The Amendments to the Regulations
(The Education and Care Services National Amendment Regulations 2014)
For NSW centre-based early education and care services.
In May 2014, the Standing Council on School Education and Early Childhood amended the Education and Care Services National Regulations.

This guide is designed as a simple introduction to the amendments for preschools and long day care centres in NSW. It assumes you know the original Regulations and need/want to know more about the impact of the changes.

This guide is also assuming that what you need to know are:

- the big things
- what’s new
- what’s different
- what changes you will need to make.

**USING THIS GUIDE**

**READ MORE**
We know you have a lot to do, so this is an essential reading signpost.

**WHAT YOU NEED TO DO**
The actions you must take to comply with the new world of regulations.

**GOOD TO KNOW**
Snippets of handy information.
The major changes

What are the major changes that will affect NSW preschools and long day care services?

Changes to:

▶ TEACHER REQUIREMENTS – changes allow teachers to be replaced by educators with a diploma or with a primary school teacher for short absences;

▶ THE CERTIFIED SUPERVISOR PROCESS – individuals no longer have to apply to DEC for a Supervisor Certificate;

▶ TEACHER EXEMPTIONS – changes to allow services in remote and very remote areas to operate without a teacher until 2018;

▶ QUALIFICATION REQUIREMENTS – further qualification exemptions for longstanding employees in remote locations who have worked in education and care for long periods.

GOOD TO KNOW

Some of the changes, including changes to staffing requirements that you may already be aware of, may not necessarily apply to NSW. Generally, NSW has higher staffing requirements than other states – these were retained when the initial regulations were created. Some of the amendments in this round of changes only apply to specific states, and only the ones that do apply to NSW have been explained in this guide. Make sure you check if a change you read about elsewhere does actually apply to NSW before changing your service policy and practice.

WHAT YOU NEED TO DO …

…Please remember that the Regulations are minimum standards that services must adhere to. Services can choose to staff at higher standards. As existing staffing standards are higher than the amended ones, services can keep operating as they have been, if they choose, with no changes to policy or practices required. Changes to the processes for Certified Supervisors mean that educators no longer need to apply to DEC for a supervisor certificate. For more details, see page 5.
The wording of the Regulation (Regulation 135) is as follows:

(1) If an early childhood teacher is absent from the education and care service because of short-term illness or leave, the following persons may be taken for the purposes of regulations 132(1), 133(1) and 134(1) to be an early childhood teacher during that absence—

(a) a person who holds an approved diploma level education and care qualification;

(b) a person who holds a qualification in primary teaching.

(2) To avoid doubt, sub-regulation (1) does not apply in case of a period of leave exceeding 12 weeks.

What does this mean?

Essentially, it means that if one of your early childhood teachers is away because of illness, family leave, annual leave or attendance at a professional development event, they do not need to be replaced by an early childhood teacher – they can be replaced by an educator with a diploma, or a primary school teacher, as long as the leave is shorter than a 12-week period.

Educators studying for an early education degree

In services that have under 30 children only, educators actively working towards obtaining an early childhood teaching degree will be considered to be an ECT until January 2018. (Regulation 242).

Services in remote and very remote areas

These changes apply to services in a specific area of NSW: coastal services south of Eden and services west of Hay, Coonamble and Moree (except for services in Broken Hill) – ie. services in an area with an ARIA classification of 5.92+

► Services in remote and very remote areas can meet requirements to have an ECT in attendance by having ‘access to’ an ECT for at least 20% of the time they provide education and care until January 2018. (Reg 239A)

► Services in these areas who have educators with 15 years of experience can be counted as holding a Certificate III until January 2018 (previously 2016). (Regulation 240)
**What does this mean?**

Most of the educators you would generally want to be your service’s Certified or Nominated Supervisors don’t need to apply for a Certificate anymore – e.g. room leaders, teachers, etc. Your service will be emailed the one Supervisor Certificate by DEC, which covers everyone. Services need to decide whether an educator fits the definition of being ‘employed or engaged by an approved provider to exercise supervisory and leadership responsibilities in relation to a section’ and are, therefore, covered by the service’s Supervisor Certificate. If they fall outside of this definition, they will still need to apply for an individual certificate.

Of course, the Approved Provider of a service must ensure children are safe – according to ACECQA, this includes ‘making an informed decision about whether a person is fit and proper, with suitable skills to be the nominated supervisor or to be placed in day-to-day charge of the service’.

Educators that your service has determined will be the ‘responsible person’ for a service at any time, still need to accept this position in writing.

**NEW WORLD**

Until the end of 2016, most educators do not need to apply for an individual Supervisor Certificate. DEC will give your service a Supervisor Certificate. This Certificate covers Nominated Supervisors and people ‘employed or engaged by an approved provider to exercise supervisory and leadership responsibilities in relation to a section’ of service. Educators in this category still need to accept being the ‘responsible person’ for a service in writing and still need to have appropriate child protection training.

**GOOD TO KNOW**

You may have read that new educators engaged on probation do not need to hold or work towards obtaining a Certificate III until after their probationary period (up to three months) is over. This does not apply in NSW. All educators need to have or be working towards obtaining a Certificate III or higher qualification.

You may have read that educators working towards an early childhood teaching degree can be counted as teachers. This does not apply in NSW, except in the circumstances outlined above.

**WHAT YOU NEED TO DO ...**

... Nothing! Your educators no longer have to apply for Supervisor Certificates. As long as your service continues to ensure a responsible person is in charge of the service and makes sure that person has given written consent to be placed in day-to-day charge and has child protection qualifications, your service is covered.
Additional changes

Access for parents

OLD WORLD

Services needed to ensure that parents could enter a service at any time, except in some specified circumstances – including where the Approved Provider or Supervisor was ‘aware that the parent is prohibited by a court order from having contact with the child’.

NEW WORLD

This has now been changed – where Providers or Supervisors ‘reasonably believe that permitting the parent’s entry would contravene a court order’, they do not have to allow access. (Regulation 157)

Immunisation

The Regulations now require NSW services to obtain and keep an immunisation or exemption certificate in the enrolment record for each child, as already required by the NSW Public Health Act. This change essentially just makes what services are currently required to do under NSW Law, the same in the Education and Care Regulations. (Regulation 162)