

Reprint
as at 14 July 2017



**Department of Child, Youth and Family Services Act
1999**

Public Act 1999 No 82
Date of assent 23 July 1999
Commencement see section 1(2)

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

This Act is administered by the Ministry of Social Development.

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An Act—

- (a) **to provide for the transfer of staff and resources from the Department of Social Welfare to the new Department of Child, Youth and Family Services; and**
- (b) **to facilitate the transfer of the administration of the Oranga Tamariki Act 1989 and functions under certain other enactments; and**
- (c) **to amend related enactments and to provide for related matters**

1 Short Title and commencement

- (1) This Act may be cited as the Department of Child, Youth and Family Services Act 1999.
- (2) This Act comes into force on 1 October 1999.

2 Maori name of Department of Child, Youth and Family Services*[Repealed]*

Section 2: repealed, on 14 July 2017, by section 150(1) of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Part 1**Preliminary provisions and transfer of employees****3 Interpretation**

In this Act, unless the context otherwise requires,—

chief executive means, subject to any enactment, the chief executive of the department that is, with the authority of the Prime Minister, for the time being responsible for the administration of the Oranga Tamariki Act 1989

contract includes a licence

designated party means any of the following:

- (a) a Minister of the Crown, in his or her capacity as the Minister responsible for the administration of the Oranga Tamariki Act 1989:

- (b) the Director-General of Social Welfare, in his or her capacity as a person with functions under, or connected with the administration of,—
 - (i) the Adoption Act 1955; or
 - (ii) the Care of Children Act 2004; or
 - (iii) the Disabled Persons Community Welfare Act 1975; or
 - (iv) the Adult Adoption Information Act 1985; or
 - (v) the Protection of Personal and Property Rights Act 1988; or
 - (vi) the Oranga Tamariki Act 1989; or
 - (vii) the Adoption (Intercountry) Act 1997:
- (c) a Social Worker employed by the Department of Social Welfare, in his or her capacity as a person with functions connected with—
 - (i) the Adoption Act 1955; or
 - (ii) the Care of Children Act 2004; or
 - (iii) the Adult Adoption Information Act 1985; or
 - (iv) the Protection of Personal and Property Rights Act 1988; or
 - (v) the Oranga Tamariki Act 1989

designated successor means,—

- (a) in relation to a person specified in paragraph (a) of the definition of the term designated party, the responsible Minister:
- (b) in relation to the person specified in paragraph (b) of the definition of the term designated party, the chief executive of the responsible department:
- (c) in relation to a person specified in paragraph (c) of the definition of the term designated party, an appropriate Social Worker employed by the responsible department

designated unit means any of the following units of the Department of Social Welfare:

- (a) the Children, Young Persons and Their Families Agency:
- (b) the Children, Young Persons and Their Families Service (formerly called the New Zealand Children and Young Persons Service):
- (c) the New Zealand Community Funding Agency

premises includes land

responsible department means the department that is, with the authority of the Prime Minister, for the time being responsible for the administration of the Oranga Tamariki Act 1989

responsible Minister means, subject to any enactment, the Minister who is, with the authority of the Prime Minister, for the time being responsible for the administration of the Oranga Tamariki Act 1989

specified right of appeal means any of the following:

- (a) a right of appeal under section 12 or section 13A or section 20 of the Adoption Act 1955; or
- (b) a right of appeal under section 143 or section 145 of the Care of Children Act 2004; or
- (c) a right of appeal under section 341 or section 342 or section 347 of the Oranga Tamariki Act 1989; or
- (d) a right of appeal under section 20 of the Adoption (Intercountry) Act 1997

specified right of review means a right of review under section 21 of the Disabled Persons Community Welfare Act 1975

transferred employee means any employee of the Department of Social Welfare who transfers (in circumstances to which section 61A of the State Sector Act 1988 applies) to the responsible department.

Section 3 **chief executive**: amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section 3 **designated party** paragraph (a): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section 3 **designated party** paragraph (b)(ii): amended, on 1 July 2005, by section 151 of the Care of Children Act 2004 (2004 No 90).

Section 3 **designated party** paragraph (b)(vi): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section 3 **designated party** paragraph (c)(ii): amended, on 1 July 2005, by section 151 of the Care of Children Act 2004 (2004 No 90).

Section 3 **designated party** paragraph (c)(v): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section 3 **responsible department**: amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section 3 **responsible Minister**: amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section 3 **specified right of appeal** paragraph (b): amended, on 1 July 2005, by section 151 of the Care of Children Act 2004 (2004 No 90).

Section 3 **specified right of appeal** paragraph (c): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

4 Application of employment contracts

- (1) This section and sections 5 and 6 apply to any transferred employee.
- (2) Unless a transferred employee's employment contract otherwise provides and subject to subsection (3), the transferred employee's employment contract continues to apply to that employee, on and from the date the employee transfers to the responsible department, on the same terms and conditions (including the period of the contract)—
 - (a) as if it were a contract that had been made in respect of the responsible department; and

- (b) as if it were binding on both that employee and on the chief executive of the responsible department, and on any other party to that contract.
- (3) If there is a change to an employee's duties or location arising out of his or her transfer to the responsible department, the conditions of employment of that employee may be varied by agreement to reflect that change but the conditions of employment (as so varied) must be no less favourable than those that the employee was entitled to receive under the employment contract applying to the employee at the date of the transfer.
- (4) Subsections (2) and (3) continue to apply to the conditions of employment of each transferred employee to whom this section applies until such time as any of the conditions of employment that apply under the employment contract applying to that employee at the date of the transfer are subsequently varied (otherwise than for the purpose referred to in subsection (3)).
- (5) The conditions of employment of each such transferred employee are, on and from the date of any subsequent variation to which subsection (4) applies, to be determined in accordance with the employment contract applying to that employee in the responsible department.
- (6) Nothing in subsection (2) or subsection (3) continues to apply to any transferred employee who receives any subsequent appointment, whether within the responsible department or any other department.

5 Employment to be continuous

For the purposes of any provisions of a transferred employee's employment contract relating to continuity of service, that employee's transfer from the Department of Social Welfare to the responsible department is insufficient by itself to break his or her employment.

6 Transfer not sufficient to entitle employee to redundancy or severance payment

No transferred employee is entitled to receive any compensation for redundancy or any severance payment because—

- (a) the position held by that employee in the Department of Social Welfare has ceased to exist; or
- (b) he or she has ceased by virtue of his or her transfer to be an employee of the Department of Social Welfare.

Part 2

Transfer of obligations and functions, and other matters

7 Transfers of contracts or leases not to give rise to claims

- (1) No person has any claim against the Crown for breach of any contract merely because the administration of the contract or the benefit or burden of the con-

tract is transferred (in whole or in part) to the responsible department, whether or not the person has agreed to the transfer.

- (2) Subsection (1) applies whether or not the transfer involves the responsible department and its employees gaining access to any information, data, programme, intellectual property right, know-how, chattel, equipment, transmission device, or facility of the claimant or any other person.
- (3) No person has any claim against the Crown for breach of any lease of any premises which are to be occupied or administered (in whole or in part) by the responsible department merely because of that occupation or administration of the premises by the responsible department, whether or not the person has agreed to the occupation or administration of the premises.

8 Continuation of existing proceedings

- (1) If, before the commencement of this Act, a designated party or designated unit has initiated or become a party to any proceedings (including proceedings involving the exercise by any person of a specified right of appeal or specified right of review, in respect of the Department of Social Welfare), the proceedings may be continued, completed, and enforced by or against the designated successor.
- (2) If, before the commencement of this Act, any person was entitled, or claimed to be entitled, to issue any proceedings, apply for or exercise any right of review, or to exercise any right of appeal, referred to in subsection (1),—
 - (a) that person may, after the commencement of this Act, commence the proceedings, review, or appeal as if the designated successor were the appropriate person in respect of whom the proceedings, review, or appeal relates; and
 - (b) the provisions of subsection (1) apply to any such proceedings, review, or appeal commenced under paragraph (a) as if they had been commenced prior to the commencement of this Act; and
 - (c) no such proceedings, review, or appeal may be commenced in respect of any person other than the designated successor.

9 Savings relating to brands, logos, marks, etc

All names, brands, stamps, logos, emblems, marks, forms, and other representations or documents that were, immediately before the date of commencement of this Act, in use by the Department of Social Welfare for the purposes of 1 or more of the designated units—

- (a) continue to have effect in relation to anything done before that date; and
- (b) may continue to be used, and are to have effect, for the purposes of the functions, duties, and powers of the responsible Minister, the responsible department, or the chief executive of the responsible department under the Oranga Tamariki Act 1989 or other appropriate enactment.

Section 9(b): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

10 Saving of certain appointments

Nothing in this Act affects the appointment of any person as—

- (a) a member of a Care and Protection Resource Panel under section 428 of the Oranga Tamariki Act 1989; or
- (b) a member of a grievance panel under regulation 29 of the Children, Young Persons, and Their Families (Residential Care) Regulations 1996.

Section 10(a): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

11 References to functions being transferred to responsible department

- (1) Unless the context otherwise requires, in any regulation, rule, order, agreement, deed, instrument, application, notice, direction, contract, lease, or other document in force at the commencement of this Act, the references specified in subsections (2) to (4) must be read in the manner indicated in those subsections.
- (2) Every reference to the Director-General of Social Welfare (or the chief executive of the Department of Social Welfare), when used in relation to 1 or more of the designated units, is a reference to the chief executive of the responsible department.
- (3) Every reference to the Director-General of Social Welfare (or the chief executive of the Department of Social Welfare), when used in relation to his or her functions, duties, or powers under the Oranga Tamariki Act 1989, is a reference to the chief executive of the responsible department.
- (4) Every reference to any designated unit, where the unit is referred to in its own right and the reference does not apply to other units of the Department of Social Welfare, is a reference to the responsible department.
- (5) Unless the context otherwise requires, when used in relation to the following enactments, every reference to the Department of Social Welfare is a reference to the responsible department:
 - (a) the Adoption Act 1955:
 - (b) the Care of Children Act 2004:
 - (c) the Adult Adoption Information Act 1985:
 - (d) the Oranga Tamariki Act 1989:
 - (e) the Adoption (Intercountry) Act 1997.
- (6) Unless the context otherwise requires, every reference to a Social Worker employed in the Department of Social Welfare, when used in relation to any enactment, is a reference to a Social Worker employed by the responsible department.

Section 11(3): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section 11(5)(b): amended, on 1 July 2005, by section 151 of the Care of Children Act 2004 (2004 No 90).

Section 11(5)(d): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

12 Transfer of contracts and leases

- (1) The Director-General of Social Welfare may transfer to the chief executive specified responsibilities for the administration of a contract or lease or any specified benefit, or specified burden, of a contract or lease if—
 - (a) the Director-General, or the Department of Social Welfare, or the Crown acting by or through the Director-General or the department, is a party to the contract or lease; and
 - (b) the contract or lease is in force at the commencement of this Act; and
 - (c) the contract or lease relates—
 - (i) to the functions of the unit of the Department of Social Welfare called the Children, Young Persons and Their Families Agency; and
 - (ii) to the functions of any other unit of the Department of Social Welfare, or to the functions of another department, or to both.
- (2) A transfer may be made under subsection (1) only if—
 - (a) the chief executive agrees to the transfer; and
 - (b) a notice in writing of the transfer is delivered to the chief executive, and to every other party to the contract or lease.
- (3) A transfer made under subsection (1) is binding on every party to the contract or lease.

13 Amendments to other enactments

The enactments specified in the Schedule are amended in the manner indicated in that schedule.

14 Consequential repeals

Amendment(s) incorporated in the Act(s).

Schedule Enactments amended

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Part 1 Amendments to Acts

Adoption Act 1955 (1955 No 93) (RS Vol 1, p 35)

Amendment(s) incorporated in the Act(s).

Adoption (Intercountry) Act 1997 (1997 No 109)

Amendment(s) incorporated in the Act(s).

Adult Adoption Information Act 1985 (1985 No 127)

Amendment(s) incorporated in the Act(s).

Alcoholic Liquor Advisory Council Act 1976 (1976 No 143) (RS Vol 26, p 1)

Amendment(s) incorporated in the Act(s).

Births, Deaths, and Marriages Registration Act 1995 (1995 No 16)

Amendment(s) incorporated in the Act(s).

Child Support Act 1991 (1991 No 142)

Amendment(s) incorporated in the Act(s).

Children, Young Persons, and their Families Act 1989 (1989 No 24)

Amendment(s) incorporated in the Act(s).

Civil Defence Act 1983 (1983 No 46)

Amendment(s) incorporated in the Act(s).

Criminal Investigations (Blood Samples) Act 1995 (1995 No 55)

Amendment(s) incorporated in the Act(s).

Criminal Justice Act 1985 (1985 No 120)

Amendment(s) incorporated in the Act(s).

Disabled Persons Community Welfare Act 1975 (1975 No 122) (RS Vol 26, p 143)

Amendment(s) incorporated in the Act(s).

Education Act 1989 (1989 No 80) (RS Vol 34, p 17)

Amendment(s) incorporated in the Act(s).

Employment Services and Integrated Support (Integrated Administration) Act 1998 (1998 No 96)

Amendment(s) incorporated in the Act(s).

Family Benefits (Home Ownership) Act 1964 (1964 No 32) (RS Vol 16, p 139)

Amendment(s) incorporated in the Act(s).

Family Proceedings Act 1980 (1980 No 94) (RS Vol 28, p 545)

Amendment(s) incorporated in the Act(s).

Guardianship Act 1968 (1968 No 63) (RS Vol 38, p 613)

Amendment(s) incorporated in the Act(s).

Immigration Act 1987 (1987 No 74) (RS Vol 33, p 163)

Amendment(s) incorporated in the Act(s).

Income Tax Act 1994 (1994 No 164)

Amendment(s) incorporated in the Act(s).

Local Government Act 1974 (1974 No 66) (RS Vol 25, p 1)

Amendment(s) incorporated in the Act(s).

Ombudsmen Act 1975 (1975 No 9) (RS Vol 35, p 469)

Amendment(s) incorporated in the Act(s).

Protection of Personal and Property Rights Act 1988 (1988 No 4)

Amendment(s) incorporated in the Act(s).

Social Security Act 1964 (1964 No 136) (RS Vol 32, p 625)

Amendment(s) incorporated in the Act(s).

Social Security Amendment Act 1987 (1987 No 106) (RS Vol 32, p 834)

Amendment(s) incorporated in the Act(s).

Part 2**Amendments to regulations****Children, Young Persons, and Their Families Rules 1989 (SR 1989/295)**

Amendment(s) incorporated in the rules.

Protection of Personal and Property Rights Rules 1988 (SR 1988/213)

Amendment(s) incorporated in the rules.

State Sector Order 1999 (SR 1999/117)

Amendment(s) incorporated in the order(s).

Reprints notes

1 *General*

This is a reprint of the Department of Child, Youth and Family Services Act 1999 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31): sections 149, 150(1)

Care of Children Act 2004 (2004 No 90): section 151