



**THE EDUCATION (EARLY CHILDHOOD CENTRES)
REGULATIONS 1990**

PAUL REEVES, Governor-General

ORDER IN COUNCIL

At Wellington this 24th day of September 1990

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Education Act 1989 and (in relation only to regulation 30 (1)) the Health Act 1956, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

ANALYSIS

<p>PART I PRELIMINARY</p> <p>1. Title and commencement</p> <p>2. Interpretation</p> <p>PART II LICENSING</p> <p>3. Applications</p> <p>4. Grant of licence</p> <p>5. Secretary may grant provisional licence for unlicensed centre</p> <p>6. Approvals under Town and Country Planning Act 1977</p> <p>7. Classes of licence</p>	<p>8. Issue of licences</p> <p>9. Alterations or additions</p> <p>10. Advertisements to specify class of licence</p> <p>11. Licence to be displayed</p> <p>12. Secretary may reclassify licence as provisional licence</p> <p>13. Suspension of licences</p> <p>14. Cancellation of licences</p> <p>15. Review of licensed centres</p> <p>16. Amendment of licences</p> <p>17. Consultation required in certain cases affecting kohanga reo</p> <p>18. Appeals</p>
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PART III

HEALTH AND SAFETY STANDARDS

19. Premises
20. Kitchen facilities
21. Toilets, etc.
22. Laundry facilities
23. Sleeping facilities
24. Lighting, ventilation, noise, and heating
25. Fire and earthquake protection
26. Safety and hygiene
27. First aid
28. Food and drink
29. Travel arrangements
30. Child health
31. Staff health
32. Area health board report

PART IV

CURRICULUM, MANAGEMENT, AND STAFFING
STANDARDS

33. Play and other equipment for use by children

34. Programme of activities
35. Management practice for child behaviour
36. Penalty for ill-treatment of children
37. Equal employment opportunities
38. Records
39. Staffing
40. Secretary may recognise certain qualifications
41. Persons responsible to hold recognised qualifications

PART V

MISCELLANEOUS PROVISIONS

42. Parents' right of entry
43. Offences
44. Transitional
45. Revocations
Schedules

REGULATIONS

PART I

PRELIMINARY

1. Title and commencement—(1) These regulations may be cited as the Education (Early Childhood Centres) Regulations 1990.

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

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

“The Act” means the Education Act 1989:

“Area Health Board”, in relation to a centre, means the Area Health Board in whose district the centre is situated:

“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 for the time being specified in the centre's licence as a person directly involved in, and primarily responsible for, the day to day care, comfort, education, health, and safety, of children attending the centre:

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

PART II

LICENSING

3. Applications—(1) Every application for a licence shall 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 one individual person on behalf of the management, where the management is a body corporate or body of persons.

(2) Every application for a licence shall 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 shall state—

(a) The applicant’s full name, and business and home address; and

(b) The full name, age, and home address of each proposed person responsible; and

(c) For each proposed person responsible, the names and addresses of 2 referees as to the person’s character, temperament, and suitability to be responsible for a centre; and

(d) The early childhood qualifications held by each proposed person responsible; and

(e) The full name of each proposed staff member, and any early childhood qualifications held by each proposed staff member; and

(f) The maximum number of children proposed to attend the centre at any one time; and

(g) Whether or not it is proposed that the children should be of any particular ages, or otherwise be children of a particular class or description; and

(h) The purposes and aims of the centre, the proposed methods of achieving those purposes and aims, the educational programme proposed to be undertaken at the centre, and the proposed policy on child management; and

(i) The hours and days, or occasions, when it is proposed that the centre should be open; and

(j) The arrangements to be made for the children attending the centre to eat and drink; and

(k) Evidence satisfactory to the Secretary that—

(i) The premises and equipment of the centre comply with the standards required by Part III of these regulations and are suitable for use as a centre; and

(ii) The management and staffing practices, the curriculum, and the standard of care and education in the centre are likely to comply with Part IV of these regulations.

4. Grant of licence—(1) Subject to regulation 6 of these regulations, the Secretary shall grant a licence for a centre if, and only if, satisfied on reasonable grounds that—

- (a) The premises and equipment of the centre comply with the standards required by Part III of these regulations 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 IV of these regulations; and
- (c) Each proposed person responsible has turned 20.

(2) The Secretary shall take all reasonably practicable steps to ensure that the decision to grant or refuse to grant a licence for a centre is made within 30 days of the making of an application for a licence for the centre.

5. Secretary may grant provisional licence for unlicensed centre—

(1) Notwithstanding regulation 4 of these regulations, but subject to regulation 6 of these regulations and to subclause (4) of this regulation, the Secretary may (at the Secretary's absolute discretion) grant a provisional licence for any centre that is not a licensed centre if, and only if, the Secretary is satisfied on reasonable grounds that—

- (a) Each proposed person responsible is a suitable person to care for children; and
- (b) In all the circumstances, the education, health, safety, and comfort of the children will not be unduly prejudiced by the matters that prevent the granting of a full licence.

(2) Subject to regulations 13 and 14 of these regulations and to subclause (3) of this regulation, every provisional licence granted under subclause (1) of this regulation shall remain in force for a period determined by the Secretary when granting it and specified in the licence, and shall then expire.

(3) A provisional licence shall not be granted under subclause (1) of this regulation for a period of more than 3 months.

(4) The Secretary shall not within 12 months of granting a provisional licence for a centre under subclause (1) of this regulation grant another provisional licence for the centre under that subclause, unless satisfied that—

- (a) The matters that prevent the granting of a full licence differ substantially from those that prevented the granting of a full licence when the earlier provisional licence was granted; or
- (b) There are extraordinary circumstances that make it inappropriate to refuse to grant a further provisional licence.

6. Approvals under Town and Country Planning Act 1977—(1) The Secretary shall not grant any licence for a centre unless satisfied that the use of the premises concerned for a centre—

- (a) Is permitted or has been consented to by or under Part II of the Town and Country Planning Act 1977; or
- (b) Is permitted or has been consented to by or under an operative district scheme or by or under Part IV of the Town and Country Planning Act 1977; or
- (c) Is not required to be permitted or consented to, either—
 - (i) By or under an operative district scheme; or
 - (ii) By or under the Town and Country Planning Act 1977.

(2) If any application, objection, or appeal that may affect the use of the premises concerned as a centre has been made under the Town and Country Planning Act 1977, the Secretary shall not grant a licence for the

centre until the application, objection, or appeal has been finally determined.

7. Classes of licence—Every licence shall be either—

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

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

(2) Every licence shall state—

- (a) The full name of the licensee; and
- (b) The premises for which it has been granted; and
- (c) Whether it is an all day licence or a sessional licence; and
- (d) The full name and qualifications of each person responsible for the centre; and
- (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 granting only a provisional licence; and
- (f) The date of issue of the licence; and
- (g) The maximum number (of not more than 50) of children who may attend the centre at any one time; and
- (h) Either—
 - (i) The maximum number (of 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; and
- (i) Either—
 - (i) The maximum number (of 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; and
- (j) The hours and days the centre is authorised to be open for children to attend; and
- (k) Any special conditions attached to the licence.

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

(4) Subject to regulations 12 (5) and 16 (3) of these regulations, the Secretary shall not issue any licence unless the licensee has paid the Secretary the fee prescribed in that behalf by regulations made under the Act.

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

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

- (a) The maximum numbers stated in the centre's licence under paragraphs (g) to (i) of subclause (2) of this regulation; and
- (b) Any relevant special conditions attached to the licence under paragraph (k) of that subclause.

9. Alterations or additions—The licensee of a licensed centre shall ensure that no alteration or addition is made to the centre until a plan and description of the proposed alteration or addition has been approved by the Secretary in writing.

10. Advertisements to specify class of licence—The licensee of a licensed centre shall ensure that every advertisement or public notice in any form that directly or indirectly invites the attendance of children at the centre specifies—

- (a) The class of licence granted for the centre; and
- (b) If the licence is a provisional licence, the fact that the centre is or intended to be operated under a provisional licence.

11. Licence to be displayed—The licensee of a licensed centre shall ensure that the centre's licence is prominently displayed at the centre in such a way as to be easily inspected by people attending.

12. Secretary may reclassify licence as provisional licence—(1) If satisfied that—

- (a) A licensed centre does not comply with these regulations; or
- (b) A licensed centre does not comply with all the conditions subject to which its licence was issued; or
- (c) 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,—

the Secretary may, by written notice to the licensee, reclassify the centre's licence as a provisional licence.

(2) Where the Secretary reclassifies a licensed centre's licence under subclause (1) of this regulation,—

- (a) The licensee shall forthwith give the Secretary the licence; and
- (b) The Secretary shall forthwith—

- (i) Note on the licence that it is a provisional licence, and the day (not more than 3 months after the day on which the notice effecting the reclassification was given to the licensee) before which the conditions for its reclassification as a full licence must be complied with; and

- (ii) Give it back to the licensee, together with a written statement of those conditions.

(3) Subject to subclause (4) of this regulation, 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) (i) of this regulation, the Secretary shall 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 shall 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 (2) of this regulation to cancel a provisional licence, the Secretary is satisfied that—

- (a) The conditions for its reclassification as a full licence have been complied with; and
- (b) The licence has not been cancelled,—

the Secretary shall reclassify it and (if the provisional licence is returned to the Secretary) without charge issue in its place a full licence.

13. 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 shall, by written notice to the licensee, suspend the centre's licence.

(2) A suspension under subclause (1) of this regulation shall take 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 12 (2) (a) of these regulations), the Secretary may, by written notice to the licensee, suspend the centre's licence.

(5) A suspension under subclause (3) or subclause (4) of this regulation shall take 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 shall specify the conditions on compliance with 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,— shall 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 shall revoke the suspension and (if the Secretary has custody of the licence) return the licence to the licensee.

14. Cancellation of licences—(1) Subject to subclause (2) of this regulation, 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 licensed centre—

(i) Has ceased permanently 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 shall, by notice in the *Gazette*, cancel the centre's licence.

(2) The Secretary shall not cancel a licence under subclause (1) (b) of this regulation 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 that regulation,—
shall give it to the Secretary.

15. Review of licensed centres—(1) Except as otherwise provided in regulation 14 of these regulations, every licence (other than a provisional licence), shall continue in force for as long as the licensee complies with the conditions set down in it and with these regulations.

(2) Every licensed centre shall be reviewed by the Chief Review Officer—

(a) Whenever the Minister asks for a review; and

(b) At least every 12 months.

(3) The Chief Review Officer shall give the Secretary, and the licensee of the centre concerned, a written report of the results of every review carried out.

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

(a) Any person responsible named in the licence permanently ceases to be a person responsible for the centre; or

(b) The licensee wants any new or extra person to become a person responsible for the centre; or

(c) The licensee wants to make to the centre any alterations that would affect the conditions of the licence; or

(d) The licensee wants to make to the operation of the centre any changes that would make any matter specified in the licence incorrect; or

(e) The licensee is going to be absent from New Zealand for more than 30 days;—

and in that case the Secretary shall 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.

(2) The management of a licensed centre shall 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 the Secretary shall 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 shall be payable for any amended licence issued in accordance with this regulation.

17. 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 shall be nominated in respect of a specified geographical area, the whole of New Zealand, or both.

(3) Subject to subclause (4) of this regulation,—

(a) If for the time being there are 1 or more people nominated under subclause (1) of this regulation in respect of a geographical area in which a centre under the control and oversight of the said Trust is situated, the Secretary shall 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 so nominated; and

(b) If for the time being—

(i) There is no person nominated under subclause (1) of this regulation in respect of a geographical area in which a centre under the control and oversight of the said Trust is situated; but

(ii) There are 1 or more people nominated under subclause (1) of this regulation in respect of the whole of New Zealand,—
the Secretary shall 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 so nominated.

(4) The Secretary is not required by subclause (3) of this regulation to attempt to consult before suspending a licence under regulation 13 (1) of these regulations; but shall do so as soon as is reasonably practicable after suspending the licence.

18. 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 shall remain in full force until the Court has reached its decision.

PART III

HEALTH AND SAFETY STANDARDS

19. Premises—(1) The licensee of every licensed centre shall ensure that the centre's premises are kept in good repair, and conform with the bylaws of the local authority.

(2) Subject to subclause (3) of this regulation, the licensee of a licensed centre shall 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 shall be next to the indoor space; and shall comprise a safe space suitably surfaced and drained for a variety of activities, closed in by secure fences and gates.

(4) A centre that conforms to the standards set out in the First Schedule to these regulations has adequate space for the purposes of subclause (2) of this regulation.

(5) The licensee of a licensed centre shall ensure that the centre has adequate resource and work space for staff, and storage space for administrative equipment and personal belongings.

(6) The licensee of a licensed centre shall 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.

(7) In the case of a centre where no child attends for longer than 2 hours on any day, the Secretary may direct that the outdoor space requirement specified in the First Schedule to these regulations may be reduced or dispensed with for the centre.

20. Kitchen facilities—(1) The licensee of a licensed centre shall ensure that it is equipped with adequate and suitable kitchen facilities to the satisfaction of the Secretary.

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

21. Toilets, etc.—(1) Subject to subclause (2) of this regulation, the licensee of a licensed centre shall 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 the Second Schedule to these regulations complies with subclause (1) of this regulation.

22. Laundry facilities—The licensee of a licensed centre with an all day licence shall ensure that staff have access to adequate and suitable laundry facilities to the satisfaction of the Secretary.

23. Sleeping facilities—(1) The licensee of a licensed centre shall 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 licensed centre shall 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 shall 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 shall ensure that all children resting or sleeping are at all times within sight of a staff member.

24. Lighting, ventilation, noise, and heating—(1) Subject to subclause (2) of this regulation, the licensee of a licensed centre shall 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) of this regulation if the room is at a temperature of 18 degrees celsius measured between 0.5m and 1m above the floor.

25. Fire and earthquake protection—(1) The licensee of a licensed centre shall ensure that the centre has the safeguards against fire, and means of escape from fire, satisfactory to the Secretary.

(2) The licensee of a licensed centre shall ensure that every inspection under this regulation is carried out by a member of an organisation approved by the Secretary for the purpose by notice in the *Gazette*.

(3) The licensee of a licensed centre shall ensure that every year the centre's fire protection procedures and equipment are reviewed (by a member of an organisation approved by the Secretary for the purpose by notice in the *Gazette*), and a written report on the review is sent to the Secretary.

(4) The licensee of a licensed centre shall ensure that all parts of the building it occupies that are not at ground level have external access to ground level that—

(a) Is direct; and

(b) Gives the children quick, easy, safe escape outside, to the satisfaction of the Secretary.

(5) The licensee of a licensed centre shall 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.

26. Safety and hygiene—(1) The licensee of a licensed centre shall 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 appropriate 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, relevant 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; 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, either has a fixed protective barrier on that side or is made of a material approved by the Secretary for the purpose; and

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

(i) There is ready access to a telephone in emergencies; 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 not planted at the centre any plants whose bark, leaves, flowers, sap, or fruit are, or are capable of being, poisonous to children; and
 - (r) There is not planted where its bark, leaves, flowers, or fruit could fall or be blown into the centre, or be reached by children attending the centre, any plant whose bark, leaves, flowers, or fruit are, or are capable of being, poisonous to children.
- (2) The licensee of a licensed centre shall 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 shall ensure that all staff are trained in fire and earthquake drill, and in other emergency procedures, and that regular evacuation drill is carried out.
- (4) It is the duty of—
- (a) The licensee of a licensed centre; and
 - (b) Every person responsible for the control of a centre; and
 - (c) Every staff member of a centre—
- to 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.

27. First aid—(1) The licensee of a licensed centre shall ensure that there is provided at the centre, kept in good condition, and ready for immediate use, a first-aid cabinet equipped to a standard approved by the Area Health Board.

(2) The licensee of a licensed centre shall ensure that every first-aid cabinet at the centre is fitted with a lock or other device that prevents children from opening it.

(3) The licensee of a licensed centre shall 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.

28. Food and drink—(1) The licensee of a licensed centre shall 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 shall 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.

29. Travel arrangements—(1) The licensee of a licensed centre shall 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 30 of the Traffic Regulations 1976; and
 - (b) There are no more than 3 children per adult in any motor vehicle; 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 shall 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.

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

(2) Any child who is suffering from any disease (other than a disease referred to in subclause (1) of this regulation) 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 shall ensure that the centre has available an area and facilities suitable for the temporary isolation and care of at least one sick child.

(4) The licensee of a licensed centre shall 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 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 at, or noticed at, a licensed centre in circumstances that seem to call for immediate medical aid, the person responsible shall 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 shall 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 shall develop, with the approval of the Secretary, a policy on the handling of any evidence of child abuse that may come to the notice of staff.

31. Staff health—(1) The licensee of a licensed centre shall 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 to the Health (Infectious and Notifiable Diseases) Regulations 1966.

(2) If the licensee or any person responsible for a licensed centre has reason to believe that any member of the staff, or any person on the premises who may come into contact with the children, may be suffering from any disease or condition likely to have a detrimental effect on the children, the licensee or person responsible shall forthwith tell the Secretary.

(3) If the Secretary has reason to believe that any member of the staff of a centre, or any person on the premises who comes into contact with the children, is suffering from any disease or condition likely to have a detrimental effect on the children, the Secretary may direct that the person be excluded from entering the premises or from coming into contact with the children until the Secretary is satisfied that the person is free from the disease or condition.

(4) If any person acts in contravention of a direction given by the Secretary under subclause (3) of this regulation, the Secretary may forthwith suspend the centre's licence under regulation 13 (1) of these regulations.

(5) The licensee of a licensed centre shall 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.

(6) The licensee of a licensed centre shall ensure that no person—

(a) Uses alcohol or any mind-altering substance at the centre; or

(b) Is at the centre while affected by alcohol or any mind-altering substance,—

during the hours the centre is operating.

32. Area health board report—In determining whether the health and safety standards required by regulations 20 to 24, 26 to 28, and 30 (3) of these regulations have been met, the Secretary may direct a licensed centre to obtain a report from the Area Health Board.

PART IV

CURRICULUM, MANAGEMENT, AND STAFFING STANDARDS

33. Play and other equipment for use by children—The licensee of a licensed centre shall 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.

34. Programme of activities—The licensee of every early childhood centre shall, to the satisfaction of the Secretary,—

(a) Provide while the centre is open a range of developmentally appropriate activities, that cater for the needs of the children,

- fostering their physical, emotional, social, cultural, creative, and cognitive development, including both individual and group experiences, indoors and outdoors; and
- (b) Provide for children to become and remain confident in their own culture and the culture of Aotearoa/New Zealand; and
 - (c) Ensure that the daily activities at the centre are in accordance with the purposes and aims of the centre, as set out in the application for its licence; and
 - (d) Periodically review the programme of activities undertaken at the centre, after having regard to developments in early childhood practice or the developmental needs of children; and
 - (e) Provide opportunities for the parents, guardians, and whanau members and staff to be involved in discussions on developmentally appropriate programmes in the centre; and
 - (f) Provide developmentally appropriate programmes for children with special developmental needs.

35. Management practice for child behaviour—The licensee of every early childhood centre shall 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.

36. Penalty for ill-treatment of children—(1) If satisfied on reasonable grounds that any member of the staff of a licensed centre, or any other person—

- (a) Has physically ill-treated a child at the centre; or
- (b) In guiding or controlling any such child, has subjected the child to solitary confinement, immobilisation, or deprivation of food, drink, warmth, shelter, or protection,—

the Secretary may direct that the person concerned be excluded from coming into contact with the children at the centre and, if satisfied that it is necessary for that purpose, direct that the person be excluded from the centre.

(2) If any person acts in contravention of a direction given by the Secretary under subclause (1) of this regulation, the Secretary may forthwith suspend the licence under which the centre operates under regulation 13 (1) of these regulations.

37. Equal employment opportunities—The licensee of a licensed centre shall ensure that an equal employment opportunities programme, within the meaning of section 58 of the State Sector Act 1988, is part of the centre's employment policy.

38. Records—The licensee of a licensed centre shall ensure that there are kept for each child (for at least 7 years) records, available at all times

for inspection by authorised persons having the right of entry to the centre under section 318 of the Education Act 1989, 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; and
- (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.

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

(2) The licensee of a licensed centre shall ensure that it is so staffed that the children are never left unsupervised.

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

(4) The licensee of a licensed centre shall ensure that at all times while children are attending it is staffed in accordance with the Third Schedule to these regulations.

(5) For the purpose of subclause (4) of this regulation, every child present at a centre (including a child of the licensee or person responsible or staff member of the centre, of whatever age, shall be counted.

(6) Notwithstanding subclause (4) of this regulation, the following provisions shall 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 the Third Schedule to these regulations:
- (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 the Third Schedule to these regulations:

- (c) People carrying out food preparation and serving, administrative duties or maintenance, shall not be counted as staff for the purposes of the Third Schedule to these regulations:
- (d) While at lunch, or having breaks or non-child contact time, as required by any industrial award, staff members shall not be counted as staff for the purposes of the Third Schedule to these regulations.

(5) The licensee of a licensed centre shall ensure that no more than 16 children are cared for overnight in the centre.

(6) The Secretary shall 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.

40. 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 classes and descriptions, or in respect of the education and care of children attending centres of a specified class or description only.

41. Persons responsible to hold recognised qualifications—No person shall be, and the licensee of a licensed centre shall 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 40 of these regulations (being qualifications recognised in respect of the education and care of children attending centres of all classes and descriptions, or in respect of the education and care of children attending centres of a class or description to which the centre belongs), and experience recognised by the Secretary for the purposes of this regulation.

PART V

MISCELLANEOUS PROVISIONS

42. Parents' right of entry—Except where, by law, a parent or guardian of a child attending a licensed centre—

- (a) Is forbidden to have access to the child; or
- (b) Has access to the child subject to conditions that forbid access while the child attends the centre,—

the parent or guardian has a right of entry to the centre whenever the child is there.

43. Offences—Every person who—

- (a) Knowingly makes any false statement in any application; 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, fails or refuses to comply with any direction given by the Secretary under regulation 32 or regulation 36 of these regulations; or
 - (d) Without reasonable excuse obstructs, hinders, resists, or deceives, any person exercising a power of entry under section 318 of the Education Act 1989; or
 - (e) 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.

44. Transitional—(1) Subject to subclause (2) of this regulation, every licence issued after the 31st day of March 1990 under the Child Care Centre Regulations 1985 and in force on the commencement of these regulations shall have effect as a licence granted under these regulations.

(2) Unless earlier cancelled or expired under these regulations, every such licence shall expire on the day specified in the licence.

45. Revocations—The Child Care Centre Regulations 1985 are hereby revoked.

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SCHEDULES

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FIRST SCHEDULE
SPACE REQUIREMENTS

Reg. 19 (4)

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 two years of age, and other areas not available for play	2.5m ²
Outdoor space	5m ²

Reg. 21 (2)

**SECOND SCHEDULE
SANITARY FACILITIES REQUIRED**

1. Water closet pans—(1) The minimum number of water closet pans required for a centre shall be calculated on the basis of the greatest number of people over 3 (that is to say staff, and children over 3 attending) at anytime using the centre as follows:

(a) One water closet pan; plus

(b) For every 15 (or part thereof) people over 3 in excess of 10, one further water closet pan.

(2) At least one water closet pan shall be suitable for use by adults.

2. Chamber pots—The centre shall 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 shall have at least 1 handbasin for every 10 (or part thereof) of the maximum number of people (that is to say children attending and staff present) at any time.

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

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

(4) The centre shall 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 shall be effectively controlled so as not to be higher than 40°C at the outlet.

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

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

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

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

THIRD SCHEDULE
STAFFING

Reg. 39 (4)

Type of Centre	Ages of Children Attending	Number of children Attending	Minimum Staffing
All day or Sessional	All under 2	1-5	1
		6-10	2
		11-15	3
		16-20	4
		21-25	5
All day	All 2 or over	1-6	1
		7-20	2
		21-30	3
		31-40	4
		41-50	5
Sessional	All 2 or over	1-8	1
		9-30	2
		31-45	3
		46-50	4
All day or Sessional	Mixed	<i>Under 2</i>	
		1-4	1
		5-8	2
		9-12	3
		13-16	4
		17-20	5
		21-24	6
		25	7
		<i>2 or over</i>	
		1-6	1
		7-20	2
		21-30	3
		31-40	4
		41-49	5

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 day after the date of their notification in the *Gazette*, provide for the licensing of early childhood centres.

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