



Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017

Public Act 2017 No 31
Date of assent 13 July 2017
Commencement see section 2

Contents

	Page
1 Title	10
2 Commencement	10
Part 1	
Amendments to Children, Young Persons, and Their Families Act 1989	
3 Principal Act	10
4 Long Title repealed	10
5 Name of principal Act changed	10
6 Section 1 amended (Short Title and commencement)	10
7 Section 2 amended (Interpretation)	11
8 Part 1 heading amended	13
9 Section 4 and cross-heading replaced	13
<i>Purposes</i>	
4 Purposes	13
10 New section 4A inserted (Well-being and best interests of child or young person)	15
4A Well-being and best interests of child or young person	15
11 Section 5 replaced (Principles to be applied in exercise of powers conferred by this Act)	15
5 Principles to be applied in exercise of powers under this Act	15
12 Section 6 repealed (Welfare and interests of child or young person paramount)	17

13	Section 7 amended (Duties of chief executive)	17
14	New section 7AA inserted (Duties of chief executive in relation to Treaty of Waitangi (Tiriti o Waitangi))	19
	7AA Duties of chief executive in relation to Treaty of Waitangi (Tiriti o Waitangi)	19
15	Section 11 amended (Child's or young person's participation and views)	20
16	Section 13 amended (Principles)	21
17	Section 14 replaced (Definition of child or young person in need of care or protection)	24
	14 Definition of child or young person in need of care or protection	24
	14AA Circumstances in which child or young person is suffering, or is likely to suffer, serious harm	24
18	Section 15 replaced (Reporting of ill-treatment or neglect of child or young person)	25
	15 Reporting of concerns to chief executive or constable	25
19	Section 16 amended (Protection of person reporting ill-treatment or neglect of child or young person)	25
20	Section 17 amended (Investigation of report of ill-treatment or neglect of child or young person)	25
21	New section 18AAA inserted (Chief executive may make family group conference available in certain circumstances)	26
	18AAA Chief executive may make family group conference available in certain circumstances	26
22	Section 18 amended (Referral of care or protection cases to care and protection co-ordinator or youth justice co-ordinator by social workers or constables)	26
23	Section 18A amended (Assessment of parent of subsequent child)	26
24	Section 18B amended (Person described in this section)	27
25	Section 18C amended (Confirmation of decision not to apply for declaration under section 67)	27
26	Section 18D amended (Court declining to confirm decision)	28
27	Section 19 amended (Referral of care or protection cases to care and protection co-ordinator by other persons or by court)	28
28	Section 21 amended (Care and protection co-ordinator to consult family, whanau, or family group on convening of family group conference)	28
29	Section 22 amended (Persons entitled to attend family group conference)	28
30	Section 26 amended (Procedure of family group conference)	28
31	Section 28 amended (Functions of family group conference)	28
32	Section 29 amended (Family group conference may make decisions and recommendations and formulate plans)	28

33	Section 30 amended (Care and protection co-ordinator to seek agreement to decisions, recommendations, and plans of family group conference)	29
34	Section 34 amended (Chief executive to give effect to decisions, recommendations, and plans of family group conference)	29
35	Section 35 amended (Police to comply with decisions, recommendations, and plans of family group conference)	29
36	Section 40 amended (Warrant to remove child or young person)	29
37	Section 46 amended (Powers of court where application made under section 44 or child or young person brought before court under section 45)	29
38	Section 48 amended (Unaccompanied children and young persons)	29
39	Section 59 amended (Application for production of documents relevant to investigation of whether child or young person in need of care or protection)	29
40	Section 61 amended (Court may order document to be produced)	30
41	Section 66 replaced (Government departments may be required to supply information)	30

Information sharing

65A	Purpose of information sharing and principle for information sharing decisions	30
66	Agencies to supply information	30
66A	Disclosure of information obtained under section 66	31
66B	Restrictions on disclosure of information under section 66A	31
66C	Use and disclosure of personal information relating to child or young person or classes of children or young persons	32
66D	Public notification of information about combined datasets	32
66E	Application of sections 66F to 66J	33
66F	Definitions	33
66G	Requests for information by authorised child welfare and protection agencies or authorised independent persons from other authorised child welfare and protection agencies or authorised independent persons	33
66H	Duty of child welfare and protection agency or independent person receiving request under section 66G	33
66I	When request under section 66G may be declined	34
66J	Reasons for declining request	34
66K	Consultation to be undertaken when information is requested or proposed to be disclosed under section 66C or 66H	34

<i>Code of practice for information sharing</i>			
	66L	Purpose of Code for information sharing	35
	66M	Consultation on draft Code by Minister	35
	66N	Approval of draft Code by Minister	36
	66O	Application of Legislation Act 2012 to Code	36
	66P	Amendments to Code	36
	66Q	Relationship with other enactments	37
42		Section 67 repealed (Grounds for declaration that child or young person is in need of care or protection)	37
43		Section 68 amended (Application for declaration that child or young person is in need of care or protection)	37
44		Section 69 amended (Joint applications)	37
45		Section 70 amended (No application to be made unless family group conference has been held)	37
46		Section 71 amended (Court may make declaration in absence of proof of responsibility for neglect or ill-treatment of child or young person)	38
47		Section 72 amended (Court not to make declaration unless family group conference held)	38
48		Section 73 amended (Court not to make declaration unless satisfied that child's or young person's need for care or protection cannot be met by other means)	38
49		Section 74 amended (Court may require parties to undergo counselling)	39
50		Section 78 amended (Custody of child or young person pending determination of proceedings)	39
51		Cross-heading above section 83 replaced	40
<i>Care or protection orders</i>			
52		Section 83 amended (Orders of court on making of declaration)	40
53		Section 84 amended (Power to make other orders where declaration made on ground of child's offending)	40
54		Section 86 amended (Services orders)	41
55		Section 86A amended (Interim services orders)	41
56		Section 87 amended (Restraining orders)	41
57		Section 88 amended (Interim restraining orders)	41
58		Section 91 amended (Support orders)	41
59		Section 92 amended (Interim support orders)	42
60		Section 95 amended (Conditions of support order or interim support order)	42
61		Section 96 amended (Power of court to impose additional conditions)	42
62		Section 101 amended (Custody orders)	42
63		Section 102 amended (Interim custody orders)	42
64		Section 110 amended (Guardianship orders)	42

65	New section 110AA inserted (Interim guardianship orders)	42
	110AA Interim guardianship orders	42
66	Section 110A amended (Application for change of guardianship order)	43
67	Section 121 amended (Court may make orders for access and exercise of other rights by parents and other persons)	43
68	Section 125 amended (Application for variation or discharge of orders made under this Part)	44
69	Section 127 amended (Court may vary or discharge order)	44
70	Section 128 amended (Court to obtain and consider plan for child or young person before making certain orders)	44
71	Section 129 amended (Court to direct who is to prepare plan)	44
72	Section 130 amended (Content of plans)	44
73	Section 131 amended (Adjournment for purposes of obtaining plan)	44
74	Section 132 amended (Access to plans)	45
75	Section 135 amended (Review of plan)	45
76	Sections 141 and 142 repealed	45
77	Section 143 amended (All parents or guardians not required to be party to agreement)	45
78	Section 144 amended (Agreement not to be made without consent of child or young person)	45
79	Section 145 amended (Agreement not to be made without approval of family group conference)	45
80	Section 146 amended (Form and terms of agreements)	45
81	Section 147 amended (Further restrictions on making of agreements)	45
82	Section 148 amended (Effect of agreements)	45
83	Section 149 amended (Agreement may provide for consent to medical treatment)	46
84	Section 152 amended (Service of application for declaration)	46
85	Section 153 amended (Notice of application for declaration to be given to child or young person)	46
86	Section 154 amended (Service of application for variation or discharge of order)	46
87	Section 158 amended (Applications may be heard together)	46
88	Section 170 amended (Calling of mediation conference)	47
89	Section 185 amended (Sections to have effect in place of sections 38 to 44 of Criminal Procedure (Mentally Impaired Persons) Act 2003)	47
90	Section 186 amended (Report by social worker)	47
91	Section 187 amended (Cultural and community reports)	47
92	Section 198 amended (Special provisions applying to applications for declaration on ground of child's offending)	47

93	Section 199 amended (Power of court to call witnesses)	47
94	Section 200 amended (Court to ensure that application for declaration that child or young person in need of care or protection dealt with promptly)	47
95	Section 205 amended (Preventing removal of child or young person from New Zealand)	48
96	Section 206 amended (Offence to take child or young person out of New Zealand where proceedings pending)	48
97	Section 206B amended (Power to dismiss proceedings)	48
98	Section 207E amended (Chief executive to have regard to certain matters)	48
99	Section 207M amended (Court to have regard to certain matters)	48
100	Section 207S amended (Court to have regard to certain matters)	48
101	Section 208 amended (Principles)	48
102	New section 208A inserted (Child or young person subject to youth justice jurisdiction only until allegations of offending dealt with)	49
	208A Child or young person subject to youth justice jurisdiction only until allegations of offending dealt with	49
103	Section 238 amended (Custody of child or young person pending hearing)	49
104	Section 239 amended (Restrictions on power of court to order child or young person to be detained in custody)	49
105	Section 241 amended (Review of orders made under section 238)	50
106	Section 242 amended (Order under section 238 sufficient authority for detention of child or young person)	50
107	Section 246 amended (Procedure where young person arrested and brought before court)	50
108	New section 248A inserted (Chief executive to appoint youth advocate to represent child or young person if offence punishable by imprisonment of 10 years or more)	50
	248A Chief executive to appoint youth advocate to represent child or young person if offence punishable by imprisonment of 10 years or more	51
109	Section 250 amended (Consultation on convening of family group conference)	51
110	Section 256 amended (Procedure at family group conference)	51
111	Section 258 amended (Functions of family group conference)	51
112	Section 260 amended (Family group conference may make decisions and recommendations and formulate plans)	52
113	Section 272 amended (Jurisdiction of Youth Courts and children's liability to be prosecuted for criminal offences)	52
114	Section 273 amended (Manner of dealing with offences (other than murder or manslaughter))	52

115	Section 275 amended (Manner of dealing with offence of murder or manslaughter, or where jury trial to be held)	52
116	New section 276A inserted (Transfer of proceeding back to Youth Court)	53
	276A Transfer of proceeding back to Youth Court	53
117	Section 280 amended (Court may refer case to care and protection co-ordinator to determine whether matter should be dealt with under Part 2)	53
118	Section 280A amended (Court may refer case to person who commenced proceeding to be dealt with as child offending care or protection proceeding under Part 2)	53
119	Section 284 amended (Factors to be taken into account on sentencing)	54
120	Section 296 amended (Expiry of orders)	54
121	Section 316 amended (Court may cancel supervision with residence order if young person absconds)	54
122	Section 323 amended (Appointment of youth advocate to represent child or young person)	54
123	Section 361 amended (Application of sections 362, 364, 365, 387, 390 to 392, 394, and 395)	54
124	Section 363 amended (Payment to person or organisation providing care)	55
125	Section 364 amended (Authority to establish residences)	55
126	Section 365 amended (Chief executive may place children and young persons in residences)	55
127	Cross-heading above section 386A replaced	55
	<i>Moving to independence</i>	
128	New sections 386AAA to 386AAG inserted	55
	386AAA Interpretation	55
	386AAB Purposes	55
	386AAC Principles to be applied when assisting young person to move to independence	56
	386AAD Young persons entitled to live with caregiver up to age of 21 years	56
	386AAE Providing support to young persons to negotiate support arrangements and monitoring of support arrangements	57
	386AAF Role of caregivers under support arrangements	58
	386AAG Financial assistance for support arrangements	58
129	Section 386A replaced (Advice and assistance for people moving from care to independence)	58
	386A Advice and assistance for young persons up to age of 25 years	58
	386B Provision of advice and assistance by chief executive	60

130	New section 386C inserted (Chief executive to maintain contact with young persons up to age of 21 years)	60
	386C Chief executive to maintain contact with young persons up to age of 21 years	61
131	Section 403 amended (Approval of Community Services)	61
132	Section 405 amended (Revocation of approval)	61
133	New sections 445E and 445F and cross-heading inserted	61
	<i>Limit on proceedings and Crown liability</i>	
	445E Limit on proceedings	61
	445F Limitation on liability	62
134	Section 447 amended (Regulations)	63
135	New section 447A inserted (Minister to appoint persons to monitor compliance with prescribed standard of care)	65
	447A Minister to appoint independent persons to monitor compliance with prescribed standard of care	65
136	New section 448B and cross-heading inserted	65
	<i>Periodic review of legislation, government policy, and other arrangements</i>	
	448B Periodic review of legislation, government policy, and other arrangements	65
137	Amendments to principal Act to replace gendered references with gender-neutral references	66
138	Schedule 1AA amended	66
	4 New definition of young person not to apply to criminal proceedings underway at commencement date	66
	5 Protections for young persons aged 17 years in criminal investigations	66
	6 Application of complaints mechanism	67
	7 Previous definition of child or young person in need of care or protection applies to proceedings underway	67
	8 Application of sections 17(2A), 18AAA, 21(2), and 30(1)(aaa)	67
	9 Determinations under section 18B(2)(c)	67
	10 Information sharing	67
	11 Applications for declaration made under section 68 before commencement date to be determined under previous provisions	67
	12 When custody order ceases to have effect	68
	13 Agreements for extended care of severely disabled children and young persons and agreements with persons providing residential disability care	68
	14 Youth justice principles	68

15	Review of detention of young persons in residence or Police custody	68
16	Consideration of restorative justice actions by Family Group Conferences	69
17	Factors to be taken into account on sentencing	69
18	Moving to independence	69
19	References to Children, Young Persons, and Their Families Act 1989	69
139	Schedule 1 amended	69
140	New Schedule 1A inserted	70
Part 2		
Amendments to other Acts		
Subpart 1—Amendments to Criminal Procedure Act 2011		
141	Amendments to Criminal Procedure Act 2011	70
142	Section 174 amended (Remand of defendant under 17 years for assessment report)	70
143	Section 175 amended (Remand of defendants aged 17 to 20 years)	70
144	New section 380A inserted (Transfer of proceedings commenced in Youth Court back to Youth Court in certain circumstances)	70
380A	Transfer of proceedings commenced in Youth Court back to Youth Court in certain circumstances	70
Subpart 2—Amendment to Income Tax Act 2007		
145	Amendments to Income Tax Act 2007	71
146	Section CW 33 amended (Allowances and benefits)	71
Subpart 3—Amendment to Social Security Act 1964		
147	Amendment to Social Security Act 1964	71
148	Section 3 amended (Interpretation)	71
Subpart 4—Amendments to Acts and legislative instruments		
149	Consequential amendments to Acts and legislative instruments	71
150	Repeal of and amendments to enactments	71
Schedule 1		
Amendments to principal Act to replace gendered references with gender-neutral references		
Schedule 2		
New Schedule 1A inserted		
Schedule 3		
Consequential amendments to other enactments		
Schedule 4		
Amendments to enactments		

The Parliament of New Zealand enacts as follows:**1 Title**

This Act is the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017.

2 Commencement

- (1) Sections 3 to 6, 7(2) and (3), 23(5), 24(2), 29, 52(4), 75, 79(3), 87(2), 124, 134, 136, 137, 138, 139, 145, 146, 149, and 150 and Schedules 1, 3, and 4 come into force on the day after the date on which this Act receives the Royal assent.
- (2) The rest of this Act comes into force on a date appointed by Order in Council, and 1 or more Orders in Council may be made bringing different provisions into force on different dates.
- (3) Any provisions of this Act that have not earlier been brought into force come into force on 1 July 2019.

Part 1**Amendments to Children, Young Persons, and Their Families Act
1989****3 Principal Act**

This Part amends the Children, Young Persons, and Their Families Act 1989 (the **principal Act**).

4 Long Title repealed

Repeal the Long Title.

5 Name of principal Act changed

As from the commencement of this section, the Children, Young Persons, and Their Families Act 1989 is to be called—

- (a) the Oranga Tamariki Act 1989; or
- (b) the Children’s and Young People’s Well-being Act 1989.

6 Section 1 amended (Short Title and commencement)

- (1) In the heading to section 1, delete “**Short**”.

- (2) Replace section 1(1) with:

- (1) This Act may be cited as—

- (a) the Oranga Tamariki Act 1989; or
- (b) the Children’s and Young People’s Well-being Act 1989.

7 Section 2 amended (Interpretation)

(1) In section 2(1), insert in their appropriate alphabetical order:

care or protection order means 1 or more of the following:

- (a) an interim custody order described in section 78(1) or (1A):
- (b) an order described in section 83(1)(a):
- (c) an order described in section 83(1)(b):
- (d) an order described in section 83(1)(c):
- (e) a services order under section 86:
- (f) an interim services order under section 86A:
- (g) a restraining order under section 87:
- (h) an interim restraining order under section 88:
- (i) a support order under section 91:
- (j) an interim support order under section 92:
- (k) a custody order under section 101:
- (l) an order under section 110 appointing a guardian of a child or young person:
- (m) an interim guardianship order under section 110AA

child welfare and protection agency means—

- (a) the department:
- (b) the Department of Corrections:
- (c) the Ministry of Health:
- (d) the Ministry of Social Development:
- (e) the Ministry of Education:
- (f) the Ministry of Justice:
- (g) the New Zealand Police:
- (h) Housing New Zealand Corporation:
- (i) every registered community housing provider (as defined in section 2(1) of the Housing Restructuring and Tenancy Matters Act 1992):
- (j) every DHB:
- (k) every school board (as defined in section 15(1) of the Vulnerable Children Act 2014):
- (l) every early childhood service (as defined in section 309 of the Education Act 1989):
- (m) any person, body, or organisation that provides regulated services (as specified in Schedule 1 of the Vulnerable Children Act 2014):

- (n) any organisation or class of organisation designated as a child welfare and protection agency by regulations made under section 447(1)(ga)(i)

delegate includes a subdelegate

DHB means an organisation established as a DHB (that is to say, as a district health board) by or under section 19 of the New Zealand Public Health and Disability Act 2000

held, in relation to information, includes—

- (a) deemed, for the purposes of the Official Information Act 1982, to be held (*see* section 2(4) and (5) of that Act):
- (b) held by officers or employees or members of organisations or entities that are not subject to the Official Information Act 1982

independent person means—

- (a) a practitioner registered under the Health Practitioners Competence Assurance Act 2003 who provides health or disability support services:
- (b) a children's worker (as defined in section 23(1) of the Vulnerable Children Act 2014):
- (c) a person or class of persons designated as an independent person by regulations made under section 447(1)(ga)(ii)

iwi authority means the authority that represents an iwi and that is recognised by the iwi as having authority to do so

mana tamaiti (tamariki) means the intrinsic value and inherent dignity derived from a child's or young person's whakapapa (genealogy) and their belonging to a whānau, hapū, iwi, or family group, in accordance with tikanga Māori or its equivalent in the culture of the child or young person

tikanga Māori means Māori customary law and practices

UNCROC means the United Nations Convention on the Rights of the Child

well-being, in relation to a child or young person, includes the welfare of that person

whakapapa, in relation to a person, means the multi-generational kinship relationships that help to describe who the person is in terms of their mātua (parents), and tūpuna (ancestors), from whom they descend

whanaungatanga, in relation to a person, means—

- (a) the purposeful carrying out of responsibilities based on obligations to whakapapa:
- (b) the kinship that provides the foundations for reciprocal obligations and responsibilities to be met:
- (c) the wider kinship ties that need to be protected and maintained to ensure the maintenance and protection of their sense of belonging, identity, and connection

youth justice residence has the same meaning as in section 365(4).

- (2) In section 2(1), replace the definition of **child** with:

child means a person under the age of 14 years

- (3) In section 2(1), definition of **young person**, repeal paragraph (e).

- (4) In section 2(1), replace the definition of **young person** with:

young person means a person of or over the age of 14 years but under 18 years and also has an extended meaning that includes some young adults for certain purposes under section 386AAA

- (5) In section 2(1), replace the definition of **youth advocate** with:

youth advocate means a barrister or solicitor appointed under section 248A or 323 to represent a child or young person

- (6) In section 2(2)(c) and (d), replace “18 years” with “19 years”.

8 Part 1 heading amended

In the Part 1 heading, replace “**General objects,**” with “**Purposes,**”.

9 Section 4 and cross-heading replaced

Replace section 4 and the cross-heading above section 4 with:

Purposes

4 Purposes

- (1) The purposes of this Act are to promote the well-being of children, young persons, and their families, whānau, hapū, iwi, and family groups by—
- (a) establishing, promoting, or co-ordinating services that—
 - (i) are designed to affirm mana tamaiti (tamariki), are centred on children’s and young persons’ rights, promote their best interests, advance their well-being, address their needs, and provide for their participation in decision making that affects them:
 - (ii) advance positive long-term health, educational, social, economic, or other outcomes for children and young persons:
 - (iii) are culturally appropriate and competently provided:
 - (b) supporting and protecting children and young persons to—
 - (i) prevent them from suffering harm (including harm to their development and well-being), abuse, neglect, ill treatment, or deprivation or by responding to those things; or
 - (ii) prevent offending or reoffending or respond to offending or reoffending:
 - (c) assisting families, whānau, hapū, iwi, and family groups to—

- (i) prevent their children and young persons from suffering harm, abuse, neglect, ill treatment, or deprivation or by responding to those things; or
 - (ii) prevent their children or young persons from offending or reoffending or respond to offending or reoffending:
 - (d) assisting families and whānau, hapū, iwi, and family groups, at the earliest opportunity, to fulfil their responsibility to meet the needs of their children and young persons (including their developmental needs, and the need for a safe, stable, and loving home):
 - (e) ensuring that, where children and young persons require care under the Act, they have—
 - (i) a safe, stable, and loving home from the earliest opportunity; and
 - (ii) support to address their needs:
 - (f) providing a practical commitment to the principles of the Treaty of Waitangi (te Tiriti o Waitangi) in the way described in this Act:
 - (g) recognising mana tamaiti (tamariki), whakapapa, and the practice of whanaungatanga for children and young persons who come to the attention of the department:
 - (h) maintaining and strengthening the relationship between children and young persons who come to the attention of the department and their—
 - (i) family, whānau, hapū, iwi, and family group; and
 - (ii) siblings:
 - (i) responding to alleged offending and offending by children and young persons in a way that—
 - (i) promotes their rights and best interests and acknowledges their needs; and
 - (ii) prevents or reduces offending or future offending; and
 - (iii) recognises the rights and interests of victims; and
 - (iv) holds the children and young persons accountable and encourages them to accept responsibility for their behaviour:
 - (j) assisting young persons who are or have been in care or custody under the Act to successfully transition to adulthood in the ways provided in the Act.
- (2) In subsection (1)(c) and (d), **assisting**, in relation to any person or groups of persons, includes developing the capability of those persons or groups to themselves do the things for which assistance is being provided.

Compare: 1974 No 72 s 3

10 New section 4A inserted (Well-being and best interests of child or young person)

After section 4, insert:

4A Well-being and best interests of child or young person

- (1) In all matters relating to the administration or application of this Act (other than Parts 4 and 5 and sections 351 to 360), the well-being and best interests of the child or young person are the first and paramount consideration, having regard to the principles set out in sections 5 and 13.
- (2) In all matters relating to the administration or application of Parts 4 and 5 and sections 351 to 360, the 4 primary considerations, having regard to the principles set out in sections 5 and 208, are—
 - (a) the well-being and best interests of the child or young person; and
 - (b) the public interest (which includes public safety); and
 - (c) the interests of any victim; and
 - (d) the accountability of the child or young person for their behaviour.

Compare: 1989 No 24 s 6

11 Section 5 replaced (Principles to be applied in exercise of powers conferred by this Act)

Replace section 5 with:

5 Principles to be applied in exercise of powers under this Act

- (1) Any court that, or person who, exercises any power under this Act must be guided by the following principles:
 - (a) a child or young person must be encouraged and assisted, wherever practicable, to participate in and express their views about any proceeding, process, or decision affecting them, and their views should be taken into account:
 - (b) the well-being of a child or young person must be at the centre of decision making that affects that child or young person, and, in particular,—
 - (i) the child's or young person's rights (including those rights set out in UNCROC and the United Nations Convention on the Rights of Persons with Disabilities) must be respected and upheld, and the child or young person must be—
 - (A) treated with dignity and respect at all times:
 - (B) protected from harm:
 - (ii) the impact of harm on the child or young person and the steps to be taken to enable their recovery should be addressed:
 - (iii) the child's or young person's need for a safe, stable, and loving home should be addressed:

- (iv) mana tamaiti (tamariki) and the child's or young person's well-being should be protected by recognising their whakapapa and the whanaungatanga responsibilities of their family, whānau, hapū, iwi, and family group:
- (v) decisions should be made and implemented promptly and in a time frame appropriate to the age and development of the child or young person:
- (vi) a holistic approach should be taken that sees the child or young person as a whole person which includes, but is not limited to, the child's or young person's—
 - (A) developmental potential; and
 - (B) educational and health needs; and
 - (C) whakapapa; and
 - (D) cultural identity; and
 - (E) gender identity; and
 - (F) sexual orientation; and
 - (G) disability (if any); and
 - (H) age:
- (vii) endeavours should be made to obtain, to the extent consistent with the age and development of the child or young person, the support of that child or young person for the exercise or proposed exercise, in relation to that child or young person, of any power conferred by or under this Act:
- (viii) decisions about a child or young person with a disability—
 - (A) should be made having particular regard to the child's or young person's experience of disability and any difficulties or discrimination that may be encountered by the child or young person because of that disability; and
 - (B) should support the child's or young person's full and effective participation in society:
- (c) the child's or young person's place within their family, whānau, hapū, iwi, and family group should be recognised, and, in particular, it should be recognised that—
 - (i) the primary responsibility for caring for and nurturing the well-being and development of the child or young person lies with their family, whānau, hapū, iwi, and family group:
 - (ii) the effect of any decision on the child's or young person's relationship with their family, whānau, hapū, iwi, and family group and their links to whakapapa should be considered:

- (iii) the child’s or young person’s sense of belonging, whakapapa, and the whanaungatanga responsibilities of their family, whānau, hapū, iwi, and family group should be recognised and respected:
 - (iv) wherever possible, the relationship between the child or young person and their family, whānau, hapū, iwi, and family group should be maintained and strengthened:
 - (v) wherever possible, a child’s or young person’s family, whānau, hapū, iwi, and family group should participate in decisions, and regard should be had to their views:
 - (vi) endeavours should be made to obtain the support of the parents, guardians, or other persons having the care of the child or young person for the exercise or proposed exercise, in relation to that child or young person, of any power conferred by or under this Act:
- (d) the child’s or young person’s place within their community should be recognised, and, in particular,—
- (i) how a decision affects the stability of a child or young person (including the stability of their education and the stability of their connections to community and other contacts), and the impact of disruption on this stability should be considered:
 - (ii) networks of, and supports for, the child or young person and their family, whānau, hapū, iwi, and family group that are in place before the power is to be exercised should be acknowledged and, where practicable, utilised.
- (2) Subsection (1) is subject to section 4A.
Compare: 1974 No 72 ss 4A–4C; 1983 No 129 s 3

12 Section 6 repealed (Welfare and interests of child or young person paramount)

Repeal section 6.

13 Section 7 amended (Duties of chief executive)

- (1) In section 7(1)(a), replace “objects” with “purposes”.
- (2) In section 7(1)(b), replace “objects” with “purposes”.
- (3) In section 7(1)(b), replace “sections 5 and 6” with “sections 4A and 5”.
- (4) Replace section 7(2)(b)(i) with:
 - (i) the establishment of services (including social work services, family support services, and community-based services) designed to improve the well-being of and long-term outcomes for children and young persons; and
- (5) After section 7(2)(b), insert:

- (bab) ensure, where practicable, that any services funded by the department to reduce the impact of early risk factors for future involvement in the care, protection, or youth justice systems under this Act are co-ordinated with other government-funded activities for improving outcomes for children, young persons, and families, or reducing the impact of those early risk factors so that those services and activities—
 - (i) are unified under a shared strategy and set of outcomes with respect to children and young persons with those early risk factors; and
 - (ii) adopt a common approach to evaluating the set of outcomes sought and, where possible, determining the return on investment by the Government in those services and activities; and
 - (iii) are available to meet the needs of children and young persons of different ages and at different developmental stages, and include processes to support children and young persons to move between services and activities as they get older and develop:
- (bac) comply with regulations (relating to standards of care) made under section 447(1)(fa):
- (bad) establish, amend, or replace, after consulting the State Services Commissioner, 1 or more complaints mechanisms to enable children and young persons, their parents, whānau, families, and caregivers—
 - (i) to complain about actions or omissions under this Act or regulations made under this Act in relation to those children and young persons by the chief executive, the chief executive's delegates, and employees of the department; and
 - (ii) to receive responses to those complaints that are—
 - (A) timely and fair; and
 - (B) centred on the child or young person:
- (bae) ensure that the policies and services provided by the department are informed by the outcomes of cases considered by the complaints process and the reviews of those outcomes undertaken in accordance with regulations made under section 447(1)(fb):
- (baf) develop and publish policies and practice standards in relation to the chief executive's role in—
 - (i) managing, and participating in, family group conferences; and
 - (ii) giving effect to the conferences' outcomes:
- (bag) publish information, in any form or medium that the chief executive considers will be accessible to children and young persons in the care or custody of the chief executive and their parents, whānau, families, and caregivers, summarising—

- (i) the rights of children and young persons in the care or custody of the chief executive; and
 - (ii) the standard of care they should expect from the department under this Act or regulations made under this Act:
- (6) In section 7(4)(b), replace “section 173 or 174” with “section 173, 174, or 175(1A)(a)”.
- (7) After section 7(4), insert:
- (5) To avoid doubt, a summary of rights published under subsection (2)(bag) cannot create new rights or detract from existing rights.
- (6) In section 7(2)(bad) and (bb),—
- caregiver** includes a caregiver within the meaning given in section 386AAA
- young person** includes a young person within the meaning given in section 386AAA.

14 New section 7AA inserted (Duties of chief executive in relation to Treaty of Waitangi (Tiriti o Waitangi))

After section 7, insert:

7AA Duties of chief executive in relation to Treaty of Waitangi (Tiriti o Waitangi)

- (1) The duties of the chief executive set out in subsection (2) are imposed in order to recognise and provide a practical commitment to the principles of the Treaty of Waitangi (te Tiriti o Waitangi).
- (2) The chief executive must ensure that—
- (a) the policies and practices of the department that impact on the well-being of children and young persons have the objective of reducing disparities by setting measurable outcomes for Māori children and young persons who come to the attention of the department:
 - (b) the policies, practices, and services of the department have regard to mana tamaiti (tamariki) and the whakapapa of Māori children and young persons and the whanaungatanga responsibilities of their whānau, hapū, and iwi:
 - (c) the department seeks to develop strategic partnerships with iwi and Māori organisations, including iwi authorities, in order to—
 - (i) provide opportunities to, and invite innovative proposals from, those organisations to improve outcomes for Māori children, young persons, and their whānau who come to the attention of the department:
 - (ii) set expectations and targets to improve outcomes for Māori children and young persons who come to the attention of the department:

- (iii) enable the robust, regular, and genuine exchange of information between the department and those organisations:
 - (iv) provide opportunities for the chief executive to delegate functions under this Act or regulations made under this Act to appropriately qualified people within those organisations:
 - (v) provide, and regularly review, guidance to persons discharging functions under this Act to support cultural competency as a best-practice feature of the department's workforce:
 - (vi) agree on any action both or all parties consider is appropriate.
- (3) One or more iwi or Māori organisations may invite the chief executive to enter into a strategic partnership.
- (4) The chief executive must consider and respond to any invitation.
- (5) The chief executive must report to the public at least once a year on the measures taken by the chief executive to carry out the duties in subsections (2) and (4), including the impact of those measures in improving outcomes for Māori children and young persons who come to the attention of the department under this Act and the steps to be taken in the immediate future.
- (6) A copy of each report under subsection (5) must be published on an Internet site maintained by the department.

15 Section 11 amended (Child's or young person's participation and views)

- (1) After section 11(2)(a), insert:
- (aa) except where section 10 (relating to proceedings) applies, the child or young person must be given reasonable assistance to understand the reasons for the proceedings or process, the options available to the decision-maker, and how these options could affect them; and
- (2) Replace section 11(2)(d) with:
- (d) any views that the child or young person expresses (either directly or through a representative) must be taken into account; and
 - (e) any written decision must set out the child's or young person's views and, if those views were not followed, include the reasons for not doing so; and
 - (f) the decision, the reasons for it, and how it will affect them must be explained to the child or young person.
- (3) After section 11(3), insert:
- (3A) In any proceeding or process,—
- (a) the persons listed in subsection (3)(a) to (d) must perform the duty imposed by subsection (2)(d); and
 - (b) decision-makers must perform the duty imposed by subsection (2)(e); and

- (c) decision-makers must perform the duty imposed by subsection (2)(f) or, within a reasonable period following the making of a decision, satisfy themselves that the duty has been performed by another person.
- (4) In section 11(6), replace “section 5(d)” with “section 5(1)(a)”.
- (5) After section 11(7), insert:
- (8) A person who complies with section 66K must be treated as having complied with this section.

16 Section 13 amended (Principles)

- (1) In section 13(1), replace “welfare and interests” with “well-being and best interests”.
- (2) In section 13(1), replace “section 6” with “section 4A(1)”.
- (3) Replace section 13(2) with:
- (2) In determining the well-being and best interests of the child or young person, the court or person must be guided by, in addition to the principles in section 5, the following principles:
 - (a) it is desirable to provide early support and services to—
 - (i) improve the safety and well-being of a child or young person at risk of harm:
 - (ii) reduce the risk of future harm to that child or young person, including the risk of offending or reoffending:
 - (iii) reduce the risk that a parent may be unable or unwilling to care for the child or young person:
 - (b) as a consequence of applying the principle in paragraph (a), any support or services provided under this Act in relation to the child or young person—
 - (i) should strengthen and support the child’s or young person’s family, whānau, hapū, iwi, and family group to enable them to—
 - (A) care for the child or young person or any other or future child or young person of that family or whānau; and
 - (B) nurture the well-being and development of that child or young person; and
 - (C) reduce the likelihood of future harm to that child or young person or offending or reoffending by them:
 - (ii) should recognise and promote mana tamaiti (tamariki) and the whakapapa of the child or young person and relevant whanaungatanga rights and responsibilities of their family, whānau, hapū, iwi, and family group:

- (iii) should, wherever possible, be undertaken on a consensual basis and in collaboration with those involved, including the child or young person:
- (c) if a child or young person is considered to be in need of care or protection on the ground specified in section 14(1)(e), the principle in section 208(2)(g):
- (d) a power under this Part that can be exercised without the consent of the persons concerned is to be exercised only to the extent necessary to protect a child or young person from harm or likely harm:
- (e) assistance and support should be provided, unless it is impracticable or unreasonable to do so, to assist families, whānau, hapū, iwi, and family groups where—
 - (i) there is a risk that a child or young person may be removed from their care; and
 - (ii) in the other circumstances where the child or young person is, or is likely to be, in need of care and protection (for example, where a family group conference plan provides for assistance to be given to a child or parent to address a behavioural issue that may lead, or has led, to the child's removal from the family):
- (f) if a child or young person is identified by the department as being at risk of removal from the care of the members of their family, whānau, hapū, iwi, or family group who are the child's or young person's usual caregivers, planning for the child's or young person's long-term stability and continuity of living arrangements should—
 - (i) commence early; and
 - (ii) include steps to make an alternative care arrangement for the child or young person, should it be required:
- (g) a child or young person should be removed from the care of the member or members of the child's or young person's family, whānau, hapū, iwi, or family group who are the child's or young person's usual caregivers only if there is a serious risk of harm to the child or young person:
- (h) if a child or young person is removed in circumstances described in paragraph (g), the child or young person should, wherever that is possible and consistent with the child's or young person's best interests, be returned to those members of the child's or young person's family, whānau, hapū, iwi, or family group who are the child's or young person's usual caregivers:
- (i) if a child or young person is removed in circumstances described in paragraph (g), decisions about placement should—
 - (i) be consistent with the principles set out in sections 4A(1) and 5:
 - (ii) address the needs of the child or young person:

- (iii) be guided by the following:
 - (A) preference should be given to placing the child or young person with a member of the child's or young person's wider family, whānau, hapū, iwi, or family group who is able to meet their needs, including for a safe, stable, and loving home:
 - (B) it is desirable for a child or young person to live with a family, or if that is not possible, in a family-like setting:
 - (C) the importance of mana tamaiti (tamariki), whakapapa, and whanaungatanga should be recognised and promoted:
 - (D) where practicable, a child or young person should be placed with the child's or young person's siblings:
 - (E) a child or young person should be placed where the child or young person can develop a sense of belonging and attachment:
- (j) a child or young person who is in the care or custody of the chief executive or a body or an organisation approved under section 396 should receive special protection and assistance designed to—
 - (i) address their particular needs, including—
 - (A) needs for physical and health care; and
 - (B) emotional care that contributes to their positive self-regard; and
 - (C) identity needs; and
 - (D) material needs relating to education, recreation, and general living:
 - (ii) preserve the child's or young person's connections with the child's or young person's—
 - (A) siblings, family, whānau, hapū, iwi, and family group; and
 - (B) wider contacts:
 - (iii) respect and honour, on an ongoing basis, the importance of the child's or young person's whakapapa and the whanaungatanga responsibilities of the child's or young person's family, whānau, hapū, iwi, and family group:
 - (iv) support the child or young person to achieve their aspirations and developmental potential:
- (k) if a child or young person is placed with a caregiver under section 362, the chief executive, or, if applicable, a body or an organisation approved under section 396, should support the caregiver in order to enable the provision of the protection and assistance described in paragraph (j).

17 Section 14 replaced (Definition of child or young person in need of care or protection)

Replace section 14 with:

14 Definition of child or young person in need of care or protection

- (1) A child or young person is **in need of care or protection** if—
- (a) the child or young person is suffering, or is likely to suffer, serious harm—
 - (i) in the circumstances described in section 14AA(1); or
 - (ii) having regard to the circumstances described in section 14AA(2); or
 - (b) the parents or guardians or the persons who have the care of the child or young person are unable to care for the child or young person; or
 - (c) the child is a subsequent child of a parent to whom section 18A applies and the parent has not demonstrated to the satisfaction of the chief executive (under section 18A) or the court (under section 18A(4)(a) or 18C) that the parent meets the requirements of section 18A(3); or
 - (d) the child or young person has behaved, or is behaving, in a manner that—
 - (i) is or is likely to be harmful to the physical or mental or emotional well-being of the child or young person or to others; and
 - (ii) the child's or young person's parents, or the persons having the care of the child or young person, are unable or unwilling to control; or
 - (e) in the case of a child of or over the age of 10 years and under the age of 14 years, the child has committed an offence or offences of sufficient number, nature, or magnitude to cause serious concern for the well-being of the child.
- (2) Subsection (1)(a) must be applied in conjunction with section 14AA (which describes the circumstances in which a child or young person is suffering, or is likely to suffer, serious harm).

Compare: 1974 No 72 s 27(2); 1977 No 126 s 7(1)

14AA Circumstances in which child or young person is suffering, or is likely to suffer, serious harm

- (1) For the purposes of section 14(1)(a)(i), a child or young person is suffering, or is likely to suffer, **serious harm** if—
- (a) the child or young person is being, or is likely to be, abused (whether physically, emotionally, or sexually), deprived, ill-treated, or neglected; or

- (b) the parents or guardians or other persons who have the care of the child or young person are unwilling to care for, or have abandoned, them.
- (2) For the purposes of section 14(1)(a)(ii), other circumstances that may constitute **serious harm**, or establish the likelihood of **serious harm**, include—
 - (a) a child’s or young person’s development or physical or mental or emotional well-being is being, or is likely to be, impaired or neglected, and that impairment or neglect is, or is likely to be, avoidable;
 - (b) the child or young person has been exposed to domestic violence (within the meaning of section 3 of the Domestic Violence Act 1995);
 - (c) serious differences exist between the child or young person and the parents or guardians or other persons who have the care of them;
 - (d) serious differences exist between a parent, guardian, or other person who has the care of the child or young person and any other parent, guardian, or other person who has the care of them.
- (3) For the purposes of applying section 14(1)(a) and subsections (1) and (2), **serious harm** may occur (without limitation) as a result of—
 - (a) an incident; or
 - (b) 2 or more incidents that taken on their own would not be serious enough to constitute serious harm, but the cumulative effect of which is serious enough to cause serious harm; or
 - (c) the co-existence of different circumstances.

18 Section 15 replaced (Reporting of ill-treatment or neglect of child or young person)

Replace section 15 with:

15 Reporting of concerns to chief executive or constable

Any person who believes that a child or young person has been, or is likely to be, harmed, ill-treated, abused, (whether physically, emotionally, or sexually), neglected, or deprived, or who has concerns about the well-being of a child or young person, may report the matter to the chief executive or a constable.

19 Section 16 amended (Protection of person reporting ill-treatment or neglect of child or young person)

- (1) Replace the section 16 heading with “**Providing information about safety or well-being of child or young person**”.
- (2) In section 16, replace “pursuant to section 15” with “under this Part.”.

20 Section 17 amended (Investigation of report of ill-treatment or neglect of child or young person)

After section 17(2), insert:

- (2A) If, after an investigation under subsection (1), a care and protection co-ordinator is not notified under subsection (2), the chief executive may, nevertheless,—
- (a) undertake a further assessment or provide services to the child or young person, their family, or other persons having the care of the child or young person; or
 - (b) refer the child or young person, their family, or other persons having the care of the child or young person to other services provided by agencies or in the community; or
 - (c) take no further action, if the investigation under subsection (1) discloses no identifiable risk of harm that could be dealt with under this Act or if appropriate action has already been taken.

21 New section 18AAA inserted (Chief executive may make family group conference available in certain circumstances)

After section 17, insert:

18AAA Chief executive may make family group conference available in certain circumstances

If the chief executive is not satisfied that a child or young person is in need of care or protection but believes that holding a family group conference would best assist in formulating a plan to help the child or young person, the chief executive may refer the case to a care and protection co-ordinator, who must convene a family group conference under section 20.

22 Section 18 amended (Referral of care or protection cases to care and protection co-ordinator or youth justice co-ordinator by social workers or constables)

- (1) In section 18(1), replace “section 14(1)(ba) or (e)” with “section 14(1)(c) or (e)”.
- (2) In section 18(3), replace “declaration under section 67” with “care or protection order”.

23 Section 18A amended (Assessment of parent of subsequent child)

- (1) In section 18A(4)(a), replace “declaration under section 67 that the subsequent child is in need of care or protection on the grounds in section 14(1)(ba)” with “care or protection order because the subsequent child is in need of care or protection on the ground in section 14(1)(c)”.
- (2) In section 18A(4)(b), replace “under section 67” with “for a care or protection order”.
- (3) In section 18A(6), after “section 70 applies”, insert “, but a family group conference must be held before a care or protection order (other than an interim order) is made”.

- (4) In section 18A(7)(a)(ii), replace “declaration under section 67 that the child was in need of care or protection on the ground in section 14(1)(ba)” with “care or protection order because the child was in need of care or protection on the ground in section 14(1)(c)”.
- (5) Replace section 18A(7)(b) with:
- (b) the parent was, before this section came into force, subject to an investigation carried out by a social worker under section 17 in relation to a child who would, at that time, have fallen within the definition of a subsequent child, and—
 - (i) the social worker did not at that time form the belief that the child was in need of care or protection on a ground in section 14(1)(a) or (b) (as in force at that time); or
 - (ii) a family group conference was held, the parent addressed the concerns raised to the satisfaction of the chief executive, and the parent subsequently maintained care of the child.

24 Section 18B amended (Person described in this section)

- (1) Replace section 18B(2)(a) with:
- (a) the court has declared under section 67 (as it read before the commencement of section 42 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017) or decided on an application made under section 68, or a family group conference has agreed, that the child is in need of care or protection on a specified ground; and
- (2) In section 18B(2)(c), replace “prospect” with “possibility”.
- (3) After section 18B(3), insert:
- (4) In subsection (2)(a), **specified ground** means—
- (a) the ground set out in section 14(1)(a) and (b), as they read before the commencement of section 17 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017; or
 - (b) in the case of a decision made on or after the commencement of section 17 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017,—
 - (i) the ground set out in section 14(1)(a), in the circumstances set out in section 14AA(1)(a) and (2)(a):
 - (ii) the ground set out in section 14(1)(b), in the circumstances set out in section 14AA(2)(a).

25 Section 18C amended (Confirmation of decision not to apply for declaration under section 67)

- (1) In the heading to section 18C, replace “**declaration under section 67**” with “**care or protection order**”.

- (2) In section 18C(2), replace “declaration under section 67” with “care or protection order”.
- (3) In section 18C(4)(a), replace “declaration under section 67” with “care or protection order”.

26 Section 18D amended (Court declining to confirm decision)

In section 18D(a), replace “declaration under section 67 made by the chief executive on the ground in section 14(1)(ba)” with “care or protection order made by the chief executive on the ground in section 14(1)(c)”.

27 Section 19 amended (Referral of care or protection cases to care and protection co-ordinator by other persons or by court)

- (1) In section 19(1)(a), replace “welfare” with “well-being”.
- (2) In section 19(1), replace “section 14(1)(ba)” with “section 14(1)(c)”.

28 Section 21 amended (Care and protection co-ordinator to consult family, whanau, or family group on convening of family group conference)

In section 21, insert as subsection (2):

- (2) Subsection (1)(a) does not apply if the family group conference is convened under section 18AAA.

29 Section 22 amended (Persons entitled to attend family group conference)

After section 22(1)(d), insert:

- (da) if the conference is convened under any other provision of this Part (or under section 207D(3), 207K(2), or 207Q(2)), the chief executive or the chief executive’s delegate:

30 Section 26 amended (Procedure of family group conference)

In section 26(2), replace “Subject to section 5(f)” with “Subject to section 5(1)(b)(v)”.

31 Section 28 amended (Functions of family group conference)

- (1) In section 28(a), after “care or protection”, insert “or well-being”.
- (2) In section 28(b), after “care or protection,”, insert “or is in need of assistance”.
- (3) In section 28(b), replace “necessary or desirable, having regard to the principles set out in sections 5, 6, and 13” with “necessary or desirable for the child’s or young person’s care, protection, needs, or well-being, having regard to the principles set out in sections 4A(1), 5, and 13”.

32 Section 29 amended (Family group conference may make decisions and recommendations and formulate plans)

- (1) In section 29(1), after “care or protection”, insert “or well-being”.

- (2) In section 29(2), replace “sections 5, 6, and 13” with “sections 4A(1), 5, and 13”.
- 33 Section 30 amended (Care and protection co-ordinator to seek agreement to decisions, recommendations, and plans of family group conference)**
Before section 30(1)(a), insert:
- (aaa) if the conference was convened under section 18AAA,—
- (i) communicate that decision, recommendation, or plan to the chief executive and to every person who will be directly involved in its implementation; and
 - (ii) seek the agreement of the chief executive, and every other person, organisation, or body to whom that decision, recommendation, or plan is communicated under subparagraph (i), to that decision, recommendation, or plan.
- 34 Section 34 amended (Chief executive to give effect to decisions, recommendations, and plans of family group conference)**
In section 34(1), replace “sections 5, 6, and 13” with “sections 4A(1), 5, and 13”.
- 35 Section 35 amended (Police to comply with decisions, recommendations, and plans of family group conference)**
In section 35, replace “sections 5, 6, and 13” with “sections 4A(1), 5, and 13”.
- 36 Section 40 amended (Warrant to remove child or young person)**
In section 40(1), replace “declaration under section 67” with “care or protection order”.
- 37 Section 46 amended (Powers of court where application made under section 44 or child or young person brought before court under section 45)**
In section 46(b), replace “declaration under section 67” with “care or protection order”.
- 38 Section 48 amended (Unaccompanied children and young persons)**
In section 48(2)(b), replace “declaration under section 67” with “care or protection order”.
- 39 Section 59 amended (Application for production of documents relevant to investigation of whether child or young person in need of care or protection)**
- (1) In the heading to section 59, after “**protection**”, insert “**or assistance under section 17(2A)**”.

- (2) In section 59(1)(a), after “section 14(1)(e)”, insert “or is in need of assistance under section 17(2A)”.

40 Section 61 amended (Court may order document to be produced)

In section 61(1), after “section 14(1)(e)”, insert “or is in need of assistance under section 17(2A)”.

41 Section 66 replaced (Government departments may be required to supply information)

Replace section 66 with:

Information sharing

65A Purpose of information sharing and principle for information sharing decisions

- (1) The purpose of sections 66 to 66Q is to facilitate the gathering and sharing of information to achieve the purposes in section 4(1)(a) to (j).
- (2) Persons carrying out functions under sections 66 to 66Q must have regard to the principle that (because the well-being and best interests of a child or young person are the first and paramount consideration) the well-being and best interests of any child or young person, in general, take precedence over any duty of confidentiality owed by any person in relation to—
- (a) the child or young person; or
 - (b) any person who is a family member of that child or young person or in a domestic relationship with that child or young person (within the meaning of section 4 of the Domestic Violence Act 1995).

66 Agencies to supply information

- (1) Every agency (within the meaning of section 2(1) of the Privacy Act 1993, which includes a person) must, on request, supply to the chief executive, a care and protection co-ordinator, or a constable any information held by the agency that may relate to or affect the safety or well-being of a child or young person, if the information is—
- (a) required to determine whether a child or young person is in need of care or protection or assistance under section 17(2) and (2A); or
 - (b) required for the purposes of any proceedings under this Part (including a family group conference).
- (2) Despite subsection (1), an agency may refuse to disclose any information that may be withheld on the grounds of legal professional privilege.
- (3) Information obtained under subsection (1)—
- (a) must not be used for the purposes of investigating any offence; and

- (b) is not admissible in any proceedings other than proceedings under this Part.

66A Disclosure of information obtained under section 66

- (1) The chief executive or a constable may disclose any information relating to a child or young person obtained under section 66 to a child welfare and protection agency or an independent person if the chief executive or constable reasonably believes that providing the information will fulfil any of the following purposes:
 - (a) preventing or reducing the risk of a child or young person being subject to harm, ill-treatment, abuse, neglect, or deprivation:
 - (b) making or contributing to an assessment of risk or need in relation to a child or young person, or a class of children or young persons:
 - (c) making, contributing to, or monitoring any support plan for a child or young person where the plan relates to the activities and functions of the department:
 - (d) preparing, implementing, or reviewing any prevention plan or strategy issued by the department:
 - (e) arranging, providing, or reviewing services facilitated by the department for a child or young person, or their family or whānau:
 - (f) carrying out any function in relation to family group conferences, children or young persons in care, or other functions relating to care or protection under this Part.
- (2) Section 66(3) applies in respect of any information disclosed under this section as if it were disclosed under section 66(1).
- (3) In this section, **in care** has the same meaning as in section 7(4)(b).

66B Restrictions on disclosure of information under section 66A

The chief executive or a constable may not disclose information to a child welfare and protection agency or an independent person under section 66A if—

- (a) the information was disclosed to the chief executive or constable in circumstances that would otherwise have put the person who disclosed the information in breach of the person's duty of confidence under the rules of the profession in which they practise; and
- (b) the chief executive or constable is aware, after making reasonable inquiries, that the disclosure would otherwise involve a breach of a duty of confidence of the kind referred to in paragraph (a) (whether as a result of being advised by the person disclosing the information or otherwise); and
- (c) the person to whom the information relates or their representative has not consented to the disclosure.

66C Use and disclosure of personal information relating to child or young person or classes of children or young persons

A child welfare and protection agency or an independent person that holds information relating to a child or young person or any class of children or young persons (including information contained in a dataset) may, irrespective of the purpose for which that information was collected,—

- (a) use that information for the purposes of—
 - (i) preventing or reducing the risk of a child or young person being subject to harm, ill-treatment, abuse, neglect, or deprivation; or
 - (ii) making or contributing to an assessment of risk or need in relation to a child or young person, or any class of children or young persons; or
 - (iii) making, contributing to, or monitoring any support plan for a child or young person, where the plan relates to the activities and functions of the department; or
 - (iv) preparing, implementing, or reviewing any prevention plan or strategy issued by the department; or
 - (v) arranging, providing, or reviewing services facilitated by the department for a child or young person and their family or whānau; or
 - (vi) carrying out any function in relation to family group conferences, children or young persons in care, or other functions relating to care or protection under this Part; or
- (b) disclose (whether on request or on the agency's or independent person's own initiative) that information to another child welfare and protection agency or an independent person if the agency or independent person disclosing the information reasonably believes that disclosing the information will assist the agency or independent person receiving the information to carry out any of the purposes described in paragraph (a).

66D Public notification of information about combined datasets

- (1) To avoid doubt, a child welfare and protection agency may use information relating to a child or young person to produce, link, or analyse datasets of information and produce combined datasets.
- (2) If a child welfare and protection agency links or analyses datasets or produces combined datasets from more than 1 source, it must notify, at least once a year, on an Internet site maintained by the agency, an independent person, or a class of independent persons,—
 - (a) the types of information used in the combined datasets:
 - (b) the sources of those types of information:

- (c) the purpose or purposes served by creating or analysing the combined datasets;
- (d) the privacy safeguards relating to the use of the combined datasets.

66E Application of sections 66F to 66J

Sections 66F to 66J do not apply until a Code for information sharing approved by the Minister under section 66N(1) comes into force.

66F Definitions

In sections 66G to 66J,—

authorised child welfare and protection agency, in relation to any of those provisions, means a child welfare and protection agency or a class of child welfare and protection agencies, authorised by the Code of information sharing to exercise powers or perform functions under the particular provision

authorised independent person means, in relation to any of those provisions, an independent person or a class of independent persons, authorised by the Code of information sharing to exercise powers or perform functions under the particular provision

information relevant to the safety or well-being of a child or young person includes information about—

- (a) a member of the family of that child or young person; or
- (b) any other person in a domestic relationship (as defined in section 2 of the Domestic Violence Act 1995) with that child or young person; or
- (c) any person who is likely to reside with the child or young person.

66G Requests for information by authorised child welfare and protection agencies or authorised independent persons from other authorised child welfare and protection agencies or authorised independent persons

An authorised child welfare and protection agency or an authorised independent person (the **requestor**) may request another authorised child welfare and protection agency or an authorised independent person (the **provider**) to disclose to the requestor any information that the provider holds that is information relevant to the safety or well-being of—

- (a) a particular child or young person and their family; or
- (b) a class of children or young persons and their families.

66H Duty of child welfare and protection agency or independent person receiving request under section 66G

An authorised child welfare and protection agency or an authorised independent person—

- (a) must comply with a request under section 66G if, after receiving sufficient information from the requestor to make a decision, the provider

reasonably believes that the information will assist the requestor to fulfil any of the purposes set out in section 66A(1); but

- (b) may decline the request if section 66I applies.

66I When request under section 66G may be declined

An authorised child welfare and protection agency or an authorised independent person may decline a request under section 66G if that agency or person—

- (a) is not satisfied that disclosure of the information will help to fulfil any of the purposes in section 66A(1); or
- (b) reasonably believes that—
 - (i) disclosure is likely to increase the risk of the child or young person being subject to harm, ill-treatment, abuse, neglect, or deprivation, and that risk outweighs the benefits of disclosure; or
 - (ii) disclosure will prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial, and that prejudice is likely to outweigh the benefits of disclosure; or
 - (iii) disclosure will prejudice the conduct of proceedings before any court or tribunal (being proceedings that have been commenced or are reasonably in contemplation); or
 - (iv) disclosure will breach legal professional privilege; or
 - (v) disclosure will be contrary to the express wishes of the child or young person (expressed either directly or through their representative) and disclosure is not in the best interests of the child or young person.

66J Reasons for declining request

An authorised child welfare and protection agency or an authorised independent person who declines a request under section 66G must give the requestor notice of the decision to decline the request and the reasons for the decision.

66K Consultation to be undertaken when information is requested or proposed to be disclosed under section 66C or 66H

If an authorised child welfare and protection agency or an authorised independent person proposes to disclose information under section 66C or 66H, the agency or person must, if it is practicable and appropriate to do so,—

- (a) inform the child or young person concerned, or their representative, about the proposed disclosure, including the purposes and likely recipients of any disclosure; and
- (b) provide the child or young person or their representative any reasonable assistance necessary to—

- (i) understand the nature of the proposed disclosure; and
 - (ii) express their views about the proposed disclosure; and
 - (iii) understand the consequences of the decision that is taken in relation to the disclosure; and
- (c) take into account any view expressed about the proposed disclosure before deciding whether to disclose the information.

Code of practice for information sharing

66L Purpose of Code for information sharing

- (1) The purpose of a Code of Practice for Information Sharing (a **Code**) is to provide both guidance and direction to child welfare and protection agencies and independent persons about the application of the information sharing provisions in sections 66 to 66K and how disputes about the interpretation and application of those provisions should be resolved.
- (2) Without limiting subsection (1), a Code may—
- (a) authorise a child welfare and protection agency or a class of child welfare and protection agencies or an independent person or a class of independent persons to exercise 1 or more of the powers or carry out 1 or more of the functions set out in sections 66G to 66J:
 - (b) contain binding rules about the circumstances in which—
 - (i) the powers conferred by 1 or more of those sections can be exercised; and
 - (ii) the duties imposed by 1 or more of those sections must or may be carried out; and
 - (c) specify the conditions to which the exercise of those powers and carrying out of those functions is subject; and
 - (d) specify how disputes about the interpretation and application of those provisions are to be resolved.

66M Consultation on draft Code by Minister

- (1) As soon as practicable after the commencement of this section but before the Minister issues a draft Code, the Minister must consult the following persons about the content and form of the Code:
- (a) the Privacy Commissioner:
 - (b) the Children's Commissioner:
 - (c) any organisations or individuals who the Minister is satisfied represent the interests of—
 - (i) child welfare and protection agencies; and
 - (ii) independent persons; and

- (iii) different classes of child welfare and protection agencies and independent persons.
- (2) The Minister must, as soon as practicable after undertaking the consultation required by subsection (1), make decisions on the form and content of the draft Code and arrange for it to be—
 - (a) notified in the *Gazette*; and
 - (b) published on an Internet site maintained by the Government.
- (3) The notification of the draft Code must state—
 - (a) that written submissions on the draft Code are invited from members of the public and interested organisations; and
 - (b) where copies of the draft Code may be obtained; and
 - (c) the closing date for submissions; and
 - (d) the address to which submissions are to be sent.

66N Approval of draft Code by Minister

- (1) After considering a summary of issues and concerns raised by submitters and making any amendments to the draft Code, the Minister must approve the Code.
- (2) The Code comes into force—
 - (a) on the date specified for that purpose in the Code, being a date after the date on which the Code is approved; or
 - (b) if no such date is specified, the day after the date on which the Code is approved.

66O Application of Legislation Act 2012 to Code

The Code is a legislative instrument and a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

66P Amendments to Code

- (1) The Code may be amended by the Minister approving 1 or more amendments to the Code.
- (2) Sections 66M to 66O apply, with all necessary modifications, in relation to an amendment to the Code as if the amendment were a draft Code.
- (3) However, section 66M does not apply to an amendment and it is unnecessary for the Minister to consider a summary of issues and concerns if—
 - (a) the amendment is a minor or technical amendment; and
 - (b) the Minister considers that compliance with section 66M is unnecessary.

66Q Relationship with other enactments

- (1) Sections 66 to 66P do not—
 - (a) affect the Official Information Act 1982; or
 - (b) limit or prevent the collection, use, or disclosure of information that is—
 - (i) authorised or required under any other enactment; or
 - (ii) permitted under any other enactment.
- (2) The collection, storage, and use of information under sections 66 to 66J of this Act must comply with principles 1, 4, 5, 6, 7, 8, 9, and 12 of section 6 of the Privacy Act 1993.
- (3) Sections 66 to 66P do not limit principle 11 in section 6 of the Privacy Act 1993 (which permits certain disclosures in addition to those authorised under those sections).
- (4) However, if there is any other inconsistency between sections 66 to 66P of this Act and any provisions of the Privacy Act 1993, sections 66 to 66P prevail.
- (5) Despite section 344(2) of the Education Act 1989, the chief executive of the Ministry of Education may use national student numbers to gather information for any of the purposes set out in section 66A(1), and the information so gathered may be used for any of those purposes.

42 Section 67 repealed (Grounds for declaration that child or young person is in need of care or protection)

Repeal section 67.

43 Section 68 amended (Application for declaration that child or young person is in need of care or protection)

- (1) In the heading to section 68, replace “**declaration that child or young person is in need of care or protection**” with “**care or protection order**”.
- (2) In section 68, replace “declaration that a child or young person is in need of care or protection” with “care or protection order (as defined in section 2)”.

44 Section 69 amended (Joint applications)

In section 69, replace “declaration that a child or young person is in need of care or protection” with “care or protection order”.

45 Section 70 amended (No application to be made unless family group conference has been held)

- (1) In the heading to section 70, after “**application**”, insert “**for care or protection order**”.
- (2) In section 70(1), replace “declaration that a child or young person is in need of care or protection” with “care or protection order (other than an interim order)”.

- (3) In section 70(2)(b), after “interim restraining order”, insert “or an interim guardianship order”.
 - (4) In section 70(2)(c), replace “section 14(1)(g)” with “section 14(1)(a)(i) (in the circumstances referred to in section 14AA(1)(b))”.
 - (5) In section 70(3), replace “declaration under section 67” with “care or protection order (other than an interim order)”.
- 46 Section 71 amended (Court may make declaration in absence of proof of responsibility for neglect or ill-treatment of child or young person)**
- (1) In the heading to section 71, replace “**declaration**” with “**care or protection order**”.
 - (2) In section 71(a), replace “declaration that a child or young person is in need of care or protection” with “care or protection order”.
 - (3) In section 71(b), replace “for making the declaration” with “specified in section 14(1)(a)(i) or (ii) (in the circumstances referred to in section 14AA(1)(a) or (2)(a))”.
- 47 Section 72 amended (Court not to make declaration unless family group conference held)**
- (1) In the heading to section 72, replace “**declaration**” with “**care or protection order**”.
 - (2) In section 72(1), replace “declaration under section 67 that a child or young person is in need of care or protection” with “care or protection order (other than an interim order)”.
 - (3) In section 72(3), replace “declaration under section 67” with “care or protection order (other than an interim order)”.
- 48 Section 73 amended (Court not to make declaration unless satisfied that child’s or young person’s need for care or protection cannot be met by other means)**
- (1) In the heading to section 73, replace “**declaration**” with “**care or protection order**”.
 - (2) In section 73(1), replace “declaration under section 67 that a child or young person is in need of care or protection” with “care or protection order (other than an interim order)”.
 - (3) In section 73(2), replace “declaration under section 67 that a child or young person is in need of care or protection on” with “care or protection order (other than an interim order) on the basis of”.
 - (4) In section 73(2), replace “paragraph (a) or paragraph (b) of section 14(1)” with “section 14(1)(a)(i) or (ii) (in the circumstances referred to in section 14AA(1)(a) or (2)(a))”.

49 Section 74 amended (Court may require parties to undergo counselling)

In section 74(1), replace “declaration under section 67” with “care or protection order”.

50 Section 78 amended (Custody of child or young person pending determination of proceedings)

- (1) In the heading to section 78, after “**proceedings**”, insert “**or in urgent cases**”.
- (2) In section 78(1), replace “an order” with “an interim order”.
- (3) After section 78(1), insert:
 - (1A) Even if there are no other proceedings under this Part in relation to a child or a young person, the court may, on application by a person entitled to make an application under section 68 (the **applicant**) or a lawyer representing the child or young person, or on its own motion, if it is satisfied that subsection (1B) applies, make an interim custody order in relation to the child or young person.
 - (1B) This subsection applies if—
 - (a) it is in the best interests of the child or young person that an interim custody order be made as a matter of urgency; or
 - (b) it is in the public interest that an interim custody order be made in respect of a child or young person and the grounds on which the order is sought relate to offending or alleged offending by the child or young person.
- (4) In section 78(2)(c), replace “declaration under section 67” with “care or protection order”.
- (5) Replace section 78(2)(d) with:
 - (d) if an application has been made for a care or protection order and the court has adjourned the proceedings pending their disposition:
- (6) After section 78(3), insert:
 - (4) An order under subsection (1A) remains in force—
 - (a) for the period specified in the order (not exceeding 28 days) unless it is earlier cancelled by the court on application by the applicant or a lawyer representing the child or young person or on its own motion under subsection (1A); or
 - (b) until a later date (specified by the court in the order) that the court considers allows sufficient time for a family group conference to be held and, if necessary, an application for another care or protection order to be made.

51 Cross-heading above section 83 replaced

Replace the cross-heading above section 83 with:

*Care or protection orders***52 Section 83 amended (Orders of court on making of declaration)**

- (1) Replace the heading to section 83 with “**Care or protection orders**”.
- (2) In section 83(1), replace “Where the court makes a declaration under section 67 relating to a child or young person, it may do 1 or more of the following things:” with “If the court, on application made under section 68, is satisfied that a child or young person is in need of care or protection, the court may do 1 or more of the following things (irrespective of whether the thing or things were sought in the application):”.
- (3) After section 83(1), insert:
 - (1A) However, on an application under section 18A(4)(a) or 18D in relation to a person to whom section 18A applies, if the court is satisfied that the subsequent child is in need of care or protection on the ground in section 14(1)(c), the court must make a care or protection order referred to in subsection (1), unless it is satisfied that the person has demonstrated that they meet the requirements of section 18A(3).
- (4) After section 83(2), insert:
 - (2A) If the court makes an order under section 101 (other than an order to which section 102 applies) or an order under section 110 on a specified ground (as defined in section 18B(4)), the court may determine that there is no realistic possibility that the child or young person will be returned to the parent or guardian or person having the care of the child or young person before the care or protection order was made.
 - (2B) A determination under subsection (2A) may be made either—
 - (a) at the same time as the making of an order referred to in subsection (2A); or
 - (b) on an application made at any subsequent time, in accordance with the relevant rules of court (if any), by a person who may make an application under section 68.

53 Section 84 amended (Power to make other orders where declaration made on ground of child’s offending)

- (1) In the heading to section 84, replace “**where declaration made on ground of child’s offending**” with “**on ground of child’s offending**”.
- (2) In section 84(1), replace “Where the court makes a declaration under section 67 in relation to a child, and the declaration is made” with “If, on an application under section 68, a court is satisfied that a child is in need of care or protection”.

54 Section 86 amended (Services orders)

- (1) In section 86(1), replace “Where the court makes a declaration under section 67 in relation to a child or young person” with “If, on an application under section 68, the court is satisfied that a child or young person is in need of care or protection”.
- (2) In section 86(3)(b), replace “sections 5, 6, and 13” with “sections 4A(1), 5, and 13”.

55 Section 86A amended (Interim services orders)

In section 86A, replace “declaration under section 67 in relation to” with “care or protection order in respect of”.

56 Section 87 amended (Restraining orders)

In section 87(1), replace “Where the court makes a declaration under section 67 in relation to a child or young person” with “If, on an application under section 68, the court is satisfied that a child or young person is in need of care or protection”.

57 Section 88 amended (Interim restraining orders)

- (1) In section 88, replace “declaration under section 67 in relation to” with “care or protection order in respect of”.
- (2) In section 88, insert as subsections (2) to (4):
 - (2) Even if there are no other proceedings under this Part in relation to a child or young person, the court may, on application by a person entitled to make an application under section 68 (the **applicant**) or a lawyer representing the child or young person, or on its own motion, if it is satisfied that subsection (3) applies, make any order that it is empowered to make under section 87.
 - (3) This subsection applies if it is in the best interests of the child or young person that an interim restraining order be granted as a matter of urgency.
 - (4) An order under subsection (2) remains in force—
 - (a) for the period specified in the order (not exceeding 28 days), unless it is earlier cancelled by the court, on application by the applicant or a lawyer representing the child or young person or on its own motion under subsection (2); or
 - (b) until a later date (specified by the court in the order) that the court considers allows sufficient time for a family group conference to be held and, if necessary, an application for another care or protection order to be made.

58 Section 91 amended (Support orders)

- (1) In section 91(1), replace “Where the court makes a declaration under section 67 in relation to a child or young person” with “If, on an application under sec-

tion 68, the court is satisfied that a child or young person is in need of care or protection”.

- (2) In section 91(3)(b), replace “sections 5, 6, and 13” with “sections 4A(1), 5, and 13”.

59 Section 92 amended (Interim support orders)

In section 92, replace “declaration under section 67” with “care or protection order”.

60 Section 95 amended (Conditions of support order or interim support order)

In section 95(1)(d), replace “in respect of whom a declaration is made” with “who the court is satisfied is in need of care or protection”.

61 Section 96 amended (Power of court to impose additional conditions)

- (1) In section 96(1)(a), replace “in respect of whom a declaration is made” with “who the court is satisfied, on an application made under section 68, is in need of care or protection”.
- (2) In section 96(1)(a)(iii), replace “in respect of whom a declaration is made” with “who the court is satisfied, on an application made under section 68, is in need of care or protection”.

62 Section 101 amended (Custody orders)

In section 101(1), replace “Where the court makes a declaration under section 67 in relation to a child or young person” with “If a court, on application under section 68, is satisfied that a child or young person is in need of care or protection”.

63 Section 102 amended (Interim custody orders)

In section 102(1), replace “makes a declaration under section 67” with “is satisfied that a child or young person is in need of care or protection”.

64 Section 110 amended (Guardianship orders)

In section 110(1), replace “makes a declaration under section 67 in relation to any child or young person” with “is satisfied that a child or young person is in need of care or protection”.

65 New section 110AA inserted (Interim guardianship orders)

After section 110, insert:

110AA Interim guardianship orders

- (1) In any proceedings in a court under this Part in relation to a child or young person, the court may, on the application of any party to the proceedings, or on its

- own motion, make an order that it is empowered to make under section 110 on an interim basis pending the determination of the proceedings.
- (2) An interim guardianship order may be made only if the immediate needs of the child or young person cannot be met without making the order.
 - (3) An interim guardianship order must not continue in force for more than 6 months after the date on which it is made.
 - (4) If an interim guardianship order is made, the court may, on application by any person who was the applicant in the proceedings in which the order was made, or any person on whom the application in those proceedings was served in accordance with section 152, or the person in whose custody the child or young person was placed,—
 - (a) make 1, but only 1, further interim guardianship order under this section; or
 - (b) make a final order under section 110; or
 - (c) make any other order referred to in section 83(1) or 84(1) that the court considers appropriate; or
 - (d) dismiss the application.
 - (5) Even if there are no other proceedings under this Part in relation to a child or young person, the court may, on application by a person entitled to make an application under section 68 (the **applicant**) or a lawyer representing the child or young person, or on its own motion, if it is satisfied that subsection (6) applies, make an interim guardianship order.
 - (6) This subsection applies if it is in the best interests of the child or young person that an interim guardianship order be made as a matter of urgency.
 - (7) An order under subsection (5) remains in force—
 - (a) for the period specified in the order (not exceeding 28 days) unless it is earlier cancelled by the court, on application by the applicant or a lawyer representing the child or young person or on its own motion under subsection (5); or
 - (b) until a later date (specified by the court in the order) that the court considers allows sufficient time for a family group conference to be held and, if necessary, an application for another care or protection order to be made.

66 Section 110A amended (Application for change of guardianship order)

In section 110A(4)(a)(iii), replace “welfare” with “well-being”.

67 Section 121 amended (Court may make orders for access and exercise of other rights by parents and other persons)

- (1) In section 121(2)(a), delete “pending the determination of the proceedings”.
- (2) In section 121(2)(c), replace “person,—” with “person; or”.

- (3) After section 121(2)(c), insert:

(ca) makes an interim guardianship order under section 110AA,—

68 Section 125 amended (Application for variation or discharge of orders made under this Part)

- (1) In section 125(1)(a), delete “pending the determination of the proceedings”.
- (2) In section 125(1)(g), after “section 110”, insert “or an interim guardianship order made under section 110AA”.

69 Section 127 amended (Court may vary or discharge order)

After section 127(2), insert:

- (2A) Despite subsections (1) and (2), the court may not, under either of those subsections, vary an interim order to make it a final order unless the court decides that the child or young person is in need of care or protection.

70 Section 128 amended (Court to obtain and consider plan for child or young person before making certain orders)

- (1) After section 128(2), insert:
- (2A) An applicant for an order may prepare a plan, that the court is required to obtain to make the order, and file it in accordance with subsection (3A) without a direction from the court.
- (2) After section 128(3), insert:
- (3A) A plan prepared under subsection (1) or (2A) must be filed with the court not later than 10 working days before the date set for the hearing to determine whether an order specified in subsection (2) should be made.

71 Section 129 amended (Court to direct who is to prepare plan)

- (1) In section 129(1), replace “the plan shall be prepared by such person as the court directs” with “the plan must be prepared by the applicant for the order, or any other person that the court directs”.
- (2) Replace section 129(1A)(a) with:
- (a) a person prepares a plan; and

72 Section 130 amended (Content of plans)

In section 130(1)(f), replace “welfare” with “well-being”.

73 Section 131 amended (Adjournment for purposes of obtaining plan)

Replace section 131(2) with:

- (2) If any proceedings are adjourned for the purposes of obtaining any plan under section 128, the person responsible for preparing the plan must make all reasonable endeavours to ensure that the plan is filed with the court at least 10 working days before the date set for the hearing.

74 Section 132 amended (Access to plans)

In section 132(2), replace “1 working day” with “5 working days”.

75 Section 135 amended (Review of plan)

After section 135(3)(e), insert—

(f) contain the matters referred to in section 186(2A).

76 Sections 141 and 142 repealed

Repeal sections 141 and 142.

77 Section 143 amended (All parents or guardians not required to be party to agreement)

In section 143, delete “or section 141 or section 142”.

78 Section 144 amended (Agreement not to be made without consent of child or young person)

- (1) In section 144(1), delete “or section 142”.
- (2) Repeal section 144(2).
- (3) In section 144(3), delete “or section 141 or section 142”.

79 Section 145 amended (Agreement not to be made without approval of family group conference)

- (1) In section 145(1), delete “or section 141 or section 142”.
- (2) Repeal section 145(1)(b) and (d)(ii).
- (3) In section 145(1)(d), after “a care and protection co-ordinator”, insert “(or if section 261 applies, a youth justice co-ordinator)”.
- (4) In section 145(1)(d)(iii), replace “objects” with “purposes”.
- (5) In section 145(1)(d)(iii), replace “sections 4, 5, 6, and 13” with “sections 4, 4A(1), 5, and 13”.
- (6) In section 145(2)(a), delete “or section 141 or section 142”.
- (7) Repeal section 145(2)(b).

80 Section 146 amended (Form and terms of agreements)

- (1) In section 146(1), delete “or section 141 or section 142”.
- (2) In section 146(2), delete “or section 141 or section 142”.

81 Section 147 amended (Further restrictions on making of agreements)

In section 147(2), delete “or section 141 or section 142”.

82 Section 148 amended (Effect of agreements)

In section 148, delete “or section 141 or section 142”.

83 Section 149 amended (Agreement may provide for consent to medical treatment)

In section 149, delete “or section 141 or section 142”.

84 Section 152 amended (Service of application for declaration)

- (1) In the heading to section 152, replace “**declaration**” with “**care or protection order**”.
- (2) In section 152(1), replace “declaration under section 67 that a child or young person is in need of care or protection” with “care or protection order”.

85 Section 153 amended (Notice of application for declaration to be given to child or young person)

- (1) In the heading to section 153, replace “**declaration**” with “**care or protection order**”.
- (2) In section 153, replace “declaration under section 67” with “care or protection order”.

86 Section 154 amended (Service of application for variation or discharge of order)

Replace section 154(1)(b) with:

- (b) the applicant for a care or protection order in respect of which the order was made:

87 Section 158 amended (Applications may be heard together)

- (1) In section 158, replace “declaration under section 67” with “care or protection order”.
- (2) In section 158, insert as subsections (2) and (3):
 - (2) If the court, on hearing an application under section 125 for discharge of a care or protection order, together with an application for an order under section 48 of the Care of Children Act 2004, makes an order under section 48 of that Act, the court may determine that there is no realistic possibility that the child or young person will be returned to the parent or guardian or other person having the care of the child or young person before the order was made.
 - (3) A determination under subsection (2) may be made—
 - (a) at the same time as the making of an order under section 48 of the Care of Children Act 2004; or
 - (b) on an application made at any subsequent time, in accordance with the relevant rules of court (if any), by a person who may make an application under section 68.

88 Section 170 amended (Calling of mediation conference)

In section 170(1), replace “declaration under section 67” with “care or protection order”.

89 Section 185 amended (Sections to have effect in place of sections 38 to 44 of Criminal Procedure (Mentally Impaired Persons) Act 2003)

In section 185, replace “declaration under section 67” with “care or protection order”.

90 Section 186 amended (Report by social worker)

- (1) In section 186(1), replace “Where the court makes a declaration under section 67” with “If the court makes a care or protection order”.
- (2) In section 186(2), replace “the declaration under section 67” with “the care or protection order”.
- (3) In section 186(2A), replace “declaration under section 67” with “care or protection order”.
- (4) Replace section 186(2A)(a)(i) with:

- (i) set out the steps that the parent, guardian, or the other person must take, or the behavioural changes that the parent, guardian, or the other person must make, before the child or young person can be returned to the care of the parent, guardian, or the other person; and

91 Section 187 amended (Cultural and community reports)

In section 187(1), replace “declaration under section 67” with “care or protection order”.

92 Section 198 amended (Special provisions applying to applications for declaration on ground of child’s offending)

- (1) In the heading to section 198, replace “**declaration**” with “**care or protection order**”.
- (2) In section 198(1), replace “declaration under section 67” with “care or protection order”.

93 Section 199 amended (Power of court to call witnesses)

In section 199(1), replace “declaration under section 67” with “care or protection order”.

94 Section 200 amended (Court to ensure that application for declaration that child or young person in need of care or protection dealt with promptly)

- (1) Replace the heading to section 200 with “**Court to ensure that application for care or protection order dealt with promptly**”.

- (2) In section 200, replace “declaration under section 67” with “care or protection order”.
- 95 Section 205 amended (Preventing removal of child or young person from New Zealand)**
In section 205(1)(a), replace “declaration under section 67” with “care or protection order”.
- 96 Section 206 amended (Offence to take child or young person out of New Zealand where proceedings pending)**
In section 206(1), replace “declaration under section 67” with “care or protection order”.
- 97 Section 206B amended (Power to dismiss proceedings)**
In section 206B(a), replace “welfare” with “well-being”.
- 98 Section 207E amended (Chief executive to have regard to certain matters)**
In section 207E(a), replace “sections 5, 6, and 13” with “sections 4A(1), 5, and 13”.
- 99 Section 207M amended (Court to have regard to certain matters)**
In section 207M(a), replace “sections 5, 6, and 13” with “sections 4A(1), 5, and 13”.
- 100 Section 207S amended (Court to have regard to certain matters)**
In section 207S(d), replace “sections 5, 6, and 13” with “sections 4A(1), 5, and 13”.
- 101 Section 208 amended (Principles)**
- (1) In section 208, insert as subsection (1):
- (1) A court or person exercising powers under this Part, Part 5, or sections 351 to 360 must weigh the 4 primary considerations described in section 4A(2).
- (2) In section 208, replace “Subject to section 5, any court which, or person who, exercises any powers conferred by or under this Part or Part 5 or sections 351 to 360 shall be guided by the following principles:” with “When weighing those 4 primary considerations, the court or person must be guided by, in addition to the principles in section 5, the following principles:”.
- (3) In section 208(a) to (h), delete “the principle”.
- (4) In section 208(b), delete “solely”.
- (5) In section 208(b), replace “welfare” with “well-being”.
- (6) In section 208(b), replace “whanau,” with “whānau, hapū,”.

- (7) In section 208(d), after “commits an offence”, insert “or is alleged to have committed an offence”.
- (8) After section 208(h), insert:
- (3) If a court or person is exercising a power for the purpose of resolving alleged offending or offending by a child or young person, the court or person must be guided by, in addition to the principles listed in subsection (2) and section 5, the following principles:
- (a) the principle that reasonable and practical measures or assistance should be taken or provided to support the child or young person to prevent or reduce offending or reoffending; and
 - (b) the principle that the child or young person should be referred to care, protection, or well-being services under this Act, if those services would be of benefit to them.
- (4) Subsection (3) does not apply to a Police employee unless the employee is employed as a specialist in resolving offending by children and young persons.

102 New section 208A inserted (Child or young person subject to youth justice jurisdiction only until allegations of offending dealt with)

After section 208, insert:

208A Child or young person subject to youth justice jurisdiction only until allegations of offending dealt with

Nothing in section 4A(2), 5, or 208 requires or allows a court or person to make or keep a child or young person subject to any process under this Part, Part 5, or sections 351 to 360, unless the court or person is considering how allegations of offending are to be dealt with or is disposing of criminal proceedings.

103 Section 238 amended (Custody of child or young person pending hearing)

- (1) In section 238(1), after “young person”, insert “(who for the purpose of paragraph (f) is limited to a young person who is aged 17 years)”.
- (2) Replace section 238(1)(e) with:
- (e) subject to section 239(2), order that the young person (but cannot under this paragraph order that the child) be detained in Police custody; or
 - (f) subject to section 239(2A), order that the young person (aged 17 years) be detained in a youth unit of a prison.

104 Section 239 amended (Restrictions on power of court to order child or young person to be detained in custody)

After section 239(2), insert:

- (2A) The court may make an order under section 238(1)(f) for the detention of a young person (aged 17 years) in a prison only if—

- (a) a joint application has been made by the chief executive and the chief executive of the Department of Corrections for the order; and
- (b) the court is satisfied that the order is necessary to ensure the safety of any young person (as defined in section 2(1)) who is in the custody of the chief executive; and
- (c) the court is satisfied that a youth unit within a prison is available for the young person to stay in.

105 Section 241 amended (Review of orders made under section 238)

In section 241, insert as subsection (2):

- (2) Despite subsection (1), unless clearly impracticable, an order made under section 238(1)(e) must be reviewed by the Youth Court at least once every 24 hours.

106 Section 242 amended (Order under section 238 sufficient authority for detention of child or young person)

- (1) After section 242(1), insert:
 - (1A) The detention of a child or young person in a residence under subsection (1)(a) must be reviewed by the chief executive at least once every 14 days, unless special circumstances apply.
- (2) After section 242(2), insert:
 - (2A) The making of an order under section 238(1)(f) for the detention of a young person (aged 17 years) in a youth unit of a prison is sufficient authority for the detention of that young person in a youth unit of a prison.
 - (2B) The detention of a young person in a youth unit of a prison under subsection (2A) must be reviewed by the chief executive at least once every 14 days, unless special circumstances apply.

107 Section 246 amended (Procedure where young person arrested and brought before court)

In section 246, replace “not punishable by imprisonment” with “that is an infringement offence or, in the case of a person aged 17 years, an offence specified in Schedule 1A”.

108 New section 248A inserted (Chief executive to appoint youth advocate to represent child or young person if offence punishable by imprisonment of 10 years or more)

After section 248, insert:

248A Chief executive to appoint youth advocate to represent child or young person if offence punishable by imprisonment of 10 years or more

- (1) This section applies if an offence referred to in section 245(1) is an offence punishable by imprisonment of 10 years or more and a youth justice co-ordinator is required to convene a family group conference because they have received a notification under section 247(b) relating to that offence.
- (2) Before the family group conference is convened, the chief executive must appoint a youth advocate to represent the child or young person at the family group conference.
- (3) The appointment of (including any eligibility criteria that will apply) and payment of a youth advocate must be made in accordance with any regulations made under section 447(1)(db).
- (4) Section 324(1) and (3)(b) applies to a youth advocate appointed under this section with any necessary modifications.

109 Section 250 amended (Consultation on convening of family group conference)

In section 250(2)(b)(i), replace “declaration under section 67” with “care or protection order”.

110 Section 256 amended (Procedure at family group conference)

In section 256(2), replace “sections 5(f) and 249(6)” with “sections 5(1)(b)(v) and 249(6)”.

111 Section 258 amended (Functions of family group conference)

- (1) In section 258(a)(ii), replace “sections 5, 6, and 13” with “sections 4A(1), 5, and 13”.
- (2) In section 258(ba)(ii), replace “declaration under section 67” with “care or protection order”.
- (3) In section 258, insert as subsections (2) and (3):
 - (2) If a family group conference is convened under section 247(a), (b), (d), or (e), it must, when considering whether the matter can be dealt with in some other way under subsection (1)(b) or (d), consider what restorative justice actions could be undertaken.
 - (3) The family group conference must, when carrying out its functions, consider what reasonable and practical measures or assistance could be taken or provided to support the child or young person—
 - (a) with the implementation of a plan; or
 - (b) in complying with an order made or that may be made by the Youth Court.

112 Section 260 amended (Family group conference may make decisions and recommendations and formulate plans)

- (1) After section 260(3)(b), insert:
(ba) recommend that a restorative justice action or actions be undertaken:
- (2) In section 260(3)(c), replace “declaration under section 67” with “care or protection order”.

113 Section 272 amended (Jurisdiction of Youth Courts and children’s liability to be prosecuted for criminal offences)

- (1) In section 272(1A)(a), replace “under section 67 for a declaration that the child is in need of care or protection” with “care or protection order”.
- (2) In section 272(1A)(a), replace “wellbeing” with “well-being”.
- (3) In section 272(1A)(b)(ii), replace “declaration that the child is in need of care or protection” with “care or protection order”.
- (4) After section 272(3)(b), insert:
(baa) if the young person is aged 17 years, an offence specified in Schedule 1A; or
- (5) Replace section 272(3)(c) with:
(c) a traffic offence that is an infringement offence; or
- (6) After section 272(4), insert:
(4A) If a young person aged 17 years is charged with an offence specified in Schedule 1A,—
 - (a) sections 275 and 276A apply; and
 - (b) sections 274 and 276 do not apply.
- (7) In section 272(5), replace “not punishable by imprisonment” with “that is an infringement offence referred to in subsection (3)(c)”.

114 Section 273 amended (Manner of dealing with offences (other than murder or manslaughter))

In section 273(1), after “manslaughter”, insert “, or is aged 17 years and is charged with an offence specified in Schedule 1A”.

115 Section 275 amended (Manner of dealing with offence of murder or manslaughter, or where jury trial to be held)

- (1) In the heading to section 275, after “manslaughter,”, insert “or Schedule 1A offence,”.
- (2) After section 275(1)(b), insert:
(ba) is aged 17 years and is charged with an offence specified in Schedule 1A; or
- (3) In section 275(2), replace “including” with “including,”.

- (4) In section 275(2)(a), before “in the case”, insert “subject to paragraphs (aa) and (ab),”.
- (5) In section 275(2)(a), after “transferring”, insert “the proceeding”.
- (6) After section 275(2)(a), insert:
- (aa) in the case of a young person aged 17 years charged with a category 3 offence specified in Schedule 1A, on adjournment of the proceeding after the young person’s first appearance, transferring the proceeding to the District Court to be dealt with in accordance with the Criminal Procedure Act 2011; and
- (ab) in the case of a young person aged 17 years charged with a category 4 offence specified in Schedule 1A, transferring the proceeding to the High Court in accordance with section 36(2) of the Criminal Procedure Act 2011; and

116 New section 276A inserted (Transfer of proceeding back to Youth Court)

After section 276, insert:

276A Transfer of proceeding back to Youth Court

- (1) This section applies if a proceeding has been transferred from the Youth Court to the District Court or the High Court under section 275 and—
- (a) the circumstances or reasons for the transfer of the proceeding no longer apply; and
- (b) the charge or charges are within the jurisdiction of the Youth Court.
- (2) The District Court or the High Court must transfer the proceeding back to the Youth Court to be dealt with in that court, unless the interests of justice require the proceeding to remain, and be dealt with, in either of those courts.

117 Section 280 amended (Court may refer case to care and protection coordinator to determine whether matter should be dealt with under Part 2)

In section 280(1)(b), replace “declaration under section 67” with “care or protection order”.

118 Section 280A amended (Court may refer case to person who commenced proceeding to be dealt with as child offending care or protection proceeding under Part 2)

- (1) In section 280A(1)(b), replace “declaration under section 67” with “care or protection order”.
- (2) In section 280A(2)(a), replace “declaration under section 67” with “care or protection order”.
- (3) In section 280A(3)(b), replace “declaration under section 67” with “care or protection order”.

- (4) In section 280A(4)(a), replace “declaration under section 67” with “care or protection order”.
- (5) In section 280A(5)(a), replace “declaration under section 67” with “care or protection order”.

119 Section 284 amended (Factors to be taken into account on sentencing)

After section 284(1), insert:

- (1A) If the court is considering whether to transfer a proceeding to another court for sentence or decision under section 283(o), in addition to the factors in subsection (1), the court must consider and give greater weight to all of the following:
 - (a) the seriousness of the offending:
 - (b) the criminal history of the young person:
 - (c) the interests of the victim:
 - (d) the risk posed by the young person to other people.

120 Section 296 amended (Expiry of orders)

In section 296(2), replace “18 years” with “19 years”.

121 Section 316 amended (Court may cancel supervision with residence order if young person absconds)

- (1) In the heading to section 316, after “absconds”, insert “or fails to comply with order”.
- (2) After section 316(1), insert:
 - (1A) The Youth Court may, on the application of the chief executive, cancel an order made under section 311 placing a young person aged 17 years in the custody of the chief executive, if the court is satisfied that the young person’s behaviour and compliance with any obligations placed on them by the order have been unsatisfactory to a more than minor extent.
- (3) In section 316(2), after “subsection (1)”, insert “or (1A)”.

122 Section 323 amended (Appointment of youth advocate to represent child or young person)

In section 323(3)(b), after “previous proceedings”, insert “or appointed to represent a child or young person at a family group conference under section 248A”.

123 Section 361 amended (Application of sections 362, 364, 365, 387, 390 to 392, 394, and 395)

In section 361(a), delete “or section 141”.

124 Section 363 amended (Payment to person or organisation providing care)

After section 363(1), insert:

- (1A) The purpose of a payment is to meet the reasonable needs of the child or young person.

125 Section 364 amended (Authority to establish residences)

After section 364(1), insert:

- (1A) When deciding the number, types, and range of residences to be established and maintained, the chief executive must consider establishing a sufficient number, sufficient types, and a sufficient range of community-based residences to be available for children and young persons who are detained in the chief executive's custody under section 238(1)(d).

126 Section 365 amended (Chief executive may place children and young persons in residences)

- (1) In section 365(2), replace “objects” with “purposes”.
 (2) In section 365(2), replace “sections 4, 5, and 6” with “sections 4, 4A, and 5”.

127 Cross-heading above section 386A replaced

Replace the cross-heading above section 386A with:

Moving to independence

128 New sections 386AAA to 386AAG inserted

Before section 386A, insert:

386AAA Interpretation

For the purposes of this section and sections 386AAB to 386C,—

caregiver means either—

- (a) a person in whose charge a young person aged under 18 years has been placed under section 362; or
 (b) a person with whom a young person who is a young adult (aged 18 years or over but under 21 years) is living under section 386AAD

young person means a young person within the meaning given in section 2(1) and,—

- (a) for the purposes of sections 386AAD, 386C, and 447(1)(cb) and (da), includes a young adult who is aged 18 years or over but under 21 years;
 (b) for the purposes of sections 386A and 447(1)(cc) and (da), includes a young adult who is aged 18 years or over but under 25 years.

386AAB Purposes

The purposes of sections 386AAC to 386C are—

- (a) to prepare young persons to be ready to thrive as independent young adults and for the preparation for moving to independence to begin early:
- (b) to ensure that young persons have opportunities to have relationships with caregivers and other trusted adults that endure into adulthood:
- (c) to enable young persons to access the government and community support that they need to manage challenges and to grow and develop as adults.

386AAC Principles to be applied when assisting young person to move to independence

A person who is performing functions or exercising powers under sections 386AAD to 386C to assist a young person to move to independence must be guided by, in relation to a young person aged under 18 years, the principles in section 5, in relation to a young adult aged 18 years or over, the principle in section 5(1)(a) only, and in both cases the following principles:

- (a) the young person is to increasingly lead decisions about matters affecting them and is to be supported by adults to do this:
- (b) a holistic approach is to be taken and the young person's strengths and identity are to be built on and nurtured:
- (c) the relationships between the young person and their family, whānau, hapū, iwi, and family group are, if appropriate, to be maintained and strengthened:
- (d) family, whānau, hapū, iwi, family groups, and communities are to be supported to help the young person move to independence:
- (e) the relationships between the young person and a caregiver, other trusted adults, and the wider community are to be established, built on, and maintained:
- (f) the young person is to be supported, to the extent that is reasonable and practicable, to address the impact of harm and to achieve and meet their aspirations and needs, with priority to be given to supporting the stability of their education:
- (g) assistance to the young person is to be provided proactively, promptly, and to be sustained regardless of the decisions that the young person makes.

386AAD Young persons entitled to live with caregiver up to age of 21 years

- (1) This section applies to any young person (as defined in section 386AAA) who, after the age of 14 years and 9 months, is or has been, at any time for a continuous period of at least 3 months, in 1 or both of the following types of care or custody:

- (a) the care or custody of the chief executive, an iwi social service, a cultural social service, or the director of a child and family support service under any agreement or order referred to in section 361(a), (c), or (d);
 - (b) the care of the chief executive as the agent of the court under section 33(1)(c)(ii) of the Care of Children Act 2004.
- (2) The young person is entitled to be supported to live with a caregiver at any time and for any period from the age of 18 years up to the age of 21 years and may request to do so at any time.
- (3) Before the young person leaves care or custody, the chief executive must advise them of the entitlements under subsection (2).
- (4) The young person is entitled to be supported by the chief executive to live with or return to living with a particular caregiver with whom they are placed or have previously been placed or lived unless—
- (a) the caregiver does not agree to have the young person live with them or is not otherwise available; or
 - (b) the young person does not agree to live with that caregiver; or
 - (c) after taking into account the expressed wishes of the young person, the chief executive considers that living with that caregiver is likely to be detrimental to the well-being of the young person.
- (5) If no caregiver is available under subsection (4), the young person is entitled to be supported by the chief executive to live with another caregiver but only if, in relation to a particular caregiver, subsection (4)(b) or (c) does not apply.
- (6) If a young person is living with a caregiver under subsection (4) or (5) or this subsection and at some time during the course of that living arrangement any of the matters in subsection (4)(a) to (c) come to apply, the young person is entitled to be supported by the chief executive to live with another caregiver but only if, in relation to a particular caregiver, subsection (4)(b) or (c) does not apply.

386AAE Providing support to young persons to negotiate support arrangements and monitoring of support arrangements

- (1) If a young person is to live with a caregiver under section 386AAD, the chief executive must provide them with support to negotiate and agree the terms on which they will live with that caregiver.
- (2) The agreed terms must be recorded in writing (the **support arrangement**).
- (3) The support arrangement must—
- (a) be consistent with the purposes in section 386AAB; and
 - (b) give effect to the principles in section 386AAC; and
 - (c) meet the standards referred to in subsection (4); and
 - (d) be approved by the chief executive.

- (4) The chief executive must monitor the operation of all support arrangements against standards set in regulations made under section 447(1)(cb).

386AAF Role of caregivers under support arrangements

A caregiver is expected to—

- (a) act in accordance with the support arrangement; and
- (b) assist the young person who is living with them to become increasingly independent.

386AAG Financial assistance for support arrangements

- (1) The chief executive must provide financial assistance to a young person who lives with a caregiver under section 386AAD to meet reasonable costs associated with living with the caregiver, but only if the chief executive has first considered—
 - (a) what other financial assistance is available to the young person; and
 - (b) the personal circumstances of the young person.
- (2) The financial assistance must be paid directly to the young person unless the chief executive considers it appropriate to pay all or any of it to the young person's caregiver or other person.
- (3) Financial assistance paid under this section must be paid in accordance with any regulations made under section 447(1)(da).
- (4) Financial assistance may be withdrawn if,—
 - (a) during the course of monitoring a support arrangement, the chief executive considers that the living arrangement is detrimental to the young person's well-being; and
 - (b) the chief executive has attempted to resolve any concerns; and
 - (c) another living arrangement (with a caregiver under section 386AAD) has been offered to the young person, but it has been refused.
- (5) If another living arrangement is offered under subsection (4)(c), sections 386AAD to 386AAF and this section apply.

129 Section 386A replaced (Advice and assistance for people moving from care to independence)

Replace section 386A with:

386A Advice and assistance for young persons up to age of 25 years

- (1) This section applies to any young person (as defined in section 386AAA) who, after the age of 14 years and 9 months, is or has been, at any time for a continuous period of at least 3 months, in 1 or more of the following types of care or custody:

- (a) a residential placement under section 234(c)(ii) or (iii), 235, 238(1)(d), 307(4), or 311 or in Police custody under section 236 or 238(1)(e):
 - (b) the care or custody of the chief executive, an iwi social service, a cultural social service, or the director of a child and family support service under any agreement or order referred to in section 361(a), (c), or (d):
 - (c) the care of the chief executive as the agent of the court under section 33(1)(c)(ii) of the Care of Children Act 2004:
 - (d) under remand or a prison sentence in the adult justice system (before turning 18).
- (2) A person (including the chief executive), a body, or an organisation that has the care or custody of the young person must, before the young person leaves that care or custody,—
 - (a) assess what support by way of advice and assistance the young person will need to become and remain independent after they are no longer in that care or custody; and
 - (b) provide or arrange for the provision of that support to that young person to the extent that the support reasonably relates to the period before the young person leaves the care or custody; and
 - (c) advise the young person of their entitlements under subsection (4) and section 386B.
- (3) A person (excluding the chief executive), a body, or an organisation that has the care or custody of the young person must, before the young person leaves that care or custody, provide a copy of the assessment made under subsection (2)(a) to the chief executive and advise the chief executive of the date on which the young person will leave that care or custody.
- (4) The young person is entitled to support by way of advice or assistance from the chief executive (*see* section 386B) at any time from when they leave care or custody up to the age of 25 years and may request this support at any time.
- (5) The young person is entitled to this support whether or not they—
 - (a) have received any support under subsection (2)(b); or
 - (b) are living with a caregiver under section 386AAD.
- (6) If a young person who has left the care or custody of a person, a body, or an organisation (that is not the care or custody of the chief executive) requests any support or further support, the person, body, or organisation receiving the request must refer it to the chief executive.
- (7) If a request is made or referred to the chief executive, the chief executive must consider the entitlements of the young person under section 386B.
- (8) When an assessment is provided to the chief executive under subsection (3), the chief executive must consider the entitlements of the young person under section 386B taking into account that assessment.

386B Provision of advice and assistance by chief executive

- (1) Under section 386A, the chief executive, in accordance with regulations made under section 447(1)(cc) and (da),—
 - (a) must provide, or arrange the provision of, support by way of advice and non-financial assistance that the chief executive considers the young person will need to achieve independence; and
 - (b) may provide, or arrange the provision of, support by way of financial assistance that the chief executive considers the young person will need to achieve independence, but only if the chief executive has first considered what other financial assistance is available to the young person.
- (2) Advice and assistance may include—
 - (a) giving information:
 - (b) assisting the young person to obtain accommodation, enrol in education or training, or obtain employment:
 - (c) legal advice:
 - (d) counselling:
 - (e) contributing to the expenses incurred by the young person in living near the place where they are or will be—
 - (i) employed or seeking employment; or
 - (ii) receiving education or training:
 - (f) making a grant to assist the young person to meet expenses connected with their education or training.
- (3) When deciding whether to provide financial assistance in any case, the chief executive must give particular consideration to whether the young person has high or complex needs.
- (4) Financial assistance must be paid directly to the young person unless the chief executive considers it appropriate to pay all or any of it to the young person's caregiver or other person.
- (5) If the chief executive is providing financial assistance to a young person that includes making a contribution or grant for a course of education or training or any other financial assistance the young person needs in order to complete the course, the chief executive may—
 - (a) continue to do so even if the young person reaches the age of 25 years before completing the course; and
 - (b) disregard any interruption in the young person's attendance at the course if they resume it as soon as practicable.

130 New section 386C inserted (Chief executive to maintain contact with young persons up to age of 21 years)

After section 386B, insert:

386C Chief executive to maintain contact with young persons up to age of 21 years

- (1) This section applies to any young person (as defined in section 386AAA) who has been in any of the circumstances listed in section 386A(1).
- (2) Irrespective of whether the young person is living with a caregiver under section 386AAD or is being provided with any advice or assistance under section 386A, the chief executive must take reasonable steps to maintain contact with the young person.
- (3) The following factors must be taken into account when a decision is made about the extent to which contact is maintained with the young person:
 - (a) whether the young person wishes contact to be made with them:
 - (b) the young person's particular needs:
 - (c) the young person's age, maturity, and the desirability of them being independent when they are able to do so.

131 Section 403 amended (Approval of Community Services)

In section 403(3), replace “objects” with “purposes”.

132 Section 405 amended (Revocation of approval)

In section 405(1), replace “objects” with “purposes”.

133 New sections 445E and 445F and cross-heading inserted

After section 445D, insert:

Limit on proceedings and Crown liability

445E Limit on proceedings

- (1) No proceedings may be brought in any court—
 - (a) in relation to any act or omission that occurred on or after the commencement of this section by the chief executive, the chief executive's delegate, or an employee of the department that could have been the subject of a complaint under the 1 or more complaints mechanisms established, amended, or replaced by the chief executive and a review of the outcome of that complaint under the review mechanism provided for in regulations made under section 447(1)(fb), unless—
 - (i) a complaint has been made under that mechanism and determined; and
 - (ii) the opportunity for review established under regulations made under section 447(1)(fb) has been exercised by the complainant and the review completed:
 - (b) in relation to any purported breach of duty owed to the child or young person under this Act or any regulations made under this Act by the

chief executive or the chief executive's delegate, or an employee or contractor of the department, or an organisation or other person having the care or custody of a child or young person (including an organisation or person with whom a child or young person is placed by the chief executive under section 362), except by a child or young person to whom the duty is allegedly owed.

- (2) In this section and section 445F, **young person** includes a young person as defined in section 386AAA.

445F Limitation on liability

- (1) The Crown, the department, the chief executive, the chief executive's delegate, any employee or contractor of the department, and any organisation or person with whom a child or young person is placed by the chief executive are not liable in respect of the matters set out in subsection (2).
- (2) The matters are anything suffered by a child or young person in the care or custody of the chief executive as a consequence of an act or omission that occurs on or after the commencement of this section by a person who is not—
- (a) the Crown:
 - (b) the department:
 - (c) the chief executive:
 - (d) the chief executive's delegate:
 - (e) an employee or a contractor of the department:
 - (f) an organisation or person in whose charge the child or young person has been placed by the chief executive.
- (3) An organisation or person specified in subsection (4)(a) to (d) (other than a person or organisation referred to in subsection (1)) is not liable in respect of the matters referred to in subsection (4).
- (4) The matters are anything suffered by a child or young person in the care or custody of a person or organisation referred to in subsection (3), as a consequence of an act or omission that occurs on or after the commencement of this section by an organisation or a person who is not—
- (a) the organisation or person with care or custody of the child or young person:
 - (b) the organisation's or person's delegate:
 - (c) an employee or contractor of that organisation or person:
 - (d) another organisation or person in whose charge the child or young person has been placed by the organisation or person referred to in paragraph (a).

134 Section 447 amended (Regulations)

- (1) After section 447(ca), insert:
- (cb) prescribing, in relation to a young person's entitlement to remain living with a caregiver under sections 386AAD and 386AAE, requirements and standards for support arrangements:
 - (cc) prescribing, in relation to providing advice and assistance to young persons under sections 386A and 386B,—
 - (i) processes and criteria for needs assessments:
 - (ii) the types of advice, assistance, and services to be available for young persons:
 - (iii) the manner or means of providing advice, assistance, and services to young persons:
- (2) After section 447(d), insert:
- (da) prescribing the circumstances in which amounts are payable and the amounts payable under section 363 or to or on behalf of a young person as financial assistance under section 386AAG or 386B, including—
 - (i) advances or reimbursements of reasonable costs:
 - (ii) allowances, which may vary in accordance with different criteria:
 - (db) prescribing, in relation to a youth advocate appointed under section 248A, the following:
 - (i) eligibility criteria for appointment:
 - (ii) the process for appointment by the chief executive:
 - (iii) the amounts payable for preparation for and attendance at a family group conference referred to in section 245:
- (3) After section 447(f), insert:
- (fa) prescribing the actions or steps that must be taken by the chief executive or the chief executive's delegates, or bodies or organisations approved under section 396, to help ensure that children and young persons in care or custody under Part 2 or 4 of this Act receive an appropriate standard of care that is consistent with the application of the principles in sections 4A, 5, 13, and 208, including actions and steps relating to—
 - (i) the provision of care, services, and support to address the rights and needs of children and young persons in care:
 - (ii) the assessment and monitoring of care arrangements and residences, including youth justice residences:
 - (iii) the assessment, training, and support of caregivers and care providers:
 - (iv) the creation and maintenance of records for a child or young person recording important matters in their life (including significant

life events and significant achievements) occurring while they are in care, and the provision of access to those records for the child or young person:

- (v) the manner in which care standards are monitored or reported on, within the department, by the organisations approved under section 396, and by the agency or body referred to in section 447A:
- (fb) providing for the appointment by the Minister of a person or an organisation (independent of the department) to review the outcomes produced by the 1 or more complaints mechanisms established, amended, or replaced by the chief executive under section 7(2)(bad), and establishing a review mechanism—
- (i) that is intended to be—
 - (A) accessible and timely;
 - (B) have the necessary capability (including required cultural competence to ensure that reviews of outcomes are undertaken effectively); and
 - (ii) for which 1 or more of the following are specified:
 - (A) the types of complaints whose outcomes under a complaint process may be the subject of a review;
 - (B) the classes of complainants (or other persons) who may seek a review of the outcome of a complaint;
 - (C) the procedures to be adopted in conducting reviews;
 - (D) who is qualified for appointment to conduct a review, and matters relating to their appointment and term of office;
 - (E) the method of determining the remuneration of a person appointed to conduct a review;
 - (F) the powers of the reviewer on reviewing the outcomes of a complaints process (which may, without limitation, include a power for the reviewer to set aside the outcome of the complaints mechanism, a power to award compensation up to a specified limit, a power to substitute the reviewer's decision as the outcome, and any other remedies specified in the regulations that may be granted by the reviewer);
 - (G) how the costs of undertaking the review are to be apportioned;
 - (H) any other matters that are necessary or desirable to establish or operate the review process.

- (4) After section 447(g), insert:

- (ga) designating, after consultation with the Privacy Commissioner, the Children’s Commissioner, and persons representing the affected organisations,—
 - (i) organisations or classes of organisations as child welfare and protection agencies:
 - (ii) persons or classes of persons as independent persons:
- (gb) prescribing transitional arrangements in relation to standards of care for children and young persons and any other matters provided for in regulations:

(5) In section 447, insert as subsection (2):

(2) The Minister must,—

- (a) within 12 months of the commencement of subsection (1)(fa), recommend the making of regulations under that provision; and
- (b) not recommend the revocation of regulations made under subsection (1)(fa) without recommending new regulations to be made under that provision; and
- (c) regularly review the regulations in force under subsection (1)(fa).

135 New section 447A inserted (Minister to appoint persons to monitor compliance with prescribed standard of care)

After section 447, insert:

447A Minister to appoint independent persons to monitor compliance with prescribed standard of care

The Minister must appoint an agency or a body (independent of the department) to—

- (a) monitor compliance by the chief executive, the chief executive’s delegates, or bodies or organisations approved under section 396 with regulations made under section 447(1)(fa):
- (b) report on compliance with those regulations to the Minister.

136 New section 448B and cross-heading inserted

After section 448A, insert:

Periodic review of legislation, government policy, and other arrangements

448B Periodic review of legislation, government policy, and other arrangements

The Minister must, not later than 1 July 2022, and on at least 1 occasion during each 3-year period after that date, report to Parliament on the following matters:

- (a) whether existing legislation, government policy, and other arrangements that affect the accountability of the Minister, the chief executive, and other persons or bodies carrying out functions under this Act ensures that—
 - (i) the needs of children and young persons with whom the department is concerned are met; and
 - (ii) the needs of Māori children and young persons with whom the department is concerned are met:
- (b) whether any amendments to legislation, or government policies or other arrangements referred to in paragraph (a), are necessary or desirable in order to ensure the needs of the children and young persons, or particular groups of children and young persons, referred to in paragraph (a)(i) or (ii) are met.

137 Amendments to principal Act to replace gendered references with gender-neutral references

Amend the principal Act as set out in Schedule 1.

138 Schedule 1AA amended

In Schedule 1AA, after Part 2, insert:

Part 3

**Provisions relating to Children, Young Persons, and Their Families
(Oranga Tamariki) Legislation Act 2017**

4 New definition of young person not to apply to criminal proceedings underway at commencement date

- (1) For the purpose of this clause, **commencement date** means the date on which section 7(4) of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 comes into force.
- (2) Any defendant aged 17 years in criminal proceedings that are underway in the District Court or High Court on the commencement date must be dealt with by that court as if section 7(4) of this Act had not come into force.

5 Protections for young persons aged 17 years in criminal investigations

- (1) For the purpose of this clause, **commencement date** means the date on which section 7(4) of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 comes into force.
- (2) Sections 215 to 232 of this Act apply to investigations of alleged offending by persons aged 17 years only if the offending occurred or is alleged to have occurred on or after the commencement date.

6 Application of complaints mechanism

A complaints mechanism established under section 7(2)(bad) of this Act applies to any act or omission that occurred on or after 1 January 2008.

7 Previous definition of child or young person in need of care or protection applies to proceedings underway

- (1) For the purpose of this clause, **commencement date** means the date on which section 17 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 comes into force.
- (2) Section 14 of this Act (as it read before the commencement date) continues to apply to any proceeding that, immediately before the commencement date, had been brought but not determined.

8 Application of sections 17(2A), 18AAA, 21(2), and 30(1)(aaa)

- (1) For the purpose of this clause, commencement date means the date on which sections 20, 21, 28, and 33 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 come into force.
- (2) Sections 17(2A), 18AAA, 21(2), and 30(1)(aaa) of this Act apply to any investigation still underway or commenced on or after the commencement date.

9 Determinations under section 18B(2)(c)

A determination made under section 18B(2)(c) before the commencement of section 24 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 that there is no realistic prospect that a child or young person will be returned to a person's care, is to be treated, on and after the commencement of section 24 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017, as a determination that there is no realistic possibility that a child or young person will be returned to a person's care.

10 Information sharing

- (1) For the purpose of this clause, **commencement date** means the date on which section 41 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 comes into force.
- (2) Sections 65A to 66Q of this Act apply to any information whether it existed or was created before, on, or after the commencement date.

11 Applications for declaration made under section 68 before commencement date to be determined under previous provisions

- (1) For the purpose of this clause, **commencement date** means the date on which section 42 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 comes into force.

- (2) An application for a declaration made under section 68 of this Act before the commencement date must be determined under section 68 and any related provisions as those provisions read before the commencement date.

12 When custody order ceases to have effect

- (1) For the purpose of this clause, **commencement date** means the day after the date on which the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 receives the Royal assent.
- (2) Section 108(c) of this Act applies to any custody order made before or after 1 April 2017 and that expires after the commencement date, even if the order or any other document relating to the order contains words to the effect that the order ceases to have effect when the young person attains the age of 17 years.

13 Agreements for extended care of severely disabled children and young persons and agreements with persons providing residential disability care

- (1) For the purpose of this clause, **commencement date** means the date on which section 76 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 comes into force.
- (2) Any agreement made under section 141 or 142 of this Act before the commencement date continues to have effect until it is terminated or expires and this Act continues to apply to those agreements as if the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 had not been enacted.

14 Youth justice principles

- (1) For the purpose of this clause, **commencement date** means the date on which section 101(8) of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 comes into force.
- (2) Section 208(3) and (4) of this Act applies only if offending occurred or is alleged to have occurred on or after the commencement date.

15 Review of detention of young persons in residence or Police custody

- (1) For the purpose of subclause (2), **commencement date** means the date on which section 105 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 comes into force.
- (2) Section 241(2) of this Act applies to any order made under section 238(1)(e), whether made before or after the commencement date.
- (3) For the purpose of subclause (4), **commencement date** means the date on which section 106(1) of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 comes into force.
- (4) Section 242(1A) of this Act applies to any child or young person detained in a residence on or after the commencement date, whether the order for detention

of that child or young person was made before or after the commencement date.

16 Consideration of restorative justice actions by Family Group Conferences

- (1) For the purpose of this clause, **commencement date** means the date on which section 111(3) of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 comes into force.
- (2) Section 258(2) and (3) of this Act applies to any Family Group Conference that takes place on or after the commencement date, including a conference that has been adjourned from an earlier date.

17 Factors to be taken into account on sentencing

- (1) For the purpose of this clause, **commencement date** means the date on which section 119 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 comes into force.
- (2) Section 284(1A) of this Act applies only if the offending occurred on or after the commencement date.

18 Moving to independence

- (1) For the purpose of this clause, **commencement date** means the date on which sections 128 to 130 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 come into force.
- (2) Section 386AAD of this Act applies only to persons who are aged under 18 years on the commencement date.
- (3) Any young person receiving advice and assistance under section 386A of this Act immediately before the commencement date is to be treated as receiving advice and assistance under new section 386A on or after the commencement date.
- (4) Section 386C of this Act applies only to persons who are subject to any process or proceeding under this Act on or after the commencement date.

19 References to Children, Young Persons, and Their Families Act 1989

Unless the context otherwise requires, every reference to the Children, Young Persons, and Their Families Act 1989 in any document is, after the commencement of section 138 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017, to be read as a reference to the Oranga Tamariki Act 1989.

139 Schedule 1 amended

In Schedule 1, clause 3(b), replace “Children, Young Persons, and Their Families Act 1989” with “Oranga Tamariki Act 1989”.

140 New Schedule 1A inserted

After Schedule 1, insert the Schedule 1A set out in Schedule 2 of this Act.

**Part 2
Amendments to other Acts****Subpart 1—Amendments to Criminal Procedure Act 2011****141 Amendments to Criminal Procedure Act 2011**

This subpart amends the Criminal Procedure Act 2011.

142 Section 174 amended (Remand of defendant under 17 years for assessment report)

- (1) In the heading to section 174, replace “17” with “18”.
- (2) In section 174(1) and (2), replace “17” with “18”.

143 Section 175 amended (Remand of defendants aged 17 to 20 years)

- (1) After section 175(1), insert:
 - (1A) Despite section 15 of the Bail Act 2000, if the person is aged 17 years, the court may remand that person in custody, and if the court does so,—
 - (a) the person must be remanded in the custody of the chief executive of the department responsible for the administration of the Oranga Tamariki Act 1989, unless that chief executive and the chief executive of the Department of Corrections agree on the matter in subsection (1B):
 - (b) if the 2 chief executives agree on the matter in subsection (1B), the person may instead be remanded in custody in a youth unit of a prison.
 - (1B) The matter that must be agreed by the 2 chief executives is that detention in a youth unit of a prison is necessary to ensure the safety of a young person (as defined in section 2(1)) who is in the custody of the chief executive.
- (2) In section 175(2), replace “Despite section 15 of the Bail Act 2000,”, with “If the person is aged 18 to 20 years,”.

144 New section 380A inserted (Transfer of proceedings commenced in Youth Court back to Youth Court in certain circumstances)

After section 380, insert:

380A Transfer of proceedings commenced in Youth Court back to Youth Court in certain circumstances

Proceedings commenced in the Youth Court and transferred to the District Court or High Court under section 275 of the Oranga Tamariki Act 1989 must, if the circumstances described in section 276A of that Act arise and the requirements of that section are met, be transferred back to the Youth Court.

Subpart 2—Amendment to Income Tax Act 2007

145 Amendments to Income Tax Act 2007

This subpart amends the Income Tax Act 2007.

146 Section CW 33 amended (Allowances and benefits)

After section CW 33(1)(b), insert:

(ba) a payment under section 363 of the Oranga Tamariki Act 1989:

Subpart 3—Amendment to Social Security Act 1964

147 Amendment to Social Security Act 1964

This subpart amends the Social Security Act 1964.

148 Section 3 amended (Interpretation)

In section 3(1), definition of **income**, paragraph (f)(xiii), after “child or young person (as those terms are defined in that Act)”, insert “including financial assistance received by a young person (including a young adult), a caregiver, or other person under section 386AAG or 386B of that Act”.

Subpart 4—Amendments to Acts and legislative instruments

149 Consequential amendments to Acts and legislative instruments

Amend the Acts and legislative instruments listed in Schedule 3 as set out in that schedule.

150 Repeal of and amendments to enactments

- (1) Repeal section 2 of the Department of Child, Youth and Family Services Act 1999.
- (2) Amend the Acts and legislative instruments listed in Schedule 4 as set out in that schedule.

Schedule 1

Amendments to principal Act to replace gendered references with gender-neutral references

s 137

In section 2, definition of **enforcement officer**, paragraph (c), replace “his or her” with “their”.

In section 7A(2), replace “him or her” with “them”.

In section 7C(1), replace “his or her” with “the chief executive’s”.

In section 10(2)(b), replace “himself or herself” with “themselves”.

In section 11(2)(a), (b), and (c), replace “his or her” with “their” in each place.

In section 11(2)(b) and (c), replace “him or her” with “them”.

In section 11(4), replace “him or her” with “them”.

In section 17(1), replace “he or she” with “they”.

In section 17(2), replace “he or she” with “they”.

In section 18(1), replace “he or she” with “they”.

In section 18A(2), replace “he or she” with “the person”.

In section 18A(3)(a), replace “him or her” with “the parent”.

In section 18A(5), replace “he or she” with “the person”.

In section 18A(7), replace “he or she” with “the parent” in each place.

In section 18B(1)(a), replace “his or her” with “the person’s”.

In section 18B(1)(b), replace “him or her” with “that person”.

In section 18C(5), replace “he or she” with “the parent”.

In section 18D(b), replace “his or her” with “the chief executive’s”.

In section 18D(b), replace “he or she” with “the chief executive”.

In section 22(1)(d)(iii), replace “him or her” with “A”.

In section 24(1)(b), replace “he or she or it” with “the person”.

In section 30(1)(a)(i)(C), replace “him or her” with “A”.

In section 31(2), replace “he or she” with “the person”.

In section 44(1), replace “he or she” with “the child or young person”.

In section 48(1), replace “his or her” with “the chief executive’s”.

In section 54(a), replace “him or her” with “that child or young person”.

In section 59(1)(a), replace “he or she believes” with “they believe”.

In section 59(1)(a), replace “he or she thinks” with “they think”.

In section 82(4)(b), replace “he or she” with “the child or young person”.

In section 82(6)(a), replace “his or her” with “the chief executive’s”.

- In section 95(1)(b) and (d), replace “him or her” with “them”.
- In section 95(1)(d), replace “he or she” with “the child or young person”.
- In section 97(1)(a), replace “his or her” with “their”.
- In section 99(c), replace “he, she,” with “they consider”.
- In section 104(2), replace “his or her” with “the chief executive’s”.
- In section 105(1)(c) and (d), replace “his or her” with “the chief executive’s”.
- In section 110A(4)(a)(i), replace “his or her” with “their”.
- In section 113A(1)(a), replace “his or her” with “their”.
- In section 113B(2)(a), replace “his or her” with “their”.
- In section 122(1), replace “him or her” with “that child or young person”.
- In section 125(1B)(b), replace “his or her” with “their”.
- In section 129(1A), replace “his or her” with “the chief executive’s” in each place.
- In section 130(1)(ea)(i) and (ii), replace “his or her” with “that person’s”.
- In section 152(1)(b), replace “his or her” with “their”.
- In section 157(2), replace “him or her” with “the child or young person”.
- In section 163(2), replace “his or her” with “their”.
- In section 167, replace “he or she” with “the Judge”.
- In section 179(4)(a), replace “him or her” with “that child or young person”.
- In section 181(2), replace “he or she” with “the Judge”.
- In section 207D(1)(a), replace “his or her” with “the chief executive’s”.
- In section 207I(1)(b), replace “he or she” with “the child or young person”.
- In section 207I(1)(b) and (2)(b), replace “his or her” with “their”.
- In section 207I(2)(b), replace “he or she” with “the child, young person, or parent”.
- In section 207R(1)(b), replace “he or she” with “the child or young person”.
- In section 207R(1)(b), replace “his or her” with “their”.
- In section 207S(c), replace “his or her” with “their”.
- In section 207ZN(2), replace “his or her” with “their”.
- In section 208(b) and (f)(i), replace “his or her” with “their”.
- In section 215(1)(a), replace “his or her” with “their”.
- In section 215(1)(b), replace “that he or she” with “the child or young person”.
- In section 216(b), replace “makes up his or her mind” with “decides”.
- In section 221(1)(b)(ii), replace “made up his or her mind” with “decided”.
- In section 229(2)(b), replace “him or her” with “that person”.
- In section 235(2)(a), replace “his or her” with “the chief executive’s”.
- In section 236(1), replace “his or her” with “the chief executive’s”.

- In section 242(1)(b), replace “his or her” with “the chief executive’s”.
- In section 245(1), replace “he or she” with “the young person”.
- In section 254(1), replace “he or she or it is” with “they are”.
- In section 275(1)(c), replace “he or she” with “the young person”.
- In section 276(2), replace “he or she” with “the child or young person”.
- In section 276(3), replace “he or she wishes” with “they wish”.
- In section 276(5), replace “he or she” with “the child”.
- In section 280A(4)(b), replace “his or her” with “the”.
- In section 283(ja), replace “he or she” with “the young person”.
- In section 283(o)(i)(B), replace “him or her” with “the young person”.
- In section 284(1)(d)(ii), replace “himself or herself” with “themselves”.
- In section 290, replace “his or her” with “the Judge’s”.
- In section 290A(3), replace “he or she” with “the young person”.
- In section 296C(2)(b), replace “he or she” with “the young person”.
- In section 296C(3)(b), replace “he or she” with “the young person”.
- In section 296D(3), replace “he or she” with “the constable”.
- In section 296J(6), replace “his or her” with “the young person’s”.
- In section 296J(7), replace “his or her” with “the Judge’s”.
- In section 296L(1), replace “his or her” with “the chief executive’s”.
- In section 297B(4), replace “he or she lives” with “they live”.
- In section 302(a), replace “he or she” with “the young person”.
- In section 305(1)(b) and (e), replace “he or she” with “the young person”.
- In section 305(1)(c) and (f), replace “him or her” with “them”.
- In section 307(3), replace “he or she lives” with “they live”.
- In section 308C(3)(a), replace “his or her” with “the young person’s”.
- In section 312(2), replace “his or her” with “the chief executive’s”.
- In section 318(1), replace “his or her” with “the chief executive’s”.
- In section 321(5), replace “his or her” with “their”.
- In section 324(1), replace “he or she” with “they”.
- In section 326(2), replace “his or her” with “their”.
- In section 329(1)(ja), replace “his or her” with “the victim’s”.
- In section 363(4), replace “his or her” with “their”.
- In section 384A, definition of **pat down search**, paragraphs (a) and (b), replace “his or her hand” with “the person’s hand”.

In section 384A, definition of **pat down search**, paragraph (c), replace “his or her” with “the child’s or young person’s” in each place.

In section 384A, definition of **strip search**, paragraph (b), replace “his or her” with “the child’s or young person’s”.

In section 384C(1), replace “his or her” with “their”.

In section 384D(1), replace “him or her” with “the staff member”.

In section 384E(1), replace “his or her” with “their”.

In section 384J, replace “his or her” with “their”.

In section 385(2), replace “his or her” with “the chief executive’s”.

In section 386A(4)(a) and (b), replace “his or her” with “the chief executive’s”.

In section 386A(5)(f), replace “his or her” with “their”.

In section 389B(1), replace “he or she” with “that caregiver”.

In section 392(2), replace “his or her” with “their” in each place.

In section 395(a), (b), and (c), replace “his or her” with “their” in each place.

In section 395A(1)(b), replace “his or her” with “their”.

In section 401(2), replace “his or her” with “their”.

In section 409(2), replace “his or her” with “their”.

In section 423(2) and (3)(b) and (d), replace “his or her” with “their” in each place.

In section 423(3)(c), replace “he or she” with “the co-ordinator” in each place.

In section 425(2) and (3)(b) and (d), replace “his or her” with “their” in each place.

In section 425(3)(c), replace “he or she” with “the co-ordinator” in each place.

In section 427(1), replace “his or her” with “that social worker’s”.

In section 434(3), replace “he or she” with “the person”.

In section 434(6), replace “his or her” with “the Judge’s”.

In section 435A(2), replace “he or she” with “the Judge”.

In section 435A(5), replace “In exercising his or her powers” with “When exercising powers”.

In section 445A(a), replace “him or her” with “them”.

In section 445A(c), replace:

- (a) “himself or herself” with “themselves”; and
- (b) “his or her” with “their”.

In section 445A(d), replace “he or she” with “the person” in each place.

In section 445A(e), replace “he or she” with “the person” in each place.

In section 445A(f), replace “he or she is” with “they are” in each place.

Schedule 2

New Schedule 1A inserted

s 140

Schedule 1A

Specified offences for young persons aged 17 years

ss 272, 273, 275

Offence description	Legislative provision
Hijacking an aircraft	Aviation Crimes Act 1972, section 3
Crimes in connection with hijacking (if the crime is one listed in this schedule)	Aviation Crimes Act 1972, section 4
Crimes relating to aircraft	Aviation Crimes Act 1972, section 5
Crimes relating to international airports	Aviation Crimes Act 1972, section 5A
Offences relating to chemical weapons	Chemical Weapons (Prohibition) Act 1996, section 6
Using riot control agents as a method of warfare	Chemical Weapons (Prohibition) Act 1996, section 8
Treason	Crimes Act 1961, section 74
Espionage	Crimes Act 1961, section 78
Piracy	Crimes Act 1961, section 92
Dealing in slaves	Crimes Act 1961, section 98
Dealing in people under 18 for sexual exploitation, removal of body parts, or engagement in forced labour	Crimes Act 1961, section 98AA
Smuggling migrants	Crimes Act 1961, section 98C
Trafficking in persons	Crimes Act 1961, section 98D
Judicial corruption	Crimes Act 1961, section 100(1)
Corruption and bribery of Minister of the Crown	Crimes Act 1961, section 102(1)
Perjury in order to procure conviction	Crimes Act 1961, section 109(2)
Sexual violation	Crimes Act 1961, section 128B
Sexual connection with consent induced by threat	Crimes Act 1961, section 129A(1)
Sexual connection with child under 12	Crimes Act 1961, section 132(1)
Compelling indecent act with animal	Crimes Act 1961, section 142A
Sexual connection with a child under 12 outside New Zealand	Crimes Act 1961, section 144A(1)(a)
Attempted murder	Crimes Act 1961, section 173
Aiding and abetting suicide	Crimes Act 1961, section 179(1)
Wounding with intent to cause grievous bodily harm	Crimes Act 1961, section 188(1)
Aggravated wounding	Crimes Act 1961, section 191(1)
Discharging firearm or doing dangerous act with intent to cause grievous bodily harm	Crimes Act 1961, section 198(1)
Using firearm against law enforcement officer, etc	Crimes Act 1961, section 198A(1)
Acid throwing	Crimes Act 1961, section 199
Poisoning with intent to cause grievous bodily harm	Crimes Act 1961, section 200(1)
Infecting with disease	Crimes Act 1961, section 201

Offence description	Legislative provision
Abduction for purposes of marriage or sexual connection	Crimes Act 1961, section 208
Kidnapping	Crimes Act 1961, section 209
Aggravated burglary	Crimes Act 1961, section 232(1)
Aggravated robbery	Crimes Act 1961, section 235
Assault with intent to rob	Crimes Act 1961, section 236(1)
Blackmail	Crimes Act 1961, section 237
Compelling execution, etc, of documents	Crimes Act 1961, section 239(1)
Arson	Crimes Act 1961, section 267(1)
Crimes against persons protected by a convention (if the crime is one listed in this schedule and Schedule 1 of the Crimes (Internationally Protected Persons, United Nations and Associated Personnel, and Hostages) Act 1980)	Crimes (Internationally Protected Persons, United Nations and Associated Personnel, and Hostages) Act 1980, section 3
Hostage-taking	Crimes (Internationally Protected Persons, United Nations and Associated Personnel, and Hostages) Act 1980, section 8
Act of torture	Crimes of Torture Act 1989, section 3(1)
Grave breach of Geneva Conventions or First Protocol or Third Protocol	Geneva Conventions Act 1958, section 3
Genocide	International Crimes and International Criminal Court Act 2000, section 9
Crimes against humanity	International Crimes and International Criminal Court Act 2000, section 10
War crimes	International Crimes and International Criminal Court Act 2000, section 11
Crimes relating to ships	Maritime Crimes Act 1999, section 4
Crimes relating to fixed platforms	Maritime Crimes Act 1999, section 5
Recruiting person to be mercenary	Mercenary Activities (Prohibition) Act 2004, section 7
Using mercenary	Mercenary Activities (Prohibition) Act 2004, section 8
Financing mercenary	Mercenary Activities (Prohibition) Act 2004, section 9
Training prospective mercenary	Mercenary Activities (Prohibition) Act 2004, section 10
Training mercenary	Mercenary Activities (Prohibition) Act 2004, section 11
Mercenary taking part in hostilities or concerted act of violence	Mercenary Activities (Prohibition) Act 2004, section 12
Importing into or exporting from New Zealand any Class A or Class B controlled drug	Misuse of Drugs Act 1975, section 6(1)(a)
Producing or manufacturing any Class A or Class B controlled drug	Misuse of Drugs Act 1975, section 6(1)(b)
Supplying or administering, or offering to supply or administer, any Class A or Class B controlled drug to any other person, or otherwise dealing in any such controlled drug	Misuse of Drugs Act 1975, section 6(1)(c)
Possession of any Class A or Class B controlled drug for the purpose of supplying or administering, or	Misuse of Drugs Act 1975, section 6(1)(f)

Offence description	Legislative provision
offering to supply or administer, to any other person, or otherwise dealing in any such controlled drug	
Conspiring to commit an offence specified in sections 6(1)(a), (b), (c), or (f) of the Misuse of Drugs Act 1975 in relation to a Class A controlled drug	Misuse of Drugs Act 1975, section 6(2A)(a)
Inducing or compelling persons to provide commercial sexual services or earnings from prostitution	Prostitution Reform Act 2003, section 16
Engaging in a terrorist act	Terrorism Suppression Act 2002, section 6A
Terrorist bombing	Terrorism Suppression Act 2002, section 7
Financing of terrorism	Terrorism Suppression Act 2002, section 8
Recruiting members of terrorist group	Terrorism Suppression Act 2002, section 12
Participating in terrorist group	Terrorism Suppression Act 2002, section 13

Schedule 3

Consequential amendments to other enactments

s 149

Part 1

Amendments to Acts consequential on change of Title of principal Act

In each place in the specified provisions of the Acts listed in the following table, replace “Children, Young Persons, and Their Families Act 1989” with “Oranga Tamariki Act 1989”.

Acts	Provisions
Adoption Act 1955 (1955 No 93)	Sections 2, 6
Adoption (Intercountry) Act 1997 (1997 No 109)	Section 2
Adult Adoption Information Act 1985 (1985 No 127)	Section 2
Bail Act 2000 (2000 No 38)	Sections 15, 34A
Births, Deaths, Marriages, and Relationships Registration Act 1995 (1995 No 16)	Section 21
Care of Children Act 2004 (2004 No 90)	Sections 8, 22, 23, 29A, 32, 46E, 56, 58, 131, 148
Child Support Act 1991 (1991 No 142)	Sections 8, 14, 25
Children, Young Persons, and Their Families Amendment Act (No 2) 2016 (2016 No 75)	Section 3
Children’s Commissioner Act 2003 (2003 No 121)	Sections 4, 11, 13, 19, 23, 31, 32
Contract and Commercial Law Act 2017 (2017 No 5)	Schedule 5
Coroners Act 2006 (2006 No 38)	Section 9
Corrections Act 2004 (2004 No 50)	Sections 3, 34A, 81A
Courts Security Act 1999 (1999 No 115)	Section 25
Crimes Act 1961 (1961 No 43)	Section 131A
Crimes of Torture Act 1989 (1989 No 106)	Section 16
Criminal Disclosure Act 2008 (2008 No 38)	Sections 6, 12, 13
Criminal Investigations (Bodily Samples) Act 1995 (1995 No 55)	Sections 4A, 8, 18, 21, 23, 24C, 24D, 24E, 24F, 26, 26A, 26B, 41B, 41C, 46, 57, 61A, 75
Criminal Procedure Act 2011 (2011 No 81)	Sections 7, 165, 173, 174, 175, 380
Criminal Records (Clean Slate) Act 2004 (2004 No 36)	Section 19
Department of Child, Youth and Family Services Act 1999 (1999 No 82)	Sections 3, 9, 10, 11
District Court Act 2016 (2016 No 49)	Sections 9, 19, 31, 45
Domestic Violence Act 1995 (1995 No 86)	Section 19
Education Act 1989 (1989 No 80)	Sections 18A, 22, 22A, 29, 92, 310
Electronic Transactions Act 2002 (2002 No 35)	Schedule
Evidence Act 2006 (2006 No 69)	Sections 56, 110
Families Commission Act 2003 (2003 No 128)	Section 13
Family Court Act 1980 (1980 No 161)	Sections 11, 11B, 11C, 12, 12A, 16A, 16D

Acts	Provisions
Family Proceedings Act 1980 (1980 No 94)	Section 2
Health Act 1956 (1956 No 65)	Section 22C
Health and Disability Services (Safety) Act 2001 (2001 No 93)	Section 8
Immigration Act 2009 (2009 No 51)	Sections 331, 332, 375
Income Tax Act 2007 (2007 No 97)	Sections HC 36, MB 13, MC 10, MD 6, YA 1
Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003 (2003 No 116)	Sections 5, 138
KiwiSaver Act 2006 (2006 No 40)	Section 4
Land Transport Act 1998 (1998 No 110)	Section 91A
Lawyers and Conveyancers Act 2006 (2006 No 1)	Section 47
Legal Services Act 2011 (2011 No 4)	Sections 4, 7, 8, Schedule 2
Parole Act 2002 (2002 No 10)	Sections 43, 91
Policing Act 2008 (2008 No 72)	Sections 34, 34A
Prisoners' and Victims' Claims Act 2005 (2005 No 74)	Sections 4, 18
Privacy Act 1993 (1993 No 28)	Schedule 2A
Protection of Personal and Property Rights Act 1988 (1988 No 4)	Section 2
Rates Rebate Act 1973 (1973 No 5)	Section 2
Search and Surveillance Act 2012 (2012 No 24)	Section 3, Schedule
Social Security Act 1964 (1964 No 136)	Sections 3, 40D, 75B, 157, 159
Social Security (Clothing Allowances for Orphans and Unsupported Children) Amendment Act 2015 (2015 No 58)	Section 4, new section 29B
Substance Addiction (Compulsory Assessment and Treatment) Act 2017 (2017 No 4)	Sections 4, 24, 33, 66, 78
Summary Proceedings Act 1957 (1957 No 87)	Sections 79, 88AE
Te Rarawa Claims Settlement Act 2015 (2015 No 79)	Section 217
Veterans' Support Act 2014 (2014 No 56)	Section 158
Victims' Rights Act 2002 (2002 No 39)	Sections 4, 35
Vulnerable Children Act 2014 (2014 No 40)	Sections 5, 15, 19, Schedule 1

Part 2

Amendments to legislative instruments consequential on change of Title of principal Act

In each place in the specified provisions of the legislative instruments listed in the following table, replace “Children, Young Persons, and Their Families Act 1989” with “Oranga Tamariki Act 1989”.

Legislative instruments	Provisions
Care of Children (Appointment of Additional Guardian by Parents) (Forms) Rules 2005 (SR 2005/97)	Schedule

Legislative instruments	Provisions
Children, Young Persons, and Their Families (Forms) Regulations 1989 (SR 1989/296)	Regulation 2, Schedule 1
Children, Young Persons, and Their Families (Minimum Rates of Payment for Board and Lodgings) Order 2017 (LI 2017/35)	Clause 3
Children, Young Persons, and Their Families (Residential Care) Regulations 1996 (SR 1996/354)	Regulation 2
Children, Young Persons, and Their Families Rules 1989 (SR 1989/295)	Rules 2, 3, Schedule 1
Corrections Regulations 2005 (SR 2005/53)	Regulation 175
Criminal Investigations (Bodily Samples) Regulations 2004 (SR 2004/53)	Schedule
Criminal Procedure Rules 2012 (SR 2012/415)	Rule 3.1
Crown Prosecution Regulations 2013 (SR 2013/178)	Regulation 3
District Court Rules 2014 (LI 2014/179)	Rule 1.5
Domestic Violence (General) Regulations 1996 (SR 1996/150)	Schedule
Domestic Violence Rules 1996 (SR 1996/148)	Schedule 1
Evidence Regulations 2007 (SR 2007/204)	Regulations 3, 22, 24
Family Court Rules 2002 (SR 2002/261)	Rules 5, 6, 8, 22, 25, 26, 28, 37, 52, 80, 104, 106, 107, 130, 136, 209, 220, 239, cross-heading above rule 274, 274, 416P, 427, Schedules 1, 4, 5, 9
Family Courts Fees Regulations 2009 (SR 2009/88)	Regulation 5A
Land Transport (Driver Licensing) Rule 1999 (SR 1999/100)	Rule 2
Legal Services Regulations 2011 (SR 2011/144)	Regulation 9B
National Civil Defence Emergency Management Plan Order 2015 (LI 2015/140)	Clause 70
Parental Leave and Employment Protection Regulations 2016 (LI 2016/68)	Regulations 6, 10, Schedule 2
Privacy (Information Sharing Agreement for Improving Public Services for Vulnerable Children) Order 2015 (LI 2015/162)	Clauses 3, 11, 13, Schedule
Sentencing Regulations 2002 (SR 2002/178)	Schedule
Social Security (Contracts and Information Sharing with Service Providers) Regulations 2012 (SR 2012/210)	Regulation 3
Social Security (Effect on Benefit of Warrant to Arrest—Excluded Beneficiaries) Regulations 2013 (SR 2013/249)	Regulation 5
Social Security (Exemptions under Section 105) Regulations 1998 (SR 1998/270)	Regulation 2
Social Security (Youth Support—Authorised Agencies) Order 2012 (SR 2012/209)	Clause 3

Schedule 4

Amendments to enactments

s 150

Accident Compensation Act 2001 (2001 No 49)

In section 283(1), replace “Department of Child, Youth and Family Services” with “department responsible for administering the Oranga Tamariki Act 1989”.

Corrections Act 2004 (2004 No 50)

In section 182C(b), replace “Department of Child, Youth and Family Services” with “department responsible for administering the Oranga Tamariki Act 1989”.

Education (2016 School Staffing) Order 2015 (LI 2015/190)

In the heading to clause 68, replace “**Child, Youth and Family students**” with “**Ministry for Vulnerable Children, Oranga Tamariki students**”.

In clause 68, replace “Child, Youth and Family students” with “Ministry for Vulnerable Children, Oranga Tamariki students”.

In the Schedule 6 heading, replace “**Child, Youth and Family students**” with “**Ministry for Vulnerable Children, Oranga Tamariki students**”.

Education (2017 School Staffing) Order 2016 (LI 2016/179)

In the heading to clause 68, replace “**Child, Youth and Family students**” with “**Ministry for Vulnerable Children, Oranga Tamariki students**”.

In clause 68, replace “Child, Youth and Family students” with “Ministry for Vulnerable Children, Oranga Tamariki students”.

In the Schedule 6 heading, replace “**Child, Youth and Family students**” with “**Ministry for Vulnerable Children, Oranga Tamariki students**”.

Education (Hostels) Regulations 2005 (SR 2005/332)

In regulation 58(4), replace “Department of Child, Youth and Family Services” with “department responsible for administering the Oranga Tamariki Act 1989”.

In regulation 70(2), replace “Department of Child, Youth and Family Services” with “department responsible for administering the Oranga Tamariki Act 1989”.

Education (Pastoral Care of International Students) Code of Practice 2016 (LI 2016/57)

In clause 22(c)(iv), replace “Child, Youth, and Family” with “the department responsible for administering the Oranga Tamariki Act 1989”.

In clause 25(1)(c), replace “Child, Youth and Family” with “the department responsible for administering the Oranga Tamariki Act 1989”.

**Social Security (Contracts and Information Sharing with Service Providers)
Regulations 2012 (SR 2012/210)**

In regulation 8(b)(ii), replace “Child, Youth and Family” with “the department responsible for administering the Oranga Tamariki Act 1989”.

In regulation 11(2)(b), replace “Child, Youth and Family” with “the department responsible for administering the Oranga Tamariki Act 1989”.

Legislative history

8 December 2016	Introduction (Bill 224–1)
13 December 2016	First reading and referral to Social Services Committee
13 June 2017	Reported from Social Services Committee (Bill 224–2)
29 June 2017	Second reading
5 July 2017	Committee of the whole House (Divided from Bill 224–2 as Bill 224–3)
6 July 2017	Third reading
13 July 2017	Royal assent

This Act is administered by the Ministry for Vulnerable Children, Oranga Tamariki.