

[AS REPORTED FROM THE EDUCATION AND SCIENCE COMMITTEE]

House of Representatives, 3 June 1986.

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line.

Hon. C. R. Marshall

EDUCATION AMENDMENT (NO. 2)

ANALYSIS

Title	2. New sections inserted
1. Short Title and commencement	70c. Child care premises, etc.
	70d. Right of entry to child care premises
	Schedule

A BILL INTITULED

An Act to amend the Education Act 1964

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

- 1. Short Title and commencement**—(1) This Act may be cited as the Education Amendment Act (No. 2) **1985**, and shall be read together with and deemed part of the Education Act 1964*.
- 10 (2) Subject to **section 2 (5)** of this Act, this Act shall come into force on the day on which it receives the Governor-General's assent.

*Reprinted 1975, Vol. 3, p. 1699

Amendments: 1976, No. 42; 1976, No. 70; 1977, No. 91; 1978, No. 79; 1979, No. 148; 1981, No. 124; 1982, No. 19; 1982, No. 155; 1982, No. 170; 1983, No. 57; 1985, No. 124

- 2. New sections inserted**—(1) The principal Act is hereby amended by inserting, after section 70B (as inserted by section 4 of the Education Amendment Act 1981), the following sections:

No. 182—2A

New

“70BA. **Family day care organisations**—(1) In this section, unless the context otherwise requires,—

“ ‘Family day care organisation’ means an organisation; agency, or person, that or who arranges or offers to arrange home care: 5

“ ‘Home care’ means the care of children under the age of 6 years in the homes of the persons who provide or will provide that care; but does not include the care of any child for any continuous period exceeding 10 28 days.

“(2) Without limiting the generality of section 203 of this Act, the Governor-General may from time to time, by Order in Council, make regulations providing for the registration, licensing, and control of family day care organisations; and any such regulations may do all or any of the following: 15

“(a) Provide for the supervision by family day care organisations for the home care arranged by those organisations:

“(b) Provide for the licensing or approval of persons who supervise the home care arranged by family day care organisations: 20

“(c) Prescribe conditions to govern, or that may be imposed in respect of, the grant and transfer of licences for family day care organisations and the duties of licensed family day care organisations: 25

“(d) Provide for the renewal, suspension, and cancellation of licences for family day care organisations and prescribe the conditions subject to which such licences may be granted and renewed and the fees payable in respect of the grant and renewal of such licences: 30

“(e) Prescribe the records to be kept by licensed family day care organisations in respect of the home care they arrange: 35

“(f) Prescribe offences in respect of the contravention of or non-compliance with regulations made under this Act in respect of family day care organisations, and the fines that may be imposed in respect of such offences. 40

“70C. **Child care premises, etc.**—(1) In this section, unless the context otherwise requires,—

“ ‘Child care centre’ means premises that are, or purport to be, used mainly as child care premises:

“ ‘Child care premises’ means premises (being premises that are not an other institution) where usually 3 or more children under the age of 6 years receive care ((whether for profit or not) —) for reward (or as part of or in association with any service or activity offered or carried on for reward or with the intention of making a profit) —

“(a) For a period (or periods in the aggregate) of more than 3 hours per week; but

“(b) Not for any continuous period exceeding 28 days:

Struck Out

“ ‘Family day care’ means the care of children under the age of 6 years in the homes of the persons who provide or will provide that care; but does not include the care of any child for any continuous period exceeding 28 days:

“ ‘Family day care organisation’ means an organisation, agency, or person, that or who arranges or offers to arrange family day care:

“ ‘Other institution’ means premises that are—

“(a) A residence within the meaning of section 2 (1) of the Children and Young Persons Act 1974:

“(b) A foster home under Part VIII of the Children and Young Persons Act 1974 when the number of children who are cared for in that home and who are not children of the foster parent does not exceed the number of infants which the foster parent is licensed to receive and maintain in that home:

“(c) A registered school (whether or not residential accommodation is provided for children):

“(d) A free kindergarten recognised by the Minister:

“(e) A play centre recognised by the Director-General:

“(f) A licensed private hospital:

“(g) An institution under the control of the Department of Health, an Area Health Board, or a Hospital Board:

“(h) An institution within the meaning of the Area Health Boards Act 1983, or the Hospitals Act 1957:

“(i) A hospital within the meaning of the Mental Health Act 1969:

“(j) A children’s health camp within the meaning of the Children’s Health Camps Act 1972:

“(k) Any premises in which all the children are members of the one family in the care of a relative:

“(l) Any other premises or class of premises declared by regulations under this Act not to be child care premises: 5

“ ‘Relative’, in relation to any child, means a parent, step-parent, grandparent, brother, sister, uncle, or aunt (whether by consanguinity or affinity).

“(2) Without limiting the generality of section 203 of this Act, the Governor-General may from time to time, by Order in Council, make regulations providing for the registration, licensing, and control of child care premises or any class or classes of child care premises; and any such regulations may do all or any of the following: 10

“(a) Prescribe minimum standards relating to premises, facilities, and programmes of education, or any of them, to be complied with to ensure the health, comfort, care, education, and safety of the children received in child care premises: 15

“(b) Limit or regulate the number of children who may be received in child care premises: 20

“(c) Provide for the inspection of child care premises:

“(d) Prescribe conditions to govern, or that may be imposed in respect of, the grant and transfer of licences for child care premises and the duties of their licensees: 25

“(e) Provide for the renewal, suspension, and cancellation of licences for child care premises, and prescribe the conditions subject to which such licences may be granted and renewed and the fees payable in respect of the grant and renewal of such licences: 30

“(f) Prescribe the records to be kept by licensees in respect of children cared for in child care premises:

“(g) Provide for the recognition of qualifications in respect of the control and management of child care premises or the care and education of children cared for in child care premises: 35

“(h) Confer on the parents of children attending child care premises rights of entry to those premises:

“(i) Prescribe offences in respect of—

“(i) The contravention of or non-compliance with regulations made under this Act in respect of child care premises; or 40

“(ii) The obstruction, hindrance, resistance, or deception of any person exercising a power of entry under **section 70b** of this Act,— 45
and the fines that may be imposed in respect of such offences:

“(j) Exempt any child care premises or any class of child care premises from all or any of the provisions of those regulations.

Struck Out

- 5 “(3) Without limiting the generality of section 203 of this Act, the Governor-General may from time to time, by Order in Council, make regulations providing for the registration, licensing, and control of family day care organisations; and any such regulations may do all or any of the following:
- 10 “(a) Provide for the supervision by family day care organisations of the family day care arranged by those organisations:
- “ (b) Provide for the licensing or approval of persons who supervise the family day care arranged by family day care organisations:
- 15 “(c) Prescribe conditions to govern, or that may be imposed in respect of, the grant and transfer of licences for family day care organisations and the duties of licensed family day care organisations:
- 20 “(d) Provide for the renewal, suspension, and cancellation of licences for family day care organisations and prescribe the conditions subject to which such licences may be granted and renewed and the fees payable in respect of the grant and renewal of such licences:
- 25 “(e) Prescribe the records to be kept by licensed family day care organisations in respect of the family day care they arrange:
- 30 “(f) Prescribe offences in respect of the contravention of or non-compliance with regulations made under this Act in respect of family day care organisations, and the fines that may be imposed in respect of such offences.

“70D. **Right of entry to child care premises**—(1) Any person empowered in that behalf by **subsection (2)** of this section may at any reasonable time enter and inspect any licensed child care premises.

“(2) The following persons are hereby empowered to exercise the power of entry and inspection conferred by **subsection (1)** of this section:

40 “(a) The Director-General, or any officer of the Department authorised in writing by the Director-General in that behalf:

“(b) The Medical Officer of Health for the (*health*) district in which the premises concerned are situated, or any officer of the Department of Health authorised in writing by that Medical Officer of Health or the area health board concerned (as the case may be) in that behalf. 5

“(3) Every written authorisation under **subsection (2)** of this section shall contain—

“(a) A reference to this section; and

“(b) The full name of the person authorised; and 10

“(c) A statement of the powers conferred on that person by this section.

“(4) Every person exercising any power of entry under this section shall possess the appropriate written authorisation, and evidence of identity, and shall produce them to the person in charge of the premises concerned— 15

“(a) On first entering those premises; and

“(b) Whenever subsequently reasonably required to do so by the person in charge of those premises.

“(5) If any person authorised by **subsection (2)** of this section 20 has reasonable cause to believe that any premises are being used as child care premises, or child care premises of any class, in contravention of regulations made under this Act, that person may make an application in writing on oath to a District Court Judge, Justice of the Peace, or Registrar or Deputy 25 Registrar of any Court who, if satisfied that there is reasonable cause to believe that those premises are being so used, may issue a warrant directed to that person by name authorising that person to enter those premises.

“(6) Every warrant issued under **subsection (5)** of this section 30 shall contain—

“(a) A reference to this section; and

“(b) The full name of the person authorised; and

“(c) A description of the premises concerned; and

“(d) The date on which it was issued and the date on which 35 it expires.

“(7) Every such warrant shall authorise the person named in it, at any reasonable time within 4 weeks after the date on which it is issued, to enter the premises described in the warrant and to do on those premises anything necessary to ascertain 40 whether those premises are being used as child care premises, or child care premises of a particular class, in contravention of regulations made under this Act.

“(8) Every person exercising any power under **subsection (7)** of this section shall possess the appropriate warrant, and evidence of identity, and shall produce them to the occupier of the premises concerned—

5 “(a) On first entering those premises; and

“(b) Whenever subsequently reasonably required to do so by that occupier.

“(9) Every warrant issued under **subsection (5)** of this section shall expire when the purpose for which it was issued has been
10 satisfied.”

(2) Subsections (1) (f), (2), and (3) of section 105 of the Children and Young Persons Act 1974 are hereby consequentially repealed.

(3) The Child Care Centre Regulations 1985 are hereby
15 amended in the manner indicated in the Schedule to this Act.

(4) The said regulations are hereby deemed to have been made under the principal Act; and they may be amended or revoked accordingly, and as if the amendments effected by
20 **subsection (3)** of this section had been effected by regulations made under that Act; and **subsection (3)** of this section and the Schedule to this Act may be amended or revoked by regulations made under that Act accordingly.

(5) **Subsections (1) to (4)** of this section shall come into force on the 1st day of July 1986.

25 **[Clause 3 now clause 2 of Education Amendment Bill
(No. 3)]**

SCHEDULE

Section 2 (3)

AMENDMENTS TO CHILD CARE CENTRE REGULATIONS 1985

Provision Amended	Amendment
Regulation 2	<p>To revoke the definitions of the terms "the Act" and "child care centre", and substitute the following definitions:</p> <p> "Child care centre" means premises that are, or purport to be, used mainly as child care premises:</p> <p> "Child care premises" means premises (being premises that are not an other institution) where usually 3 or more children under the age of 6 years receive care (whether for profit or not)—</p> <p> (a) For a period (or periods in the aggregate) of more than 3 hours per week; but</p> <p> (b) Not for any continuous period exceeding 28 days:".</p> <p>To omit from the definition of the term "Director-General" the words "Social Welfare", and substitute the word "Education".</p> <p>To insert, after the definition of the term "licensee", the following definition:</p> <p> "Other institution" means premises that are—</p> <p> (a) A residence within the meaning of section 2(1) of the Children and Young Persons Act 1974:</p> <p> (b) A foster home under Part VIII of the Children and Young Persons Act 1974 when the number of children who are cared for in that home and who are not children of the foster parent does not exceed the number of infants which the foster parent is licensed to receive and maintain in that home:</p> <p> (c) A registered school (whether or not residential accommodation is provided for children):</p> <p> (d) A free kindergarten recognised by the Minister:</p> <p> (e) A play centre recognised by the Director-General:</p> <p> (f) A licensed private hospital:</p>

SCHEDULE—continued

AMENDMENTS TO CHILD CARE CENTRE REGULATIONS 1985—continued

Provision Amended	Amendment
Regulations 12 (4) and 18 (4) Regulation 38 Regulation 40 (d)	<p>“(g) An institution under the control of the Department of Health, an Area Health Board, or a Hospital Board:</p> <p>“(h) An institution within the meaning of the Area Health Boards Act 1983, or the Hospitals Act 1957:</p> <p>“(i) A hospital within the meaning of the Mental Health Act 1969:</p> <p>“(j) A children’s health camp within the meaning of the Children’s Health Camps Act 1972:</p> <p>“(k) Any premises in which all the children are members of the one family in the care of a relative:</p> <p>“(l) Any other premises or class of premises declared by regulations under this Act not to be child care premises:”.</p> <p>To revoke the definition of the term “relative”.</p> <p>To omit the words “Social Welfare”, and substitute the word “Education”.</p> <p>To revoke regulation 38.</p> <p>To omit the words “regulation 38 of these regulations”, and substitute the words “section 70D of the Education Act 1964”.</p>