.
- 32 Some respondents indicated that the rounding method may disproportionately affect small services. For example, rounding up means that in 2025 (when 80% of all educators must be qualified), a service with four or fewer educators would need 100% qualified educators to meet the requirement. This could be overly burdensome for up to 10% of home-based services with 4 or fewer educators.
- 33 Instead, I propose using Swedish/standard rounding¹, which would be easier for services to understand and apply.

¹ Swedish/standard rounding means if the resulting fraction is 0.5 or more, it is rounded up to the nearest whole number. If the fraction is below 0.5, it is rounded down to the nearest whole number. For example, 23.5 is rounded up to 24 educators and 23.4 is rounded down to 23 educators.

Requirement for services to maintain a list of educators and their qualifications

- 34 Changes to the Regulations to require home-based services to maintain a list of educators and evidence of their qualifications would ensure that the Ministry can confirm services' compliance with the new home-based educator qualification requirements when necessary.
- 35 Consultation feedback showed strong support for this proposal and I do not consider additional changes are required.

Education (Early Childhood Services) Amendment Regulations (No 2) 2021

- 36 Based on consultation feedback, I seek agreement to:
- 36.1 delay the commencement date of the Amendment Regulations to 1 June 2022;
 - 36.2 amend the date for when 10% of educators need to hold an approved qualification to 1 June 2022;
 - 36.3 amend the date by which educators need to complete a Level 3 ECE qualification to be considered qualified to 1 June 2022;
 - 36.4 recognise overseas ECE qualifications assessed by NZQA as comparable to an approved ECE qualification;
 - 36.5 provide educators actively studying towards a Level 7 teaching qualification four years to complete the qualification;
 - 36.6 use Swedish/standard rounding when applying the percentage-based qualification requirement for home-based educators;
 - 36.7 use a monthly assessment so that educators can count towards the required percentage if they have provided education and care at least once a week or four days within each calendar month;
 - 36.8 allow educators to only count towards one licence of a service provider that they work for in each calendar month period.

Timing and 28-day rule

- 37 I propose that the Amendment Regulations come into force on 1 June 2022. I propose Cabinet refer the Amendment Regulations to the Executive Council on 13 December 2021. The Amendment Regulations will be gazetted by 17 December 2021 and come into force on 1 June 2022. This is in line with the 28-day rule.

Compliance

- 38 I consider the Amendment Regulations comply with:

- 38.1 the principles of the Treaty of Waitangi, as the recognition of Te Ara Tuarua (the Level 5 kōhanga reo qualification) and Tohu Whakapakari (the Level 7 kōhanga reo qualification) as approved home-based qualifications goes some way towards safeguarding Māori language and culture for children and educators in Māori bilingual and immersion home-based ECE services;
- 38.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
- 38.3 the principles and guidelines set out in the Privacy Act 2020;
- 38.4 relevant international standards and obligations;
- 38.5 the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

Regulations Review Committee

- 39 I do not consider there are grounds under Standing Order 319 on which the Regulations Review Committee could draw these regulations to the special attention of the House of Representatives.

Certification by Parliamentary Counsel

- 40 The draft regulations have been certified by the Parliamentary Counsel Office as being in order for submission to Cabinet.

Impact Analysis

- 41 Treasury's Regulatory Impact Analysis team has determined that this proposal to make additional changes to the Education (Early Childhood Services) Amendment Regulations (No 2) 2021 is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that it has no or only minor impacts on businesses, individuals, and not-for-profit entities. The substantive policy decisions were addressed by a [previous Regulatory Impact Statement](#) [CBC-19-MIN-0002].

Climate Implications of Policy Assessment

- 42 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

Publicity

- 43 The Amendment Regulations will be notified in the New Zealand Gazette.
- 44 The Ministry will use the Early Learning Bulletin to communicate with the sector about the Amendment Regulations.

Proactive Release

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

Consultation

- 46 The Treasury, Department of Prime Minister and Cabinet, Public Service Commission, Te Puni Kokiri, Ministry for Pacific Peoples, Ministry for Women, Ministry of Business, Innovation and Employment, Ministry of Social Development, Ministry of Health, Ministry of Justice, Ministry of Primary Industries, Oranga Tamariki, Education Review Office and the New Zealand Qualifications Authority have been consulted.

Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 **note** that public consultation on the regulatory changes to implement minimum qualification requirements for all home-based ECE services ran between 27 August and 27 September 2021;
- 2 **note** that consultation feedback showed support for most proposals;
- 3 **agree** to the following minor changes to the Education (Early Childhood Services) Amendment Regulations (No 2) 2021 (the Amendment Regulations) to take into account consultation feedback:
 - 3.1 delay the commencement date of the Amendment Regulations to 1 June 2022;
 - 3.2 amend the date for when 10% of educators need to hold an approved qualification to 1 June 2022;
 - 3.3 amend the date by which educators need to complete a Level 3 ECE qualification to be considered qualified to 1 June 2022;
 - 3.4 recognise overseas ECE qualifications assessed by NZQA as comparable to an approved ECE qualification;
 - 3.5 provide educators actively studying towards a Level 7 ECE teaching qualification four years to complete the qualification;
 - 3.6 use Swedish/standard rounding when applying the percentage-based qualification requirement for home-based educators;
 - 3.7 use a monthly assessment so that educators can count towards the required percentage if they have provided education and care at least once a week or four days within each calendar month;
 - 3.8 allow educators to only count towards one licence of a service provider that they work for in each calendar month period.

4 **agree** to the Education (Early Childhood Services) Amendment Regulations (No 2) 2021, which will amend the Education (Early Childhood Services) Regulations 2008 in the following ways:

- 4.1 creating a requirement for educators in home-based services to hold a Level 4 or higher ECE qualification, a Level 3 ECE qualification completed prior to 1 June 2022, Te Ara Tuarua (the level 5 kōhanga reo qualification) or higher, or a primary teaching qualification, in order for the educator to be considered as qualified (insertion in Regulation 3);
- 4.2 creating a requirement for educators in home-based services to hold a qualification listed on the New Zealand Qualifications Framework (NZQA), or recognised by the Teaching Council for the purposes of registration, or an overseas ECE qualification assessed by NZQA as comparable to an approved ECE qualification (insertion in Regulation 3);
- 4.3 requiring unqualified educators to be training towards an approved qualification for up to two years, or up to four years if actively studying towards a Level 7 ECE teaching qualification, or in an induction period of up to six months, from 1 January 2025 (insertion of new Schedule 1A);
- 4.4 introducing minimum percentages of qualified educators that will apply to home-based services, which will progressively increase from 10% on 1 June 2022, to 30% on 1 January 2023, to 60% on 1 January 2024, and 80% on 1 January 2025, after which all educators must be either qualified or in training or in induction (insertion of new Schedule 1A);
- 4.5 specifying that the percentages apply on a monthly (i.e. first to last day of each calendar month) basis, and can only include educators that provide regular education and care to children within each month, either at least once a week or four days in each calendar month, except for when a probationary licence is first applied for (insertion in Regulation 44);
- 4.6 specify that if the application of the percentage requirement results in a number of educators who must hold a home-based service qualification that is less than a whole number, Swedish/standard rounding must be used (i.e., round up to the nearest whole number if the fraction is 0.5 or more; or round down to the nearest whole number if under 0.5);
- 4.7 specifying that educators can count towards the percentage requirement on no more than one licence of a service provider that they work for in each calendar month period (insertion in Regulation 44);
- 4.8 creating a requirement for home-based services to maintain a list of educators and evidence of their qualifications for each licence (insertion in Regulation 28);

5 **agree** to amend the commencement date of the Education (Early Childhood Services) Amendment Regulations (No 2) 2021 to 1 June 2022;

- 6 **authorise** the submission to the Executive Council of the Education (Early Childhood Services) Amendment Regulations (No 2) 2021;
- 7 **note** that the Education (Early Childhood Services) Amendment Regulations (No 2) 2021 will come into force on 1 June 2022.

Authorised for lodgement

Hon Chris Hipkins

Minister of Education

Proactively Released

Education (Early Childhood Services) Amendment Regulations (No 2) 2021

Order in Council

At Wellington this day of 2021

Present:
in Council

These regulations are made under section 636 of the Education and Training Act 2020 on the advice and with the consent of the Executive Council.

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Regulations

1 Title

These regulations are the Education (Early Childhood Services) Amendment Regulations (No 2) 2021.

2 Commencement

These regulations come into force on 1 June 2022.

3 Principal regulations

These regulations amend the Education (Early Childhood Services) Regulations 2008.

4 Regulation 3 amended (Interpretation)

- (1) In regulation 3, insert in its appropriate alphabetical order:

home-based service qualification means, for the purposes of regulation 44(1)(a)(i) and Schedule 1A,—

- (a) for a person responsible at a licensed home-based education and care service, an early childhood teaching qualification recognised by the Teaching Council of Aotearoa New Zealand for registration purposes:
- (b) for an educator at a licensed home-based education and care service, any of the following qualifications:
 - (i) an early childhood education qualification that is—
 - (A) at level 4 or above on the Qualifications Framework; or
 - (B) recognised by the Teaching Council of Aotearoa New Zealand for registration purposes:
 - (ii) an early childhood education qualification at level 3 on the Qualifications Framework, completed prior to 1 June 2022:
 - (iii) a qualification developed by Te Kōhanga Reo National Trust Board at level 5 or above on the Qualifications Framework:
 - (iv) a primary teaching qualification that is—
 - (A) listed in the Qualifications Framework; or
 - (B) recognised by the Teaching Council of Aotearoa New Zealand for registration purposes:
 - (v) an early childhood education qualification obtained overseas but recognised by NZQA as comparable to a qualification described in subparagraphs (i) and (ii)

- (2) In regulation 3, definition of **recognised qualification**,—

- (a) in paragraph (a), replace “under regulation 44(1)(a)” with “under regulation 44(1)(a)(ii)”:

- (b) revoke paragraph (a)(iii):
- (c) in paragraph (ab), replace “under regulation 44(1)(a)” with “under regulation 44(1)(a)(ii)”.

5 Regulation 28 amended (Additional requirements for licensed home-based education and care service)

After regulation 28(1)(d), insert:

- (e) for each of the service provider’s licences, maintain a list of educators engaged by the service provider and evidence of each educator’s home-based service qualification(s).

6 Regulation 44 amended (Qualifications, ratios, and service-size standard: general)

- (1) Replace regulation 44(1)(a) with:

- (a) to comply with,—
 - (i) for licensed home-based education and care services, the applicable requirements of Schedule 1A (which relates to qualification requirements for persons responsible at, and educators working at, home-based education and care services); or
 - (ii) for every other licensed service provider to whom this regulation applies, the applicable requirements of Schedule 1 (which relates to qualification requirements for adults working at early childhood education and care centres or hospital-based education and care services); and

- (2) After regulation 44(3), insert:

- (3A) For the purposes of applying the percentage-based requirements in Schedule 1A,—

- (a) for every licensed home-based education and care service, percentages are assessed on a month-by-month basis (starting on the first day of each month and ending on the last day of each month):
- (b) in any given month, educators can only count towards the required percentage if they provide a home-based education and care service on at least 4 days in that month:
- (c) in any given month, educators can only count towards 1 licence of a service provider that they work for in that month:
- (d) for the purpose of calculating percentages to determine compliance with regulation 11(1)(a), paragraph (b) does not apply:
- (e) if the application of this schedule results in a number of educators who must hold a home-based service qualification that is not a whole number, the number of educators required is determined as follows:

- (i) any number of educators that includes a fraction of 0.5 or more must be rounded up to the nearest whole number; and
- (ii) any number of educators that includes a fraction of less than 0.5 must be rounded down to the nearest whole number.

- (3) In regulation 44(4), replace the definition of **excluded service** with:

excluded service means a kōhanga reo affiliated to Te Kōhanga Reo National Trust Board or a playcentre affiliated to Te Whānau Tupu Ngātahī o Aotearoa — Playcentre Aotearoa (other than a kōhanga reo or playcentre that has been approved by the Secretary, after consultation with Te Kōhanga Reo National Trust Board or Te Whānau Tupu Ngātahī o Aotearoa — Playcentre Aotearoa, as a centre that is to comply with the qualification requirements for a teacher led centre)

- (4) In regulation 44(4), replace the definition of **teacher led service** with:

teacher led service means any early childhood service that is not—

- (a) a home-based education and care service; or
- (b) an excluded service

7 Schedule 1 amended

- (1) In the Schedule 1 heading, replace “**Qualification requirements**” with “**Qualification requirements: early childhood education and care centres and hospital-based education and care services**”.
- (2) In the Schedule 1 heading, replace “r 44(1)(a)” with “r 44(1)(a)(ii)”.
- (3) In Schedule 1, after “Te Kōhanga Reo National Trust”, insert “Board” in each place.
- (4) In Schedule 1, delete “Licensed home-based education and care services”.

8 New Schedule 1A inserted

After Schedule 1, insert the Schedule 1A set out in the Schedule of these regulations.

Schedule New Schedule 1A inserted

r 8

Schedule 1A Qualification requirements: home-based education and care services

r 44(1)(a)(i)

| Applicable dates | Requirement |
|---------------------|--|
| From 1 June 2022 | Person responsible must hold home-based service qualification and practising certificate |
| From 1 June 2022 | Ten percent of educators must hold home-based service qualification |
| From 1 January 2023 | Thirty percent of educators must hold home-based service qualification |
| From 1 January 2024 | Sixty percent of educators must hold home-based service qualification |
| From 1 January 2025 | Eighty percent of educators must hold home-based service qualification |
| From 1 January 2025 | Within 6 months of joining a licensed home-based education and care service, educators without a home-based service qualification must be enrolled in a course offering a home-based service qualification and they must complete the qualification— (a) within 4 years of enrolment, if the qualification is an early childhood teaching qualification at level 7 or above on the Qualifications Framework; or (b) within 2 years of enrolment, for any other qualification |

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 1 June 2022, amend the Education (Early Childhood Services) Regulations 2008 (the **principal regulations**).

Regulation 4 amends regulation 3 of the principal regulations to consolidate the existing qualification requirement for persons responsible at licensed home-based education and care services with the new requirements for educators working at licensed home-based education and care services. These qualification requirements are now contained in the definition of **home-based service qualification**, for the purposes of the amended regulation 44 and *new Schedule 1A*.

Regulation 5 amends regulation 28 to require service providers operating a licensed home-based education and care service to maintain, for each licence, a list of educators engaged by the service provider and evidence of their home-based service qualification.

Regulation 6 amends regulation 44 of the principal regulations to create separate qualification requirements for those working at licensed home-based education and care services. In particular, *new regulation 44(3A)* is inserted, which provides the rules for calculating percentages for the purposes of meeting the percentage-based requirements in *new Schedule 1A*.

Regulation 7 amends Schedule 1 of the principal regulations to remove references to licensed home-based education and care services and to reflect the changes made to regulation 44.

Regulation 8 inserts *new Schedule 1A*, which outlines the requirements for licensed home-based education and care services to meet the qualifications element of the qualifications, ratios, and service-size standard: general set out in regulation 44. The qualification requirement for persons responsible in *new Schedule 1A* is the same as in the version of the principal regulations immediately preceding the commencement of these regulations.

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*:

These regulations are administered by the Ministry of Education.



Cabinet

Minute of Decision

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

Report of the Cabinet Legislation Committee: Period Ended 10 December 2021

On 13 December 2021, Cabinet made the following decisions on the work of the Cabinet Legislation Committee for the period ended 10 December 2021:

Out of scope

LEG-21-MIN-0215

Education (Early Childhood Services) Amendment Regulations (No 2)
Portfolio: Education

CONFIRMED

Out of scope

Out of scope

Michael Webster
Secretary of the Cabinet

Proactively Released



Cabinet Legislation Committee

Minute of Decision

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

Education (Early Childhood Services) Amendment Regulations (No 2)

Portfolio **Education**

On 9 December 2021, the Cabinet Legislation Committee:

- 1 **noted** that in June 2021, the Cabinet Social Wellbeing Committee (SWC) agreed to amend the Education (Early Childhood Services) Regulations 2008 in the following ways:
 - 1.1 creating a requirement for educators in home-based services to hold a Level 4 or higher ECE qualification, a Level 3 ECE qualification completed prior to 1 June 2022, Te Ara Tuarua (the level 5 kōhanga reo qualification) or higher, or a primary teaching qualification, in order for the educator to be considered as qualified (insertion in Regulation 3);
 - 1.2 creating a requirement for educators in home-based services to hold a qualification listed on the New Zealand Qualifications Framework(NZQA), or recognised by the Teaching Council for the purposes of registration, or an overseas ECE qualification assessed by NZQA as comparable to an approved ECE qualification (insertion in Regulation 3);
 - 1.3 requiring unqualified educators to be training towards an approved qualification for up to two years, or up to four years if actively studying towards a Level 7 ECE teaching qualification, or in an induction period of up to six months, from 1 January 2025 (insertion of new Schedule 1A);
 - 1.4 introducing minimum percentages of qualified educators that will apply to home-based services, which will progressively increase from 10% on 1 June 2022, to 30% on 1 January 2023, to 60% on 1 January 2024, and 80% on 1 January 2025, after which all educators must be either qualified or in training or in induction (insertion of new Schedule 1A);
 - 1.5 specifying that the percentages apply on a monthly (i.e. first to last day of each calendar month) basis, and can only include educators that provide regular education and care to children within each month, either at least once a week or four days in each calendar month, except for when a probationary licence is first applied for (insertion in Regulation 44);
 - 1.6 specify that if the application of the percentage requirement results in a number of educators who must hold a home-based service qualification that is less than a whole number, Swedish/standard rounding must be used (i.e., round up to the nearest whole number if the fraction is 0.5 or more; or round down to the nearest whole number if under 0.5);
 - 1.7 specifying that educators can count towards the percentage requirement on no more than one licence of a service provider that they work for in each calendar month period (insertion in Regulation 44);

1.8 creating a requirement for home-based services to maintain a list of educators and evidence of their qualifications for each licence (insertion in Regulation 28);

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- 2 **noted** that public consultation on the regulatory changes to implement minimum qualification requirements for all home-based ECE services ran between 27 August and 27 September 2021;
- 3 **noted** that consultation feedback showed support for most proposals;
- 4 **agreed** to the following minor changes to the Education (Early Childhood Services) Regulations 2008 to take into account consultation feedback:
- 4.1 delay the commencement date of the Amendment Regulations to 1 June 2022;
 - 4.2 amend the date for when 10% of educators need to hold an approved qualification to 1 June 2022;
 - 4.3 amend the date by which educators need to complete a Level 3 ECE qualification to be considered qualified to 1 June 2022;
 - 4.4 recognise overseas ECE qualifications assessed by NZQA as comparable to an approved ECE qualification;
 - 4.5 provide educators actively studying towards a Level 7 ECE teaching qualification four years to complete the qualification;
 - 4.6 use Swedish/standard rounding when applying the percentage-based qualification requirement for home-based educators;
 - 4.7 use a monthly assessment so that educators can count towards the required percentage if they have provided education and care at least once a week or four days within each calendar month;
 - 4.8 allow educators to only count towards one licence of a service provider that they work for in each calendar month period;
- 5 note that the Education (Early Childhood Services) Amendment Regulations (No 2) 2021 give effect to the decisions in paragraphs 1 and 4;
- 6 authorise the submission to the Executive Council of the Education (Early Childhood Services) Amendment Regulations (No 2) 2021 [PCO 23958/4.0];
- 7 note that the Education (Early Childhood Services) Amendment Regulations (No 2) 2021 will come into force on 1 June 2022.

Rebecca Davies
Committee Secretary

Present:

Hon Chris Hipkins (Chair)
Hon Andrew Little
Hon Poto Williams
Hon Jan Tinetti
Hon Meka Whaitiri
Kieran McNulty, MP (Senior Government Whip)

Officials present from:

Office of the Prime Minister
Officials Committee for LEG