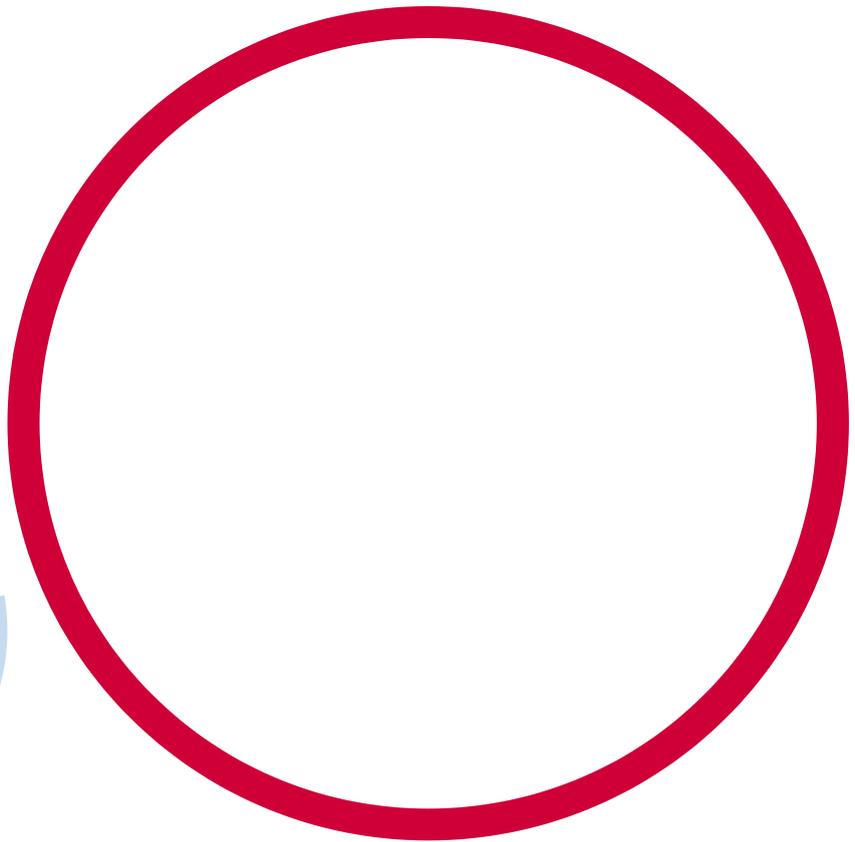
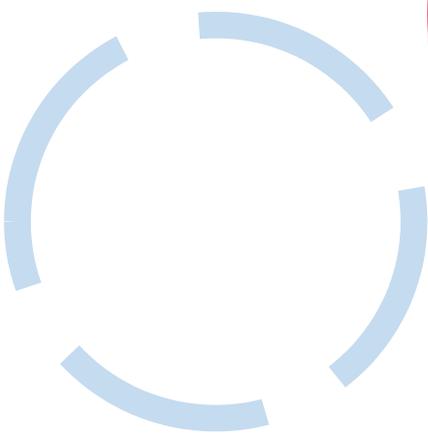
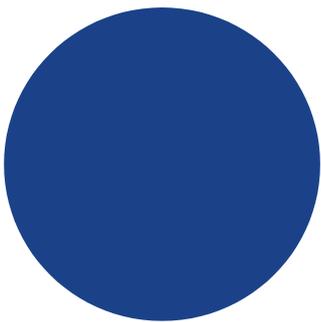


# Waiver Policy

## Early Childhood Education Quality Assurance and Regulatory Services Directorate



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# 1. Purpose

This policy outlines how the Regulatory Authority manages applications by approved providers for waivers from certain elements and requirements of the National Quality Standard and the *Education and Care Services National Regulations* (National Regulations).

The *Children (Education and Care Services) National Law (NSW)* (the National Law) allows the Regulatory Authority to manage waivers by assessing and approving or refusing applications, and by revoking existing waivers.

The information in this policy is intended to clarify:

- what constitutes a complete and valid application to obtain a waiver;
- the circumstances under which the Regulatory Authority will exercise its discretion in respect to waivers, and the considerations it must and/or may take into account when exercising that discretion.

## 2. Scope

This Policy applies to both in-scope and out-of-scope services in NSW.

In-scope services are regulated under the National Quality Framework (NQF) which consists of the National Law, Regulations and the National Quality Standards. In scope services include centre-based services, such as long day care, out of school hours care and preschools, and family day care services.

Out-of-scope services (or State regulated services) are regulated under the *Children (Education and Care Services) Supplementary Provisions Act 2011* (the State Law). Mobile and occasional care services are the only service types regulated under the State Law. Following changes to the State Law, the National Law provisions apply to out of scope services, with certain modifications. Where the National Law applies, the provisions are referred to as the “National Law Alignment Provisions.”

## 3. Guiding principles

The Regulatory Authority’s over-arching principles for implementing its functions are set out in the Guiding Principles Policy. Specific principles that apply to waivers include the following:

- The Regulatory Authority will only grant waivers in exceptional circumstances or unexpected events for the purpose of helping providers maintain their level of service to families while addressing those circumstances.
- The Regulatory Authority will not grant a waiver where to do so would compromise the safety, health or wellbeing, or the developmental outcomes, of children attending the service.
- The Regulatory Authority will not grant a waiver where alternative arrangements to meet the regulatory requirements would result in an unsatisfactory deficiency in education and care service facilities, teaching and programming.
- The Regulatory Authority will generally not grant a service waiver in respect to regulations pertaining to staffing.
- The Regulatory Authority may revoke a waiver in circumstances where the operation of the waiver is ineffective in ensuring compliance with the objectives of the National Law, or the provider is not complying with the waiver or any conditions on the waiver.
- The Regulatory Authority will ensure that providers to which waivers are granted are notified, in a timely way, of the approval of the waiver, and any amendment or revocation of the waiver.

## 4. Policy statement

A waiver enables a service that is non-compliant with the National Regulations or an element of the National Quality Standard to be taken to be compliant, or not required to comply, during the period that the waiver is in force.

There are two types of waivers:

- **Temporary waivers**, which may be granted for up to 12 months.
- **Service waivers**, which may be granted if a service is unable to meet requirements for an ongoing period. There is no expiry date for a service waiver.

An approved provider with an approved service may apply at any time for a waiver to comply with a specific regulation or element of the National Quality Standards. A provider may also apply for a service waiver at the time of applying for a service approval.

The Department may waive the requirement altogether or require that the applicant comply with the requirement by an alternate means. It may also stipulate a timeframe for when the waiver is in effect.

Where a service waiver is in force, the approved education and care service is taken to comply with the element or elements of the National Quality Standard and the national regulations that are specified in the waiver.

Where a temporary waiver is in force, the approved education and care service is not required to comply with the element or elements of the National Quality Standard and the national regulations that have been temporarily waived.

## 4.1 General Application Information

### Valid Applications

An application is complete and valid when the approved provider has submitted all of the prescribed information, including payment of a fee.

The prescribed fees are set out in Schedule 2 of the National Regulations. Fees are indexed each year according to published indexation figures. They are available on the [ACECQA website](#) before the beginning of each financial year.

Names, addresses and other details must be consistent across all documentation provided. The Regulatory Authority may query any inconsistencies. To avoid processing delays, applicants should ensure all information is accurate and consistent before submitting the application.

The timeframe for assessing an application will not commence until the Regulatory Authority has received all prescribed information and determined that the application is complete and valid. If the applicant has not provided all of the prescribed information, the Regulatory Authority will write to the approved provider and advise them of the information required to complete the application. If the approved provider does not provide the outstanding information within 14 days of the Regulatory Authority's written request, the Regulatory Authority may invalidate the application. This means that the Regulatory Authority may close the application.

When making a decision to invalidate an application, the relevant officer will consider the principles of procedural fairness. The Regulatory Authority may re-open an invalid application or may waive the fee for a new application where exceptional circumstances exist.

If exceptional circumstances exist, an applicant must provide evidence for their claims and all requests must be made in writing.

Applicants may decide to withdraw an application at any time prior to the Regulatory Authority making a decision on the application. The application may be withdrawn by notice in writing to the Regulatory Authority. The Regulatory Authority will consider each request on a case by case basis.

If an applicant withdraws an application, they may request a refund of the application fee. When determining whether a refund is applicable, the Regulatory Authority will consider various factors such as the reason for the request, the time and resources already expended and any other relevant matter. The Regulatory Authority will notify an approved provider in writing once a decision is made on a refund request. For more information, see the [Fees and Charges Policy](#).

## Application Timeframes

The National Law sets out timeframes for each application type. It provides that the timeframe does not begin until the Regulatory Authority has received a complete and valid application.

Clause 31 of schedule 1 of the National Law sets out how timeframes are calculated. When calculating the timeframe for processing an application, the day the Regulatory Authority deems the application as valid is excluded. The last day of the timeframe is also excluded.

For the purpose of this section, “days” refer to calendar days, including Saturdays, Sundays and public holidays. However, if the last day of the timeframe falls on a non-business day, the next business day will be the last day.

If further information is required from the applicant (in addition to the prescribed information), the time taken to provide the information is not included in the period for determining the application.

As soon as the applicant is aware of any adverse or serious matters they are obligated to disclose this during the application process. The Regulatory Authority will undertake inquiries in relation to these matters and may ask the applicant to provide further information under sections 89(1) or 96(1) of the National Law. The time taken to make these inquiries will not be considered in the legislated period of time within which Regulatory Authority must make a decision.

The Regulatory Authority must not grant a waiver unless it is satisfied as to the matters in section 90 of the National Law (in the case of a service waiver) or section 97 of the National Law (in the case of a temporary waiver), and that to do so would not be contrary to the objectives and guiding principles of the National Quality Framework. Where there is information outstanding relating to serious matters, such as a criminal investigation, the Regulatory Authority may not be able to make determination on the application until an outcome is known or the matter is finalised. If the Regulatory Authority is unable to make a decision within legislative timeframes, the application is taken to be refused. If an application is refused, an applicant may submit a new application at any time.

The Regulatory Authority must notify the applicant of its decision on the service or temporary waiver application within 60 calendar days after receiving a complete application.

# 4.2 Application Requirements

## Application Requirements

### Service Waiver

Service waivers have no end date and remain in force until revoked. They are intended to provide ongoing exemptions from a requirement to comply with a prescribed element or elements of the National Quality Standard and the National Regulations.

A provider must submit a valid application through the NQAITS portal and pay the prescribed fee. Regulation 42 of the National Regulations sets out the prescribed information for a service waiver, including:

- the reasons the service is unable to comply with the requirement(s) of the National Regulations / element(s) of the National Quality Standard (NQS);
- details and evidence of attempts to comply; and
- measures being taken to protect the wellbeing of children.

Evidence: Examples of evidence that may be supplied with a waiver application can be found at ***Checklist 3 at Appendix A***.

See ***Checklist 1 at Appendix A*** for the full list of prescribed information.

### Temporary Waiver

Temporary waivers may be granted for a period of up to 12 months. They are intended to provide exemptions from a requirement to comply with a prescribed element or elements of the National Quality Standard and the National Regulations for a specified period of time.

A provider must submit a valid application through the NQAITS portal and pay the prescribed fee. Regulation 45 of the National Regulations sets out the prescribed information for a temporary waiver, including:

- the reasons the service is unable to comply with the requirement(s) of the National Regulations / element(s) of the National Quality Standard (NQS);
- details and evidence of attempts to comply;
- measures being taken to protect the wellbeing of children; and
- the time period for which the waiver is required.

See **Checklist 2 at Appendix A** for the full list of prescribed information.

## Requirements that may be waived – service and temporary waivers

The below table sets out the Regulations that may be waived.

<b>Regulations that may be waived</b>	
<b>Regulation</b>	<b>Requirement</b>
72A	Location of principal office of family day care service
<b>Physical environment</b>	

## Regulations that may be waived

NQS (in Schedule 1 of the National Regulations)	Standards and elements set out in Quality Area 3 (Physical Environment) and Quality Area 4 (Staffing Arrangements)
104	Fencing
107	Indoor space
108	Outdoor space
110	Ventilation and natural light
117	Glass (Family Day Care only)
<b>Staffing</b>	
120	Educators who are under 18 to be supervised (Centre-based only)
123	Educator to child ratios – centre-based services (Centre-based only)
124	Number of children who can be educated and cared for (Family Day Care only)
126	Centre-based services – general educator qualifications
127	Family day care educator qualifications (Family Day Care only)
128	Family day care co-ordinator qualifications (Family Day Care only)
130	Requirement for early childhood teacher – centre-based services – fewer than 25 approved places (Centre-based services only)
131	Requirement for early childhood teacher – centre-based services – 25 or more approved places but fewer than 25 children
132	Requirement for early childhood teacher—centre-based services—25 to 59 children Note: Regulation 272 applies in place of Regulations 132-135 in NSW
133	Requirement for early childhood teacher—centre-based services—60 to 80 children
134	Requirement for early childhood teacher – centre-based services – more than 80 children (Centre-based only)
136	First aid qualifications (temporary waivers only)
<b>Additional requirements for Centre-based services</b>	
Division 2 Part 4.3	(Centre-based services only) 111 Administrative space 112 Nappy change facilities 113 Outdoor space—natural environment 114 Outdoor space—shade

## Regulations that may be waived

	115 Premises designed to facilitate supervision
Ch.7	Any jurisdiction-specific, transitional or saving provisions that apply in place of the regulations outlined above. For example, regulation 272 applies in NSW in place of regulations 132-135

## 4.3 Assessing an Application

The Regulatory Authority will assess applications for service or temporary waivers on a case by case basis and will give consideration to the following matters (as also largely outlined in the Guide to the National Quality Framework, published by the Australian Children's Education and Care Quality Authority (ACECQA)).

### General matters

- The measures being taken or to be taken to protect the wellbeing of children being educated and cared for by the service while the proposed waiver would be in place.
- Whether the service can meet the objectives of the regulations by alternative means.
- The benefits to families, children and communities in having the service operate.
- The service's Quality Improvement Plan.
- The number and age range of children enrolled at the service.
- Attempts made by the approved provider to comply with the requirement(s).
- The cost of any adjustments needed for the service to comply with the regulations for which a waiver is being sought.
- The compliance history of the approved provider and/or the service.
- Unusual or unforeseen circumstances, such as natural disasters.
- Whether the issue is ongoing (i.e. longer than 12 months) and requires a service waiver, rather than a temporary waiver, or circumstances have changed and a temporary waiver is required instead of a service waiver.
- The service's most recent assessment and rating outcome.

## Staffing waivers

- Staff details, including rosters and qualifications.
- Evidence of recruitment e.g. advertising and the outcomes of a recruitment attempt.
- Evidence of progress towards relevant qualifications.
- Strategies in place to attract, upskill and retain staff.
- What the service is doing to meet the immediate shortfall.
- Impact on programming, educational outcomes and experience of children.

## Physical environment waivers (including indoor and outdoor spaces)

- Access to indoor and outdoor spaces, or facilities e.g. toilets.
- Building and floor plans by a certified building practitioner.
- Photos of relevant spaces, e.g. simulated outdoor space.
- Details of renovations
- Impact on programming, educational outcomes and experience of children.
- A statement from the applicant about 'exceptional circumstances'
- The location of the premises, such as a high density area, or CBD.
- The availability of alternative sites in the area that may provide appropriate indoor or outdoor space.
- Any proposed design of the indoor or outdoor space, such as indoor space being used as simulated outdoor space.

At the discretion of the Regulatory Authority, an authorised officer may visit the service premises to view the relevant spaces and gather additional information.

## FDC principal office in the same jurisdiction as FDC service approval

- Family day care services are in Local Government Areas in adjacent jurisdictions (e.g. Albury/Wodonga)

- Strategies in place to ensure educators will be adequately supported and monitored.

In assessing an application for a waiver, the Regulatory Authority will also consider any waivers currently in place and how this may affect the safety and well-being of children at the service. For example, if the Regulatory Authority receives an application for a staffing waiver, the Regulatory Authority will consider any existing staffing waivers in place and will determine if granting a further waiver is in the best interests of children being educated and cared for at the service.

## Concurrence

In September 2017, the introduction of the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (SEPP) brought about the process of Concurrence.

When a development application is non-compliant with space requirements, namely, Regulation 107 or 108, the relevant Local Council will refer the application to the Regulatory Authority to seek concurrence on the application prior to the construction of the service premises. The Regulatory Authority will assess the development application and advise the Local Council whether it will grant concurrence. A grant of concurrence means the Regulatory Authority is satisfied that, based on the plans provided, a waiver could be granted at the time of service approval.

The space waiver must still be assessed at the time of service approval to ensure that the premises is safe for the children to use and that there has been no significant departure from the measures outlined in the development application. However, the Regulatory Authority will have regard to whether concurrence was granted to the development application prior to the building being completed.

## Service Waiver

In addition to the matters outlined above, the Regulatory Authority may consider either or both of the following:

- whether the education and care service is able to meet the prescribed element or elements of the National Quality Standard and the national regulations by alternative means that satisfy the objectives of those elements;
- any matters disclosed in the application that are relevant to the application for the service waiver (section 90 of the National Law).

## Temporary Waiver

In addition to the matters outlined above, the Regulatory Authority must have regard to whether special circumstances disclosed in the application reasonably justify the granting of a waiver (section 97 of the National Law).

## Extension of Existing Temporary Waiver

Prior to the expiry of a temporary waiver, an approved provider may apply to the Regulatory Authority to extend the temporary waiver (Section 98 of the National Law). The Regulatory Authority cannot extend a temporary waiver without an application from the approved provider

In considering an application to extend a temporary waiver, the Regulatory Authority may have regard to the same matters as for the initial temporary waiver application as well as any changes or new information in respect to the request for an extension.

Section 98(3) of the National Law provides that:

- The Regulatory Authority may extend the temporary waiver for a period of up to 12 months.

Circumstances in which the Regulatory Authority may consider extending a temporary waiver include, but are not limited to:

- where a staff member has not yet attained their relevant qualification due to a reason outside of the control of the provider;
- where works to provide physical space to meet the requirements of the National Law are underway but have not yet been completed due to a reason outside of the control of the provider;
- other exceptional circumstances outside of the control of the provider in which it would be reasonable to provide an extension of the temporary waiver.

The Regulatory Authority will only extend a temporary waiver for the minimum possible reasonable time.

## 4.4 Making a Decision on an Application

The Regulatory Authority may either grant or refuse an application for a service waiver (Section 91 of the National Law) or an application for a temporary waiver (Section 98 of the National Law).

## Granting a waiver

Where the Regulatory Authority grants a waiver, it will issue or re-issue the service approval specifying:

- the elements and/or National Regulations to which the waiver applies;
- any conditions placed on the waiver;
- in the case of a temporary waiver, the period of the waiver

The Regulatory Authority will set the duration of a temporary waiver, with a maximum duration of 12 months. In determining this period, the Regulatory Authority may consider the following matters:

- any risk posed to safety, health and wellbeing of children attending the education and care service;
- any risk posed to the educational and developmental outcomes for children attending the education and care service;
- the length of time for which the waiver will be required e.g. the length of an ECT course, or the time taken to complete renovation work.

The Regulatory Authority may place a condition on a waiver at the time of granting the waiver. Thereafter, at any time, the Regulatory Authority may remove or vary any condition placed on the waiver. Further information can be found in the Conditions on Approvals and Waivers Policy.

While a service waiver is in force, the approved education and care service is taken to comply with the element or elements of the National Quality Standard and the National Regulations that are specified in the service waiver.

While a temporary waiver is in force, the approved education and care service is not required to comply with the element or elements of the National Quality Standard and the National Regulations that have been temporarily waived.

## Refusing a waiver

The Regulatory Authority may refuse to grant a waiver where the application cannot satisfy the requirements by an alternate means or where it can, but to do so would not be in the best interests of the children in care.

The Regulatory Authority will notify the applicant in writing of the decision and the reasons for the decision. A decision to refuse a waiver is not a reviewable decision. For further information, see the [Review of Decisions Policy](#).

## Revoking a waiver

The Regulatory Authority may revoke a service or temporary waiver at its discretion (sections 92(1) and 99 of the National Law). An approved provider may also apply to the Regulatory Authority to revoke a service waiver that applies to a service which it operates ([Section 92 of the National Law](#)). Although there is no provision under the National Law for an approved provider to apply to revoke a temporary waiver, the Regulatory Authority will consider any written request from the approved provider to revoke a temporary waiver.

The Regulatory Authority will consider revoking a waiver where:

- the operation of the waiver is ineffective in ensuring compliance with the objectives of the National Law;
- the grounds on which the service waiver was granted no longer apply;
- the provider is not complying with the waiver, including any conditions on the waiver;
- the operation of the service due to the waiver has created a risk to the safety, health and wellbeing, or to the developmental outcomes, of children being educated and cared for at the service, and the approved provider has not adequately addressed the risks.

Regulation 43 of the National Regulations prescribes the timeframes in respect to revoking a service waiver. Where the Regulatory Authority has decided to revoke a service waiver, the revocation will take effect 14 days after the Regulatory Authority notifies the approved provider of its decision to revoke the waiver.

Where the approved provider has submitted an application to revoke the service waiver, the revocation will take effect 14 days after the Regulatory Authority notifies the provider of its approval of the application.

Whether the Regulatory Authority or the approved provider initiates the revocation, the Regulatory Authority may modify the 14 day prescribed period with the agreement of the approved provider. As the National Law and Regulations do not stipulate timeframes in respect to the revocation of a temporary waiver, the Regulatory Authority will apply the same timeframes as outlined above for the revocation of a service waiver.

Where the Regulatory Authority revokes a waiver, the service may be non-compliant with the relevant regulations. This may lead to further compliance action being taken against the approved provider.

## 5. Out-of-Scope Services

In May 2019 the Supplementary Provisions were amended to align with the requirements of the National Law and Regulations, with some modifications. Where the National Law applies, the provisions are referred to as the “National Law Alignment Provisions.” Section 14A of the Supplementary Provisions state that the National Law Alignment Provisions provide for the grant of service waivers and temporary waivers, and provide for other matters relating to waivers. As such, approved providers of occasional care and mobile services can apply for a service or temporary waiver, with some modifications to the prescribed elements for mobile services Regulations 104, 107, 108110 and 112–115 are not prescribed elements for mobile services, which means mobile services cannot apply for a waiver from these regulations.

If a mobile education and care service is to be provided on a premises that does not comply with regulation 80 and any of the regulations outlined above, the approved provider must submit a venue management plan to, and have it approved by, the Regulatory Authority. If the Regulatory Authority approves the venue management plan, the service is taken to comply with the regulations addressed in the plan.

A venue management plan is a plan describing how the safety and well-being of children being educated at particular premises at which a mobile education and care service is being provided will be ensured despite the premises not complying with specified provisions of the National Law Regulations. Service approval for mobile education and care services will only be provided with an approved venue management plan.

While an approved venue management plan is in force, and the mobile education and care service complies with it, the service is taken to comply with the provisions of the National Law Regulations that are specified in the venue management plan.

## 6. Review

A person affected by the Regulatory Authority’s decision regarding the revocation of a service waiver may be able to challenge that decision by applying to have it reviewed. There are two types of review:

- internal review – by the Regulatory Authority;
- external review – by a relevant tribunal, court or the NSW Ombudsman.

A decision to refuse to grant a waiver, or to revoke a temporary waiver are not internally reviewable decisions. For more information on rights of review, including application processes, the types of review available and the principles that apply to conducting reviews, see the [Review of Decisions Policy](#).

# 7. Appendices

## Checklist 1: Information required for service waiver application

- |   |
|---|
| <input type="checkbox"/> Name of education and care service   |
| <input type="checkbox"/> Service approval number  |
| <input type="checkbox"/> Name and contact details of the contact person for the application   |
| <input type="checkbox"/> A statement that specifies:<br>a) the elements of the NQS and/or the National Regulations for which the service waiver is sought AND<br>b) the way in which the service does not, or will not, comply with the specified elements and/or National Regulations. |
| <input type="checkbox"/> Reasons the service is unable to comply, and details and any evidence of any attempts made to comply with the specified elements and/or National Regulations, or any other reasons why the service seeks the waiver.   |
| <input type="checkbox"/> Measures being taken, or to be taken, to protect the wellbeing of children being educated and cared for by the service while the waiver is in force.   |
| <input type="checkbox"/> Additional information that may be required for the Regulatory Authority to make an informed decision. For example, a space waiver may require site plans and unencumbered space calculations.   |

## Checklist 2: Information required for temporary waiver application

- |   |
|---|
| <input type="checkbox"/> Name of education and care service   |
| <input type="checkbox"/> Service approval number  |
| <input type="checkbox"/> Name and contact details of the contact person for the application   |
| <input type="checkbox"/> A statement that specifies:<br>a) the elements of the NQS and/or the National Regulations for which the temporary waiver is sought AND<br>b) the way in which the service does not, or will not, comply with the specified elements and/or National Regulations. |
| <input type="checkbox"/> Reasons the service is unable to comply, and details and any evidence of any attempts made to comply with the specified elements and/or National Regulations.  |
| <input type="checkbox"/> Period for which the temporary waiver is sought and the reasons for seeking that period (cannot exceed 12 months)  |

## Checklist 2: Information required for temporary waiver application

Details of steps being taken, or that will be taken, to comply with the elements and/or regulations

Measures being taken, or to be taken, to protect the wellbeing of children being educated and cared for by the service while the temporary waiver is in force.

Additional information that may be required for the Regulatory Authority to make an informed decision. For example, an ECT waiver will require evidence of adequate recruitment attempts, details of the ECT nominee and evidence of their enrolment in an ACECQA-approved ECT course.

## Checklist 3: Evidence that may support a waiver application

### Physical Environment – General

- Plans covering risk management, supervision strategy and revised use of space (Regulation 42(g))
- Relevant space plans, diagrams or photographs (Regulation 42(g))
- Evidence of how the environment would be adapted, facilities and/or equipment that would be used to promote quality experiences in natural environments, if the application is granted (Regulation 42(g))
- Information on programming and practices to facilitate access to quality experiences in natural environments (Regulation 42(g))
- Facilities and equipment to engage and develop gross motor skills (Regulation 42(g))

### Physical environment – insufficient indoor/outdoor space

Outline of the space reduction being requested, the reason, what areas of the program will be impacted and how the service will ensure children's safe access to reduced indoor/outdoor space (Regulations 42(e), (f), (g))

Where renovations are being undertaken, evidence:

- that the service is unable to schedule the renovations, or particular aspects of the renovations, for times when children are not present
- of the expected length of time that the works will take
- of how much space will be unavailable for the time of the works being undertaken
- of what areas of the program will be impacted
- of how the service will minimise the impact of any works on the children
- of a risk assessment and how the service will ensure children cannot access any unsafe areas during the renovations
- of how the service will manage the movement of tradespeople through the service
- that temporary fencing (if required) meets the requirements of regulation 104
- of how the service will evaluate the effectiveness of meeting the needs of the

### Checklist 3: Evidence that may support a waiver application

children whilst the works are being undertaken (Regulations 42(e), (f), (g)).

#### Physical Environment – Simulated Outdoor

- Details of the outdoor space the service intends to use including a map identifying this space in relation to the service (Regulation 42(g))
- For excursions, a copy of the service's policies and procedures in relation to excursions including procedures for complying with the requirements for risk assessment and authorisations set out in regulations 100-102 (Regulation 42(g))
- Copy of the service's policies and procedures for the supervision of children using the outdoor space (Regulation 42(g))
- Copy of the completed risk assessment for taking children to the outdoor space (Regulation 42(g))

#### Physical Environment – Simulated Indoor

- Details of the additional indoor space the service intends to use as outdoor space including a map/ plans identifying this space in relation to the service (Regulation 42(g))
- Area measurements for the space (Regulation 42(g))

#### Staffing – General

Plan illustrating how education program and practice meets the outcomes of the approved learning framework (Regulation 42(g))

#### Staffing – requirement for ECT/diploma level qualified educator

- Evidence of efforts to recruit a diploma level qualified educator (for example, copies of advertisements) (Regulation 42(e))
- Copy of the nominated educator's qualification (in particular if that qualification is not an approved qualification) (Regulation 42(g))
- Evidence of the nominated educator's current enrolment including the name of the course and/or course code and the date the educator is expected to complete their studies, or staff progression towards qualifications, including transcripts if relevant (Regulation 42(g))
- Details of the mentoring and support available to the nominated educator (Regulation 42(g))
- Plan for training and supervision for individual in ECT role (Regulation 42(g))
- Evidence of planning provisions to ensure the health, safety and wellbeing of children and the program is not impacted (Regulation 42(g))
- Evidence of unsuccessful recruitment attempts (for example job advertisements dated within the previous 3 months, information on unsuitable applicants or no response) (Regulation 42(g))
- Number of enrolled children per day of week and enrolment waitlist (if applicable) (Regulation 42(g))
- Nominee's ECT course enrolment (Regulation 42(g))
- Evidence of the nominee's Diploma qualification or 50% completion of ECT

### Checklist 3: Evidence that may support a waiver application

course (Regulation 42(g))

#### Extensions of temporary waivers

Extensions for temporary waivers must relate to the same elements and/or regulations and circumstances for which the initial waiver was granted. When considering the extension application, the Regulatory Authority will consider the continued attempts made by the service to comply with the elements and/or regulations and why the attempts have not resolved the service's noncompliance.

## 8.Version Control

Policy Owner	Version	Approved by	Date last reviewed
Director, Regulatory Strategy and Performance	1.0	Executive Director, Quality Assurance and Regulatory Services	24 August 2020
Director, Regulatory Strategy, Policy and Practice	2.0	Executive Director, Quality Assurance and Regulatory Services	2 March 2021
Director, Regulatory Strategy, Policy and Practice	3.0	Executive Director, Quality Assurance and Regulatory Services	17 March 2021