



Education (Early Childhood Services) Amendment Regulations 2011

Anand Satyanand, Governor-General

Order in Council

At Wellington this 30th day of May 2011

Present:

His Excellency the Governor-General in Council

Pursuant to section 317 of the Education Act 1989, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

Contents

	Page
1 Title	2
2 Principal regulations amended	2
3 Commencement	2
4 Interpretation	2
5 Additional requirements where application relates to centre	3
6 New regulation 9A inserted	3
9A Additional requirement where application relates to hospital-based education and care service	3
7 New regulation 20A inserted	3

	20A	Requirements for premises of centre and hospital-based education and care service	3
8		Classes of licence, conditions, and other matters	4
9		New regulation 22A inserted	4
	22A	Limitations for centres and hospital-based services providing services for children under 2 years	4
10		Limitation on mixed ages in centres and hospital-based services	5
11		Additional requirements relating to licences for centre	5
12		Additional requirements relating to licences for hospital-based education and care service	6
13		Qualifications, ratios, and service-size standard: general	6
14		New Schedule 2 substituted	6
15		Schedule 3 amended	6
		Schedule	7
		New Schedule 2 substituted	

Regulations

- 1 Title**
These regulations are the Education (Early Childhood Services) Amendment Regulations 2011.
- 2 Principal regulations amended**
These regulations amend the Education (Early Childhood Services) Regulations 2008.
- 3 Commencement**
These regulations come into force on 1 July 2011.
- 4 Interpretation**
 - (1) Paragraph (b) of the definition of **person responsible** in regulation 3 is amended by inserting “or persons” after “person”.
 - (2) Paragraph (b)(i) of the definition of **person responsible** in regulation 3 is amended by omitting “has” and substituting “have”.

- (3) Paragraph (b)(ii) of the definition of **person responsible** in regulation 3 is amended by omitting “supports” and substituting “support”.

5 Additional requirements where application relates to centre

Regulation 9(1)(b) is amended by inserting “, and the requirements of regulation 20A (which relates to premises),” after “45”.

6 New regulation 9A inserted

The following regulation is inserted after regulation 9:

“9A Additional requirement where application relates to hospital-based education and care service

Every application for a licence to operate a hospital-based education and care service must be accompanied by evidence satisfactory to the Secretary that the hospital-based education and care service complies with the requirements of regulation 20A (which relates to premises).”

7 New regulation 20A inserted

The following regulation is inserted after regulation 20:

“20A Requirements for premises of centre and hospital-based education and care service

- “(1) Before granting any licence for a centre or hospital-based education and care service, the Secretary must be satisfied that the premises comply with this regulation.

- “(2) The premises must—

“(a) be situated on a single site; and

“(b) be for the exclusive use of the centre or the hospital-based education and care service.

- “(3) If the premises comprise 2 or more components,—

“(a) each component must be immediately adjacent and connected to at least 1 other component; and

“(b) children must have safe access to each component.

- “(4) In this regulation,—

“**component** means any land or building that forms part of the premises

“**premises** means the premises from which the centre will operate, or from which the hospital-based education and care service will be provided.”

8 Classes of licence, conditions, and other matters

Regulation 22(5) is amended by adding the following paragraph:

“(d) limiting the use of a defined activity space to a specified number of children while maintaining the minimum space requirements set out in Schedule 4 for each child.”

9 New regulation 22A inserted

The following regulation is inserted after regulation 22:

“22A Limitations for centres and hospital-based services providing services for children under 2 years

- “(1) This regulation applies in respect of—
- “(a) early childhood education and care centres; and
 - “(b) hospital-based education and care services.
- “(2) No more than 25 children under 2 years may attend any centre or hospital-based education and care service at the same time without the Secretary’s approval (which may be given under subclause (3)).
- “(3) The Secretary may approve up to 75 children under 2 years to attend any centre or hospital-based education and care service at the same time if—
- “(a) the centre or hospital-based education and care service is providing or intends to provide its services exclusively for children under 2 years; and
 - “(b) the Secretary is satisfied that all the children will be adequately cared for; and
 - “(c) the Secretary is satisfied that the centre or hospital-based education and care service is able to maintain a ratio of 1 adult to every 5 children (as indicated in Schedule 2) with the increased number of children.”

10 Limitation on mixed ages in centres and hospital-based services

- (1) Regulation 23(2) is amended by omitting “25” and substituting “50”.
- (2) Regulation 23 is amended by revoking subclause (3) and substituting the following subclause:
“(3) The Secretary may approve, for any centre or hospital-based education and care service intending to have a mixture of children aged under 2 years and 2 years or over, a maximum roll of 150 if—
 - “(a) the number of children under 2 years who will be attending does not exceed 75; and
 - “(b) the Secretary is satisfied that the service will be organised in a way that—
 - “(i) ensures all the children will be adequately cared for; and
 - “(ii) reflects the different needs of the children attending.”
- (3) Regulation 23(4) is amended by omitting “subclause (2)” and substituting “subclause (3).”

11 Additional requirements relating to licences for centre

Regulation 26(1) is amended by revoking paragraph (d) and substituting the following paragraph:

- “(d) the maximum number of children who may attend the centre at any one time, which may not exceed—
 - “(i) 150, if all the children who may attend the centre at any one time are 2 years or over:
 - “(ii) 25, if all the children who may attend the centre at any one time are under 2 years, unless a higher maximum number (not exceeding 75) is authorised by the Secretary under regulation 22A(3):
 - “(iii) 50, if children of mixed ages may attend the centre at any one time, unless a higher maximum number (not exceeding 150) is authorised by the Secretary under regulation 23(3):”.

12 Additional requirements relating to licences for hospital-based education and care service

Regulation 27(1) is amended by revoking paragraph (d) and substituting the following paragraph:

- “(d) the maximum number of children who may attend the service at any one time, which may not exceed—
- “(i) 150, if all the children who may attend the service at any one time are 2 years or over:
 - “(ii) 25, if all the children who may attend the service at any one time are under 2 years, unless a higher maximum number (not exceeding 75) is authorised by the Secretary under regulation 22A(3):
 - “(iii) 50, if children of mixed ages may attend the service at any one time, unless a higher maximum number (not exceeding 150) is authorised by the Secretary under regulation 23(3).”

13 Qualifications, ratios, and service-size standard: general

Regulation 44(1) is amended by revoking paragraph (d) and substituting the following paragraph:

- “(d) to ensure that, at all times while children attend the service,—
- “(i) those children, and the adults providing education and care who supervise them, are supervised by a person responsible; and
 - “(ii) there is 1 person responsible for every 50 children.”

14 New Schedule 2 substituted

Schedule 2 is revoked and the Schedule 2 set out in the Schedule of these regulations is substituted.

15 Schedule 3 amended

- (1) Schedule 3 is amended by omitting the first item in the second column of the table and substituting the following item:

“No more than 150 children aged 2 years and over attending at any one time”.

- (2) The second item in the second column of the table in Schedule 3 is amended by adding “unless otherwise approved by the Secretary under regulation 22A(3)”.
- (3) The third item in the second column of the table in Schedule 3 is amended by omitting “25” and substituting “50”.
- (4) The note in Schedule 3 under the heading “**Schedule to be read in conjunction with other requirements**” is amended by inserting the following bullet point before the first bullet point:
- “• regulation 22A (which deals with centres and hospital-based education and care services that provide services for children under 2 years); and”.

Schedule

r 14

New Schedule 2 substituted

Schedule 2

r 44(1)(b)

Adult-to-child ratios (minimum)

Early childhood education and care centres and hospital-based education and care services	Age of children attending	Number of children attending	Minimum staffing
All-day	Under 2 years old	1–5	1
		6–10	2
		11–15	3
		16–20	4
		21–25	5
	2 years old and over	1–6	1
		7–20	2
		21–30	3
		31–40	4
		41–50	5
		51–60	6
		61–70	7

Early childhood education and care centres and hospital-based education and care services	Age of children attending	Number of children attending	Minimum staffing
		71–80	8
		81–90	9
		91–100	10
		101–110	11
		111–120	12
		121–130	13
		131–140	14
		141–150	15
Sessional	Under 2 years old	1–5	1
		6–10	2
		11–15	3
		16–20	4
		21–25	5
	2 years old and older	1–8	1
		9–30	2
		31–45	3
		46–60	4
		61–75	5
		76–90	6
		91–105	7
		106–120	8
		121–135	9
		136–150	10
All-day or sessional	Both age groups	Up to 3 children of mixed ages	1

**Early childhood
education and
care centres and
hospital-based
education and care
services****Age of children
attending****Number of
children
attending****Minimum
staffing**More than 3
children of
mixed agesSum of min-
imum staffing
requirement
for relevant
number of
children under
2 years old (*as
set out above*)
and minimum
staffing re-
quirement for
relevant num-
ber of children
of or over 2
years old (*as
set out above*)

Service type	Ages of children attending	Number of children attending	Number of adults required (minimum)
Home-based education and care service	Under 2 years old	1–2	1
	2 years old or over	1–4	1
	Mixed	1–4	1

Who counts as adult or child when applying ratios

- 1 For every service, a person must be 17 years or older and involved in duties other than food preparation and serving, administrative duties, and maintenance to count as an adult.
- 2 However, in every service (except a home-based education and care service), a person does not count as an adult while at lunch, or while having a break, or during non-contact times.
- 3 For every service (except a home-based education and care service), a person present aged under 6 years counts as a child.
- 4 For a home-based education and care service, a person present aged under 6 years counts as a child unless the person is enrolled at school and is the child of an educator providing education and care at the home.
- 5 In the case of a centre or hospital-based education and care service, every child present (including the child of the service provider or person responsible or supervisor or staff member) of any age also counts as a child.

Adult-to-child ratios are subject to exceptions

The adult-to-child ratios described in this schedule are subject to—

- (a) special rules about siblings set out in regulation 54(4); and
- (b) any increase authorised by the Secretary under regulation 22A(3) or 23(3) relating to the maximum number of children who may attend.

Spare capacity for children under 2 can be set off against number of children 2 or over in some circumstances

Regulation 44A allows some mixed-age early childhood education and care centres and hospital-based education and care services to take spare capacity for children under 2 into account in determining the staffing required for children aged 2 or over.

Michael Webster,
for 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 July 2011, amend the Education (Early Childhood Services) Regulations 2008 (the **principal regulations**).

These regulations make a number of amendments to the maximum number of children who may attend an early childhood education and care centre (**centre**) or hospital-based education and care service (**hospital-based service**). The effects of those changes are as follows:

- a maximum of 150 children aged 2 years or over may attend a centre or hospital-based service at the same time (*regulations 11 and 12*);
- if a centre or hospital-based service provides or intends to provide services for children aged under 2 years,—
 - a maximum of 25 children aged under 2 years may attend the centre or hospital-based service at the same time (*regulation 9*); and
 - the Secretary of Education (the **Secretary**) may approve the attendance of up to 75 children aged under 2 years if satisfied that certain criteria are met (*regulation 9*);
- if a centre or hospital-based service provides or intends to provide services for children aged under 2 years and 2 years or over,—
 - a maximum of 50 children aged under 2 years and 2 years or over may attend the centre or hospital-based service at the same time (*regulation 10*); and
 - the Secretary may approve the attendance of up to 150 children aged under 2 years and 2 years or over if the number of children aged under 2 years does not exceed 75 and other criteria are met (*regulation 10*).

These regulations also amend the principal regulations by—

- enabling the Secretary to impose a special condition relating to the use of a defined activity space (*regulation 8*); and
- imposing, in relation to the premises of a centre or hospital-based service, requirements that must be met before the Sec-

retary may grant a licence for the centre or hospital-based service (*regulation 7*); and

- requiring each licensed service provider to ensure that for every 50 children there is 1 person responsible for supervising the children and the adults supervising the children (*regulation 13*).

Issued under the authority of the Acts and Regulations Publication Act 1989.

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These regulations are administered by the Ministry of Education.
