

# **Children, Young Persons, and Their Families (Advocacy, Workforce, and Age Settings) Amendment Bill**

Government Bill

## **Explanatory note**

### **General policy statement**

#### *Introduction*

This Bill forms part of the Government's response to the Final Report of the Modernising Child, Youth and Family Expert Panel, released on 7 April 2016. It represents the first steps in reforming the system of services for responding to the needs of vulnerable children and young persons, and their families. The objectives of this Bill are to help achieve a child-centred system by—

- extending State responsibility for the care and protection of vulnerable young persons:
- ensuring that vulnerable children and young persons are able to express their views and have them considered as part of decision making in individual cases, and in the development of departmental services and policy:
- enabling enhanced access to appropriate specialist skills and expertise to respond to the needs of vulnerable children and young persons.

The key changes introduced by this Bill are—

- extending the provisions of the statutory care and protection system to young persons aged 17 years:
- embedding the views of children and young persons at an individual and a systemic level by strengthening obligations in the Children, Young Persons, and Their Families Act 1989 (the **CYPF Act**) to support the participation of children and young persons:
- supporting the establishment of independent advocacy services, with a particular focus on children and young persons in care, through a new duty imposed on the chief executive of the department administering the Act:

- enabling a broader range of professionals to perform a wider set of functions under the CYPF Act to help identify and meet the needs of vulnerable children and young persons.

These changes require amendments to the CYPF Act. The Bill also makes minor consequential amendments to the Vulnerable Children Act 2014 and the Crown Proceedings Act 1950.

#### *Context*

The Modernising Child, Youth and Family Expert Panel was established in April 2015 to develop a plan for the modernisation of the statutory care, protection, and youth justice agency. In response to the recommendations of the Panel's Final Report, the Government endorsed key elements of a reform programme. These key elements include creating a child-centred system with stronger system and organisational leadership and culture change. The Government also agreed to a new operating model with a single point of accountability for ensuring a coherent response for vulnerable children and young persons. Some of the specific features of the reform programme include—

- greater flexibility to deliver services via strategic partners:
- enabling a broader set of professionals to perform key functions under the CYPF Act:
- subject to further advice, the establishment of a permanent independent advocacy service providing systemic and individual advocacy for children and young persons in care.

It is intended that this Bill be followed by a larger and more complex set of legislative amendments to give effect to further elements of the reforms.

#### *Extending the provisions of the statutory care and protection system to 17-year-olds*

The Bill amends the definition of a young person in the CYPF Act to include 17-year-olds, for care and protection purposes. This extends to these young persons the support and services currently available through the care and protection system to young persons aged under 17 years. This change brings the CYPF Act into closer alignment with the United Nations Convention on the Rights of the Child, which applies to everyone under 18 years. The Bill also consequentially amends the Vulnerable Children Act 2014, which restates the definition of young person in the CYPF Act.

#### *Embedding the views of children and young persons at a systemic and an individual level*

To help ensure the views of children and young persons are taken into account at a systemic level, the Bill also amends the CYPF Act to place a duty on the chief executive to ensure that, wherever possible, departmental policies and services have regard to the views of children and young persons, including views received through the advocacy services.

The Bill amends the CYPF Act to include a duty to ensure that, for actions and decisions under the Act that may significantly affect a child or young person, the child or

young person is encouraged and assisted to participate in the matter. The duty also requires that the child or young person be supported to express his or her views freely where he or she faces barriers such as those relating to age, disability, or language. It also requires that any views that the child or young person expresses be taken into account in taking these actions and making these decisions. Responsibility for ensuring the duty is fulfilled rests with the person responsible for the corresponding proceeding or process. These persons can include a Judge or other person presiding at a court proceeding, a barrister or solicitor, a person responsible for convening a family group conference, a person preparing or reviewing a plan, or a person responsible for taking an action or making a decision. Strengthening obligations in the CYPF Act to support the participation of children and young persons helps to—

- emphasise the significance that should be accorded to the views of children and young persons:
- ensure that obtaining and considering these views is embedded within the core practices of the department.

*Supporting the establishment of independent advocacy services*

The Bill places a duty on the chief executive of the department administering the CYPF Act to ensure that, for children and young persons who are subject to any action or who are receiving any service under Parts 2 to 7 of the Act, services are available that provide an opportunity for them, and support them, to express their views on—

- matters that are important to them in relation to that action or service:
- the operation and effectiveness of processes and services under the Act for the purpose of contributing to improving these.

The new duty requires particular consideration to be given to the needs of children and young persons in care. To confer a degree of independence, the Bill specifies that advocacy services should operate independently from other services provided under the CYPF Act. This new duty is intended to establish within the new system an independent advocacy service for children and young persons, without constraining the design of the service, which is currently being developed in partnership with the philanthropic sector. Any additional legislative amendments to establish the advocacy service will be considered once the design of the service is more advanced.

*Enabling a wider range of professionals to have core roles in discharging functions under the CYPF Act*

The Bill amends the CYPF Act to vest in the chief executive of the department administering the Act those functions and powers currently residing with social workers. This provides greater ability for delegation to other professionals to play core roles in helping to identify and meet the needs of vulnerable children and young persons where they are equally or better placed to do so.

To reflect the intention that the core contribution of social workers in child protection and care and the youth justice system will continue, the Bill provides that where the chief executive is delegating functions and powers to anyone other than a social

worker, the chief executive must be satisfied that the person is appropriately qualified to perform the functions or exercise the powers, taking into account the person's training, experience, and interpersonal skills. In order to ensure that these functions are exercised in a competent, controlled, and transparent manner, the Bill additionally requires that,—

- if delegating outside of the State services, the chief executive must have in place contractual arrangements that are sufficient to support the appropriate exercise of the delegation:
- the chief executive must publicly notify each delegation on an Internet site and certain information about any delegation must continue to be available until the delegation is revoked.

These controls will also be extended to delegation of the chief executive's existing functions under the CYPF Act.

The CYPF Act currently requires a social worker approving a young person's detention in Police custody to be a senior social worker. The Bill requires that those functions that currently reside with a senior social worker be only undertaken by an employee of the department who is sufficiently senior to hold this responsibility. This is intended to retain the added protection that seniority, and employment by the department, provides for the use of these coercive powers of the State.

Requirements for social workers to provide reports to the court to support the making of certain orders are unchanged by this Bill, as there are similar provisions in the Care of Children Act 2004 and further consideration is required as to whether amending the CYPF Act provisions would be desirable.

The Bill provides that social workers may not subdelegate any powers or functions delegated to them by the chief executive on the basis that the framework has been designed so that social workers are able (as now) to perform those functions themselves, but the chief executive is enabled to delegate to another party to take on those functions. Under section 41 of the State Sector Act 1988, other Public Service employees or contractors working in the Public Service acting under delegation from the chief executive would be able to subdelegate those powers or functions to certain parties under certain circumstances. It is envisaged that subdelegation would occur rarely and would be primarily of value where the initial delegation was made to a person in a management role in another Public Service agency and the subdelegation is required to enable another person in that agency to actually perform the function under the CYPF Act.

The Bill also provides that people outside the Public Service acting under delegation from the chief executive have the same good faith immunity from liability in civil proceedings that Public Service employees have. This requires a consequential amendment to the Crown Proceedings Act 1950 to provide that the immunity will be disregarded in any civil proceedings against the Crown for the actions or omissions of the delegate.

### **Departmental disclosure statement**

The Ministry of Social Development is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2016&no=142>

### **Regulatory impact statement**

The Ministry of Social Development produced 3 regulatory impact statements in March and April 2016 to help inform the main policy decisions taken by the Government relating to the contents of this Bill. These are—

- Children, Young Persons, and Their Families Act age settings:
- Modernising Child, Youth and Family: Enhancing children and young people's participation:
- Modernising Child, Youth and Family: Vulnerable children workforce settings.

Copies of these regulatory impact statements can be found at—

- <http://www.msd.govt.nz/about-msd-and-our-work/publications-resources/regulatory-impact-statements/index.html>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

### **Clause by clause analysis**

*Clause 1* is the Title clause.

*Clause 2* is the commencement clause. The Bill will come into force on **31 March 2017**.

*Clause 3* identifies the principal Act amended by the Bill: the Children, Young Persons, and Their Families Act 1989 (the **Act**).

*Clause 4* amends section 2 of the Act by replacing the definition of young person so that it now includes persons who are 17 years old for care and protection purposes under the Act. The current age limit of 16 years continues to apply to provisions in the Act as specified, that broadly relate to criminal investigations or proceedings. For other enactments the current age limit of 16 years will continue to apply to criminal investigations and proceedings and for all other purposes the new age limit of 17 years will apply. The current limit that young person does not include a person who is or has been married or in a civil union continues to apply.

*Clause 5* replaces section 2A of the Act, which gives effect to transitional, savings, and related provisions that are contained in Schedule 1AA of the Act.

*Clause 6* amends section 7 of the Act to impose 2 new duties on the chief executive. *New paragraph (bb)* is inserted into section 7(2) and states that the chief executive must ensure that services are available to children and young persons who are subject

to any action or receiving any service under Parts 2 to 7 of the Act. Particular consideration is to be given by the chief executive to those who are in care, which is defined in *new subsection (4)*. The services are to provide those children and young persons with an opportunity and support to express their views about—

- matters that are important to them in relation to that action or service:
- the operation and effectiveness of processes and services under the Act, for the purpose of contributing to the improvement of these.

*New subsection (3)* states that the services must operate independently from other services provided under the Act.

*New paragraph (c)(iia)* is inserted into section 7(2) and provides that the chief executive must ensure that, wherever possible, all policies adopted by the department and all services provided by the department have regard to the views of children and young persons. Those views include the views received by the services referred to in *new paragraph (bb)*.

*Clause 7* inserts *new sections 7A to 7E* into the Act.

*New section 7A* relates to delegations made under section 41 of the State Sector Act 1988 by the chief executive of any functions or powers in the Act to social workers. Currently the Act provides that a large number of functions and powers are to be or may be performed or exercised by social workers. The Bill replaces the term social worker throughout the Act (with a few exceptions) with the term chief executive (*see Schedule 2*). Therefore, once the Bill is passed any functions or powers under the Act that are to be performed or exercised by social workers (with a few exceptions) will need to be delegated to them by the chief executive. *New section 7A* provides that a delegation by the chief executive to a social worker is subject to 2 further requirements. A function or power cannot be subdelegated, and *new section 7D* applies, requiring that any delegation be publicly notified.

*New section 7B* states that a delegation made under section 41 of the State Sector Act 1988 by the chief executive of any functions or powers in the Act to a person who is not a social worker is subject to additional requirements in *new section 7C* and that *new sections 7D and 7E* apply. *New section 7C* sets out 2 matters the chief executive must be satisfied of before making any delegation. These relate to requirements for appropriate qualifications and skills, and, for those outside the State services, having contractual obligations that are sufficient to support the exercise of the delegation. *New section 7D* requires any delegation to be publicly notified. *New section 7E* provides the same immunity for delegates outside the Public Service as exists for Public Service chief executives and employees under section 86 of the State Sector Act 1988.

*Clause 8* replaces section 11 of the Act relating to the participation of children and young persons in proceedings and certain processes under the Act. Certain persons must encourage or assist children and young persons to participate in certain proceedings and processes (subject to their age and level of maturity) and give them reasonable opportunities to express their views on matters affecting them. A new duty ap-

plies if a child or young person has difficulties in expressing his or her views or being understood. In those circumstances, certain persons must ensure that support is provided to the child or young person to assist him or her to express his or her views and to be understood (*see new section 11(2)(c)*). The views of children and young persons must be taken into account in the proceedings or processes. *New section 11(3)* specifies the persons who are responsible in different proceedings or processes for either performing those duties or being satisfied, before undertaking any proceeding or process, that the duties have been performed by another person.

*Clause 9* and *Schedule 1* amend Schedule 1AA of the Act, which contains transitional, savings, and related provisions.

*Clause 10* refers to *Schedule 2* of the Bill, which contains consequential and other amendments to the Act.

*Clause 11* refers to *Schedule 3* of the Bill, which contains consequential amendments to 2 other Acts.





*Hon Anne Tolley*

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### **Schedule 1**

#### **Schedule 1AA amended**

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

<b>1</b>	<b>Title</b>		
		This Act is the Children, Young Persons, and Their Families (Advocacy, Workforce, and Age Settings) Amendment Act <b>2016</b> .	
<b>2</b>	<b>Commencement</b>		5
		This Act comes into force on <b>31 March 2017</b> .	
<b>3</b>	<b>Principal Act</b>		
		This Act amends the Children, Young Persons, and Their Families Act 1989 (the <b>principal Act</b> ).	
<b>4</b>	<b>Section 2 amended (Interpretation)</b>		10
		In section 2(1), replace the definition of <b>young person</b> with:	
		<b>young person,—</b>	
	(a)	in Parts 2 to 3A, means a person of or over the age of 14 years but under the age of 18 years:	
	(b)	in Parts 4 and 5, means a person of or over the age of 14 years but under the age of 17 years:	15
	(c)	in every other provision in this Act, means a person to whom the provision applies because he or she is or was a young person within the meaning of either <b>paragraph (a) or (b)</b> :	
	(d)	in any provision in any other enactment that defines the term young person by reference to this section or the meaning in this Act,—	20
	(i)	has the meaning given in <b>paragraph (b)</b> if the provision relates to—	
	(A)	a criminal investigation, the commission of an offence, or criminal proceedings; or	25
	(B)	any process associated with a criminal investigation, the commission of an offence, or criminal proceedings; or	
	(C)	Parts 4 and 5 of this Act; or	
	(ii)	in any other case, has the meaning given in <b>paragraph (a)</b> :	
	(e)	does not include a person who is or has been married or in a civil union	30

**5 Section 2A replaced (Transitional and savings provisions relating to amendments to this Act)**

Replace section 2A with:

**2A Transitional, savings, and related provisions**

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms. 5

**6 Section 7 amended (Duties of chief executive)**

(1) In section 7(2), replace “shall” with “must”.

(2) After section 7(2)(ba), insert:

(bb) ensure that services are available to children and young persons who are subject to any action or receiving any service under Parts 2 to 7 (with particular consideration to be given to the needs of those in care) that provide them with an opportunity and support to express their views about— 10

(i) matters that are important to them in relation to that action or service; and 15

(ii) the operation and effectiveness of processes and services under this Act, for the purpose of contributing to the improvement of these:

(3) After section 7(2)(c)(ii), insert: 20

(iia) have regard to the views of children and young persons, including the views received by the services referred to in **subsection (2)(bb)**:

(4) After section 7(2), insert:

(3) The services referred to in **subsection (2)(bb)** must operate independently from other services provided under this Act. 25

(4) In this section, **in care** means—

(a) placed or detained in the custody or care of the chief executive, a person, a body, or an organisation under this Act; or

(b) remanded in the custody of the chief executive under section 173 or 174 of the Criminal Procedure Act 2011; or 30

(c) detained in a residence under section 34A of the Corrections Act 2004.

**7 New sections 7A to 7E inserted**

After section 7, insert:

<b>7A</b>	<b>Delegations made under section 41 of State Sector Act 1988 to social workers</b>	
(1)	A delegation made under section 41 of the State Sector Act 1988 by the chief executive of any of the functions or powers in the Act to a social worker is subject to this section.	5
(2)	Despite section 41(2) of that Act, a social worker may not subdelegate any functions or powers delegated to him or her.	
(3)	<b>Section 7D</b> applies to any delegation made to a social worker.	
<b>7B</b>	<b>Delegations made under section 41 of State Sector Act 1988 to persons who are not social workers</b>	10
	A delegation made under section 41 of the State Sector Act 1988 by the chief executive of any of the functions or powers in the Act to a person who is not a social worker is subject to <b>section 7C</b> , and <b>sections 7D and 7E</b> apply to the delegation.	
<b>7C</b>	<b>Matters chief executive must consider before delegating to persons who are not social workers</b>	15
(1)	This section applies to a delegation referred to in <b>section 7B</b> .	
(2)	Before making a delegation to a person who is not a social worker, the chief executive must be satisfied that, in addition to any relevant requirements of section 41 of the State Sector Act 1988 being met,—	20
(a)	the person is appropriately qualified to perform the function or exercise the power, taking into account the person’s training, experience, and interpersonal skills; and	
(b)	if the person is outside the State services, the person will be bound by contractual obligations that are sufficient to support the appropriate exercise of the delegation.	25
<b>7D</b>	<b>Delegations to be publicly notified</b>	
(1)	The delegations referred to in <b>sections 7A and 7B</b> must be publicly notified, and information about all delegations must be made available on an Internet site maintained by the department until, in any case, the delegation is revoked.	30
(2)	The information required to be made available must include, in each case,—	
(a)	a description of the delegate, although the description need not identify any particular individual to whom the delegation is made but may instead give other identifying particulars, for example, the name of the specified office to which the delegation is made; and	35
(b)	a description of the function or power that has been delegated; and	
(c)	a reference to the provision in this Act that provides for the function or power that has been delegated.	

(3) A failure to notify a delegation does not affect its validity.

**7E Immunity for delegates outside Public Service**

Section 86 of the State Sector Act 1988 applies to a person outside the Public Service acting under a delegation referred to in **section 7B** as if the person is a Public Service employee.

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**8 Section 11 replaced (Duty of court and counsel to encourage and assist child or young person to participate in proceedings)**

Replace section 11 with:

**11 Child's or young person's participation and views**

- (1) This section applies to the following proceedings and processes: 10
- (a) proceedings under this Act in a District Court, Family Court, or Youth Court (all being first instance courts) and proceedings in the High Court, Court of Appeal, or Supreme Court on an appeal (other than on a point of law only) against a decision, finding, or order under this Act of a first instance court: 15
  - (b) proceedings of a family group conference convened under this Act:
  - (c) the preparation or review of a plan for a child or young person (a **planning process**) under this Act:
  - (d) the taking of any other action or making of any other decision (any **other process**) under this Act that would or does significantly affect a child or young person who is the subject of that process. 20
- (2) In proceedings or a process to which this section applies,—
- (a) the child or young person must be encouraged and assisted to participate in the proceedings or process to the degree appropriate for his or her age and level of maturity unless, in the view of a person specified in **subsection (3)**, that participation is not appropriate, having regard to the matters to be heard or considered; and 25
  - (b) the child or young person must be given reasonable opportunities to freely express his or her views on matters affecting him or her; and
  - (c) if a child or young person has difficulties in expressing his or her views or being understood (for example, because of his or her age or language, or because of a disability), support must be provided to assist him or her to express his or her views and to be understood; and 30
  - (d) any views that the child or young person expresses (either directly or through a representative) must be taken into account. 35
- (3) The following persons must either perform the duties imposed by **subsection (2)(a) to (c)** or be satisfied, before undertaking any proceeding or process involving the child or young person, that those duties have been performed by another person:

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(a)	for proceedings before a court, the Judge or other person presiding and the barrister or solicitor representing the child or young person:	
(b)	for proceedings of a family group conference, the person responsible for convening the conference:	
(c)	for a planning process, the person directed by the court to prepare or re-view the plan:	5
(d)	for any other process, the person responsible for taking the action or making the decision.	
(4)	This section is not limited by section 5(d) (which sets out a principle relating to ascertaining, considering, and giving weight to the wishes of the child or young person).	10
(5)	In this section, <b>support</b> includes support from a member of the child’s or young person’s family group or other person supporting the child or young person, a specialist service provider, or any other service under this Act.	
<b>9</b>	<b>Schedule 1AA amended</b>	15
(1)	Replace the Schedule 1AA heading with:	
<b>Schedule 1AA</b> <b>Transitional, savings, and related provisions</b>		
<b>s 2A</b>		
(2)	In Schedule 1AA, replace clauses 1 and 2 with the <b>Parts 1 and 2</b> set out in <b>Schedule 1</b> of this Act.	20
<b>10</b>	<b>Consequential and other amendments to principal Act</b> Amend the principal Act as set out in <b>Schedule 2</b> .	
<b>11</b>	<b>Consequential amendments to other Acts</b> Amend the Acts specified in <b>Schedule 3</b> as set out in that schedule.	25

**Schedule 1**  
**Schedule 1AA amended**

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<b>Part 1</b>	
<b>Provisions relating to Children, Young Persons, and Their Families Amendment Act (No 2) 2013</b>	
<b>1</b>	<b>Application of sections 311, 314, and 317 (supervision with residence orders: early release from custody)</b>
	Sections 311, 314, and 317, as those sections are amended by the Children, Young Persons, and Their Families Amendment Act (No 2) 2013, apply to a supervision with residence order under section 311(1)—
	(a) that was made, and that had not expired, before that Act's commencement; or
	(b) made after that Act's commencement.
<b>2</b>	<b>Adjournment date of pre-commencement supervision with residence orders</b>
	Section 314 as amended by the Children, Young Persons, and Their Families Amendment Act (No 2) 2013 applies to an order specified in clause (1)(a) as if the adjournment date under section 311(2A)(a) (as in force before that Act's commencement) were the adjournment date under section 311(2A)(a) (as in force after that commencement).
<b>Part 2</b>	
<b>Provisions relating to Children, Young Persons, and Their Families Amendment Act 2016</b>	
	The references to a social worker in sections 18D, 68, 69, 125(1A), 128(4)(e)(i), 206A(4)(b)(ii), 296E(2)(b) and (d), and 386(1) immediately before this schedule comes into force must be treated as references to the chief executive.

**Schedule 2**  
**Consequential and other amendments to principal Act**

**s 10**

**Section 14 (as amended by section 7 of the Children, Young Persons, and Their Families (Vulnerable Children) Amendment Act 2014)** 5

In section 14(1)(ba), replace “a social worker” with “the chief executive”.

**Section 15**

In section 15, replace “a social worker” with “the chief executive”.

**Section 17**

Replace section 17 with: 10

**17 Investigation of report of ill-treatment or neglect of child or young person**

(1) If the chief executive or a constable receives a report under section 15 relating to a child or young person, he or she must,—

(a) as soon as practicable after receiving the report, if it appears that an investigation is necessary or desirable, commence an investigation or arrange for an investigation to be commenced into the matters contained in the report; and 15

(b) as soon as practicable after an investigation has commenced, consult a care and protection resource panel in relation to the investigation; and

(c) unless it is impracticable or undesirable to do so, as soon as practicable after a decision is made not to investigate or the investigation has concluded, inform the person who made the report— 20

(i) whether the report has been investigated; and

(ii) if so, whether any further action has been taken.

(2) If, after an investigation, the chief executive or constable reasonably believes that the child or young person is in need of care or protection, he or she must, as soon as practicable, notify a care and protection co-ordinator in accordance with section 18. 25

**Section 18**

In the heading to section 18, replace “social workers or constables” with “chief executive or constable”. 30

Replace section 18(1) and (2) with:

(1) If the chief executive or a constable believes, after inquiry, that any child or young person is in need of care or protection (otherwise than on the ground specified in section 14(1)(ba) or (e)), he or she must immediately report the 35



**Section 18**—*continued*

matter to a care and protection co-ordinator, who must convene a family group conference under section 20.

- (2) If the chief executive suspects that any child is in need of care or protection on the ground specified in section 14(1)(e), the chief executive may refer the matter to the appropriate enforcement agency.

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**Section 18A (as inserted by section 9 of the Children, Young Persons, and Their Families (Vulnerable Children) Amendment Act 2014)**

In section 18A(2), replace “a social worker” with “the chief executive”.

In section 18A(2), replace “social worker” with “chief executive”.

In section 18A(4)(a) and (b), replace “social worker” with “chief executive”.

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In section 18A(5), replace “social worker” with “chief executive” in each place.

In section 18A(7)(a), delete “by a social worker”.

In section 18A(7)(a)(ii), replace “social worker” with “chief executive”.

**Section 18C (as inserted by section 9 of the Children, Young Persons, and Their Families (Vulnerable Children) Amendment Act 2014)**

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In section 18C(1)(b), delete “, signed by the social worker,”.

In section 18C(1)(b), replace “social worker’s” with “chief executive’s”.

In section 18C(4)(a), replace “social worker’s” with “chief executive’s”.

In section 18C(4)(b), replace “social worker’s” with “chief executive’s”.

In section 18C(4)(d), replace “social worker” with “chief executive”.

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In section 18C(5), replace “a social worker” with “the chief executive”.

**Section 18D (as inserted by section 9 of the Children, Young Persons, and Their Families (Vulnerable Children) Amendment Act 2014)**

In section 18D, replace “a social worker’s” with “the chief executive’s”.

In section 18D(a), delete “made by the chief executive”.

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In section 18D(a), delete “, as if leave of the court had been granted under section 68(c)”.

**Section 19**

In section 19(3), replace “a social worker” with “the chief executive”.

**Section 22**

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In section 22(1)(d), replace “from a social worker or a constable, that social worker or constable, or any social worker or constable who is acting for that person” with “, the person who made the report (or any person who is acting for him or her)”.

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Schedule 2

**Section 30**

In section 30(1)(a), replace “from a social worker or a constable” with “made under that section”.

In section 30(1)(a)(i), replace “that social worker or constable (or any person acting for that social worker or that constable)” with “the person who made the report (or any person acting for him or her)”.

In section 30(1)(a)(ii), replace “that social worker or constable (or any person acting for that social worker or that constable)” with “the person who made the report (or any person acting for him or her)”.

**Section 31**

In section 31(1)(c)(i), replace “from a social worker or a constable, make a report on the matter to that social worker or constable” with “made under that section, report on the matter to the person who made the report”.

In section 31(1)(c)(ii), replace “a social worker” with “the chief executive”.

Replace section 31(2) with:

(2) If a care and protection co-ordinator makes a report under subsection (1)(c)(i) or (ii), the chief executive or a constable may take any action under this Act that he or she considers appropriate.

**Section 33**

In section 33(2)(c), replace “any social worker” with “the chief executive”.

**Section 34**

In section 34(1), replace “to which the agreement of a social worker” with “for which agreement”.

**Section 36 (as amended by section 16 of the Children, Young Persons, and Their Families (Vulnerable Children) Amendment Act 2014)**

In section 36(1)(b), replace “a social worker” with “the chief executive”.

In section 36(1A)(a), replace “social worker” with “chief executive”.

In section 36(1B), replace “A social worker” with “The chief executive”.

In section 36(1B), replace “social worker” with “chief executive”.

**Section 39**

In section 39(1), replace “a social worker, either by name or generally,” with “the chief executive or any other person named in the warrant”.

In section 39(2), replace “a social worker” with “the chief executive”.

**Section 40**

In section 40(1)(b), replace “a social worker, either by name or generally,” with “the chief executive or any other person named in the warrant”.

In section 40(2), replace “a social worker” with “the chief executive”.

**Section 43**

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In section 43(1)(d), replace “a social worker” with “the chief executive”.

**Section 47**

In the heading to section 47, replace “**Social worker or constable to furnish report**” with “**Report to be furnished**”.

In section 47(1), replace “social worker” with “chief executive”.

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In section 47(2)(f), replace “social worker” with “chief executive”.

**Section 48**

In section 48(1)(b), replace “a social worker” with “the chief executive”.

In section 48(2), replace “a social worker” with “the chief executive”.

In section 48(3), replace “17 years” with “18 years”.

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**Section 49**

In section 49(2), replace “a social worker” with “the chief executive”.

**Section 53**

In the heading to section 53, replace “**social worker**” with “**chief executive**”.

In section 53(2), replace “A social worker” with “The chief executive”.

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In section 53(3), replace “a social worker” with “the chief executive” in each place.

**Section 54**

In section 54(a), replace “a social worker” with “the chief executive”.

**Section 56**

In section 56, replace “social worker by whom the examination was arranged or required, as the case may be” with “person who arranged or required the examination”.

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**Section 57**

Replace the heading to section 57 with “**Report to chief executive following medical examination**”.

In section 57, replace “A social worker” with “The person”.

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**Section 59**

Replace section 59(1) with:

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**Section 59**—*continued*

- (1) Subject to subsection (4), the chief executive or a constable may apply to the court for an order requiring a person to produce a document for inspection by him or her if—
- (a) he or she believes on reasonable grounds that any person has, in that person's possession, custody, or power, any document that contains, or he or she thinks is likely to contain, information necessary or relevant for the purpose of determining whether any child or young person is in need of care or protection (otherwise than on the ground specified in section 14(1)(e)); and 5
  - (b) that person has refused to allow that document to be inspected. 10

**Section 63**

In section 63, replace “social worker or constable” with “person”.

**Section 64**

In section 64, replace “social worker or constable” with “person”.

**Section 65**

In section 65(1), replace “to any social worker or constable shall be” with “is”. 15

**Section 66**

In section 66(1), replace “every care and protection co-ordinator, social worker, or” with “a care and protection co-ordinator, the chief executive, or a”.

**Section 68**

In section 68(a), replace “a social worker” with “the chief executive”. 20

**Section 69**

In section 69, replace “a social worker or constable” with “the chief executive or a constable”.

**Section 82**

In section 82(6)(a), replace “any social worker acting under the specific or general authority of that person” with “the chief executive”. 25

**Section 85**

In section 85(1)(a), replace “a social worker” with “the chief executive”.

**Section 94**

Repeal section 94. 30

**Section 95**

In section 95, delete “directing a person or organisation specified in the order to provide support to a child or young person”.

In section 95(a), replace “social worker” with “chief executive”.

In section 95(b), replace “that social worker” with “the chief executive”. 5

In section 95(c), replace “social worker” with “chief executive”.

In section 95(d), replace “social worker” with “chief executive”.

**Section 97**

In section 97(1), replace “directing any person or organisation to provide support” with “relating”. 10

In section 97(1), replace “social worker” with “chief executive”.

**Section 104**

In section 104(2), replace “any constable or any social worker” with “the chief executive or any constable”.

**Section 105** 15

In section 105(1)(b), replace “any social worker, acting with the specific or general authority of the chief executive,” with “the chief executive”.

In section 105(1)(c), replace “any social worker, acting with the specific or general authority of the chief executive,” with “the chief executive”.

In section 105(1)(c), replace “social worker” with “chief executive”. 20

In section 105(1)(d), replace “any social worker, acting with the specific or general authority of the chief executive,” with “the chief executive”.

In section 105(1)(d), replace “social worker” with “chief executive”.

In section 105(2), replace “a social worker” with “the chief executive”.

In section 105(3), replace “social worker” with “person”. 25

**Section 106**

In section 106(1)(b), replace “any social worker or any constable” with “the chief executive or any constable”.

In section 106(1)(b), replace “any social worker or constable” with “the chief executive or that constable”. 30

In section 106(2), replace “any social worker or constable” with “the chief executive or the constable”.

**Section 108**

In section 108(c), replace “17 years” with “18 years”.

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**Section 113B (as inserted by section 22 of the Children, Young Persons, and Their Families (Vulnerable Children) Amendment Act 2014)**

In section 113B(5)(a), replace “a social worker” with “the chief executive”.

**Section 122**

In section 122(1), replace “any social worker or any constable” with “any constable or the chief executive”. 5

**Section 123**

In section 123, replace “any social worker or constable” with “any constable or the chief executive”.

**Section 125 (as amended by section 23 of the Children, Young Persons, and Their Families (Vulnerable Children) Amendment Act 2014)** 10

In section 125(1A)(a), delete “a social worker,”.

**Section 128**

In section 128(4)(e)(i), delete “or a social worker”.

**Section 129** 15

In section 129(1A)(b), replace “a social worker” with “a delegate of the chief executive”.

**Section 157**

In section 157(2), replace “any social worker or any constable” with “any constable or the chief executive”. 20

**Section 166**

In section 166(1)(l), replace “any social worker” with “the chief executive”.

**Section 179**

In section 179(4)(a), replace “a social worker” with “the chief executive”.

**Section 181** 25

In section 181(4)(a), replace “a social worker” with “the chief executive”.

**Section 187**

In section 187(2)(f), replace “any social worker” with “the chief executive”.

**Section 205**

In section 205(2)(b), replace “any social worker or constable” with “any constable or the chief executive or any other person named in the warrant”. 30

**Section 206A**

Repeal section 206A(4)(b)(ii).

**Section 207B**

In section 207B, definition of **young person**, paragraph (a), replace “17 years” with “18 years”. 5

**Section 207F**

In section 207F(1)(c), delete “or a social worker”.

**Section 235**

In section 235(2)(a), replace “a social worker” with “the chief executive”.

In section 235(2)(b), replace “social worker” with “chief executive”. 10

In section 235(3), replace “a social worker” with “the chief executive” in each place.

**Section 236**

In section 236(1), replace “a senior social worker” with “the chief executive”.

In section 236(1), replace “that senior social worker” with “the chief executive”.

In section 236(2), replace “Where a senior social worker and a constable issue a joint certificate” with “If a joint certificate is issued”. 15

In section 236(2), replace “by the senior social worker to the chief executive” with “by the chief executive to a person appointed by the chief executive”.

After section 236(2), insert:

(3) Any delegation by the chief executive of a function or power under this section must be made to a senior employee or senior employees of the department. 20

**Section 238**

In section 238(1)(c), replace “a social worker” with “the chief executive”.

**Section 242**

In section 242(1)(b), replace “a senior social worker” with “the chief executive”. 25

After section 242(2), insert:

(3) Any delegation by the chief executive of a function or power under this section must be made to a senior employee or senior employees of the department.

**Section 251**

In section 251(1)(h), replace “a social worker” with “the chief executive”. 30

In section 251(1)(n), replace “social worker” with “chief executive”.

**Section 266**

In section 266(2)(c), replace “any social worker” with “the chief executive”.

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**Section 270 (as amended by section 35 of the Children, Young Persons, and Their Families (Vulnerable Children) Amendment Act 2014)**

In section 270(1A)(a), replace “a social worker” with “the chief executive”.

In section 270(1B), replace “A social worker” with “The chief executive”.

**Section 295** 5

In section 295(1), replace “a social worker or constable” with “the chief executive or a constable”.

**Section 296B**

In section 296B(1)(a), replace “a social worker” with “the chief executive”.

In section 296B(1)(d), replace “a social worker” with “the chief executive”. 10

**Section 296E**

In section 296E(2)(b), replace “a social worker” with “the chief executive”.

In section 296E(2)(d), replace “a social worker” with “the chief executive”.

**Section 296H**

In section 296H, replace “from time to time appoint a social worker to supervise the young person on behalf of the chief executive” with “supervise the young person”. 15

**Section 296I**

In section 296I(b), replace “social worker” with “chief executive”.

In section 296I(b)(ii), replace “social worker” with “chief executive”.

**Section 296L** 20

In section 296L(1), replace “A constable or social worker” with “The chief executive or a constable”.

In section 296L(1), replace “constable or social worker” with “chief executive or constable”.

**Section 298** 25

In section 298(2)(b)(i), replace “a social worker” with “the chief executive”.

**Section 304**

In section 304, replace “shall from time to time appoint a social worker to supervise the young person on behalf of the chief executive” with “must supervise the young person”. 30

**Section 305**

In section 305(a), replace “social worker” with “chief executive”.

In section 305(b), replace “social worker” with “chief executive” in each place.



**Section 305**—*continued*

In section 305(c), replace “that social worker” with “the chief executive”.

In section 305(d), replace “that social worker” with “the chief executive”.

In section 305(e), replace “social worker” with “chief executive”.

In section 305(f), replace “social worker” with “chief executive”.

**Section 306**

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In section 306(1)(a), replace “social worker” with “chief executive”.

**Section 308B**

In section 308B(2), replace “a social worker or constable” with “the chief executive or a constable”.

**Section 308C**

10

In section 308C(1), replace “a social worker” with “the chief executive”.

In section 308C(3)(b), replace “social worker” with “chief executive”.

In section 308C(4), replace “social worker” with “chief executive”.

**Section 312**

In section 312(2), replace “any constable or any social worker” with “the chief executive or any constable”. 15

**Section 318**

In section 318(1), replace “any constable or any social worker” with “the chief executive or any constable”.

In section 318(2), replace “Every constable or social worker or other person” with “Any person”. 20

**Section 320**

In section 320(1), replace “social worker” with “chief executive”.

**Section 329**

In section 329(1)(i), replace “any social worker” with “the chief executive”. 25

**Section 335**

In section 335(2)(b), replace “a social worker” with “the chief executive”.

**Section 373**

In section 373(1)(j), replace “any social worker” with “the chief executive”.

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**Section 385**

In section 385(2), replace “any constable or a social worker” with “the chief executive or any constable”.

In section 385(4), replace “a social worker” with “the chief executive”.

**Section 386**

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In section 386(1), replace “a social worker” with “the chief executive”.

In section 386(1), replace “or social worker” with “or the chief executive or any other person named in the warrant”.

**Section 400**

In section 400(1), replace “Any social worker or other officer of the department authorised by the” with “The”. 10

In section 400(2), replace “Every social worker or officer of the department” with “The person”.

**Section 401**

In section 401(1), delete “a social worker or other officer of the department authorised by”. 15

In section 401(2), replace “Every social worker or officer shall give reasonable notice of that person’s intention to enter any premises pursuant to subsection (1)(a)” with “A person intending to enter any premises must give reasonable notice of his or her intention to do so”. 20

In section 401(3), replace “Every social worker or officer shall, on entering any premises under this section, and when requested” with “The person must on entering any premises, and if requested”.

In section 401(4), replace “Any social worker or officer” with “The person”.

**Section 408**

25

In section 408(1), replace “Any social worker or other officer of the department authorised by the” with “The”.

In section 408(2), replace “Every social worker or officer of the department” with “The person”.

**Section 409**

30

In section 409(1), delete “a social worker or other officer of the department authorised by”.

Replace section 409(2) with:

(2) A person intending to enter any premises must give reasonable notice of his or her intention to do so to the service concerned. 35

**Section 409**—*continued*

In section 409(3), replace “Every social worker or officer shall” with “The person must”.

In section 409(4), replace “Any social worker or officer” with “The person”.

**Section 429**

In section 429(a), after “to provide advice to social workers,”, insert “other delegates of the chief executive,”. 5

**Section 438**

In section 438(2)(a)(ii), after “social workers”, insert “, or other delegates of the chief executive”.

**Section 445A**

10

In section 445A, replace “Every social worker, constable, or other person” with “Any person”.

**Section 446**

In section 446(2)(d), after “any social worker or other officer of the department”, insert “or delegate of the chief executive”. 15

**Schedule 3**  
**Consequential amendments to other Acts**

**s 11**

**Crown Proceedings Act 1950 (1950 No 54)**

After section 6(4A)(a), insert:

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- (ab) in relation to delegates performing functions or exercising powers of the chief executive under the Children, Young Persons, and Their Families Act 1989, a court may find the Crown liable in tort for the actions or omissions of those delegates; and

**Vulnerable Children Act 2014 (2014 No 40)**

10

In section 15(1), definition of **child**, replace paragraph (b) with:

- (b) a young person as defined in **paragraphs (a) and (e)** of the definition of young person in section 2(1) of the Children, Young Persons, and Their Families Act 1989 (because the person is,—
  - (i) for the purposes of Parts 2 to 3A of that Act, a person of or over the age of 14 years but under the age of 18 years; and
  - (ii) not a person who is or has been married or in a civil union)

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