



## INFORMATION UPDATE

**Drafter:** Jace Mowbray  
**Metis Number:** 1263567  
**Date:** 21 June 2021

### Request from Minister's Office

The Cabinet Legislation Committee (LEG) is considering your Cabinet paper *Education (Early Childhood Services) Amendment Regulations 2021*. Your office requested talking points to assist you at LEG.

### Proactive Release

It is intended that this document is proactively released as per your expectation that information be released as soon as possible. Any information which may need to be withheld will be done so in line with the provisions of the Official Information Act 1982.

### Talking points

#### Proposal

1. I am seeking Cabinet's agreement to submit the *Education (Early Childhood Services) Amendment Regulations 2021* (the Amendment Regulations) to the Executive Council. This is the first tranche of changes in a comprehensive review of the early learning regulatory system (the Review).

#### The Amendment Regulations

2. In August 2020, Cabinet agreed to issue drafting instructions and start public consultation on several regulatory proposals designed to reduce risks to children's health, safety and wellbeing. The proposals related to:
  - 2.1. creating a cancellation pathway based on a service's provisional licence history
  - 2.2. issuing a provisional licence to carry out an investigation in the event of an incident involving a child
  - 2.3. creating written directives for health and safety matters that require immediate attention
  - 2.4. clarifying the provisions for licence amendments when the service provider changes
  - 2.5. removing the 21-day minimum notice period for licence suspensions for change of control
  - 2.6. removing the 21-day minimum notice period for licence suspensions for not returning an invalid licence
  - 2.7. clarifying the information used to assess an application for a probationary licence

- 2.8. clarifying that the fee for a new licence is payable upon application and is non-refundable
- 2.9. clarifying existing person responsible requirements.
3. The Ministry ran consultation from 8 December 2020 to 12 February 2021. The proposals were largely well-supported.
4. I only consider it necessary to make minor amendments to five proposals so that:
  - 4.1. the cancellation pathway based on a service's provisional licence history will not apply to provisional licences issued for an investigation unless the investigation finds a breach of the regulations (paragraphs 21-22)
  - 4.2. the maximum timeframe for compliance with a written direction for immediate health and safety matters will be increased from five to ten working days, (paragraph 33) and the definition of immediate health and safety risk is removed based on a recommendation from the Regulations Review Committee (paragraph 35)
  - 4.3. the grounds for licence suspension for not returning an invalid licence will be removed as it is an unnecessary compliance burden (paragraphs 49-51)
  - 4.4. the fee for a new licence will be increased to \$2817.50, up from \$2756.25 to take into account the current rate of GST (paragraph 59)
  - 4.5. Schedule 1 is amended further to clarify the practising certificate requirements for persons responsible in teacher-led centres, hospital-based services and home-based services (paragraphs 61-63).
5. I also seek Cabinet agreement rescind the previous decision:
  - 5.1. to remove the requirement for conditions to be placed on a provisional licence that has been issued as part of an investigation, as having a condition is the only way a provisional licence can come to an end (paragraph 29)
  - 5.2. to remove the 21-day minimum notice period for licence suspensions for not returning a full licence when invalid as I propose removing the ability to suspend a licence on these grounds (paragraph 50).
6. I am also amending the Licensing Criteria for all services:
  - 6.1. by increasing the minimum room temperature from 16 degrees to 18 degrees Celsius (paragraphs 66-69)
  - 6.2. for self-review and annual planning to demonstrate regard to the National Education Learning Priorities (NELP) (paragraphs 70-77)

## **Implementation**

7. The Amendment Regulations will come into force on 30 July 2021. However, I propose that three proposals come into force on 1 February 2022. Also, the delegation to issue written directions will initially be rolled out region by region. This will support the Ministry with consistent decision making and allow the sector time to account for the changes.