

**CHILDREN, YOUNG PERSONS, AND THEIR FAMILIES  
(TRANS-TASMAN TRANSFER OF PROTECTION  
ORDERS AND PROCEEDINGS) AMENDMENT BILL**

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AS REPORTED FROM THE SOCIAL SERVICES COMMITTEE

**COMMENTARY**

**Recommendation**

The Social Services Committee has examined the Children, Young Persons, and Their Families (Trans-Tasman Transfer of Protection Orders and Proceedings) Amendment Bill and recommends that it be passed with the amendments shown in the bill.

**Conduct of the examination**

The Children, Young Persons, and Their Families (Trans-Tasman Transfer of Protection Orders and Proceedings) Amendment Bill was referred to the Social Services Committee on 1 June 1999. The closing date for submissions was 2 July 1999. We received and considered four submissions from interested groups and individuals, none of whom wished to be heard. Consideration took approximately one hour. We received advice from the Department of Social Welfare.

This commentary sets out the details of our consideration of the bill and the major issues we addressed.

**Background**

In 1996 representatives from New Zealand and Australian government child welfare agencies met and discussed difficulties that they had been experiencing with the movement of children and young persons, who had been declared to be in need of care or protection or were the subject of such proceedings, between New Zealand and Australia. Such movement could occur without the relevant agencies being aware of it.

Differences in the legislative provisions in the various Australian States and territories and in New Zealand meant that consistent care, support and protection responsibilities were not in place. Subsequently, as a result of meetings between Ministers and government agencies, it was agreed that a protocol for the transfer

of children who are subject to child protection orders or proceedings would come into effect on 1 November 1999. It was also agreed that the legislation in New Zealand and Australia would be changed to enable the transfer of protection orders and protection proceedings. A model bill has been developed by the Office of the Chief Parliamentary Counsel in Victoria, containing provisions which each jurisdiction is expected to enact and other optional provisions. The model bill and accompanying protocol were approved by the Australian Community Services Ministers Council on 5 August 1999.

### **Purpose of the bill**

The bill proposes to amend the Children, Young Persons, and Their Families Act 1989 (CYPF Act). In particular, a new Part 3A, comprising sections 207A to 207ZK, will be introduced to provide for the transfer of protection orders and proceedings between New Zealand and the States and territories of Australia.

The bill aims to provide consistency of care, support and protection for children and young persons who have come to the notice of statutory child welfare agencies in New Zealand and Australia and who move between the two countries in accordance with the agreement of the respective agencies. The statutory child welfare agency in New Zealand is the Department of Social Welfare through the Children, Young Persons and Their Families Agency (CYPFA) and each Australian State and territory has its own designated statutory child welfare authority.

### **The protocol**

A protocol between New Zealand and Australia has been developed to support the legislation. The protocol outlines the general principles for the transfer of protection orders and proceedings. The general principles are:

- decisions regarding the transfer of orders and proceedings should be made in accordance with each State's case planning principles;
- the interests of the child are paramount;
- delay is contrary to the interests of the child and should, where possible, be minimised;
- planning an interstate placement, whether the child or young person is subject to a protection order or not, should include the thorough involvement of the receiving State prior to the placement; and
- a protection order should generally be enforceable and effective pursuant to the child protection legislation of the State where the child resides.

### **Issues arising in submissions and committee's consideration**

#### **Transfer of protection orders from New Zealand by the Director-General**

New sections 207C to 207H will allow the Director-General to transfer a protection order to a participating Australian State. The mechanism for the transfer of a protection order is that the order itself is not transferred but a similar order is registered in the receiving State.

The CYPF Act and CYPFA Standing Committee of the New Zealand Law Society Family Law Section was supportive of the legislation's objectives.

However, the standing committee expressed concern that the new sections 207C to 207H and 207V give administrative powers to the Director-General of Social Welfare to transfer and register orders. The standing committee would prefer that the Court make these decisions. The standing committee also preferred that

any transfer to Australia of a child or young person who is the subject of a protection order should be preceded by a Court review of the plan relating to the child or young person, and by the Court approving an updated plan for the child or young person.

The standing committee argued that all orders under the CYPF Act are subject to ongoing Court review and that the children and young people are therefore continually under the Court “umbrella”. If only the Court had the power to transfer and register orders then there would be an assurance that there was input from counsel for the child and a focus on the child’s wishes and best interests.

We note that, when seeking to transfer a protection order, the Director-General must have regard to principles 5, 6, and 13 of the CYPF Act and to the planning matters in section 130, which are the same matters that a Court review considers. Any decision made about the child or young person must be in the best interests of the child or young person. These conditions must be met whether the decision is made by the Court or by the Director-General.

One of the main aims of the new arrangement is to make things happen for children in a practical sense and within reasonably quick timeframes. Some of the cases dealt with can be complex and made more difficult by parents using the Court system in order to delay decisions that are in the best interests of the child or young person. Having Court transfers only would likely extend the time it takes for transfers to take place. This will often be contrary to the best interests of the child or young person and the principle in section 5 (f) of the CYPF Act: that decisions affecting children and young persons should be made and implemented within a timeframe appropriate to the child’s or young person’s sense of time.

The protocol that will accompany the legislation allows for wide consultation on any decision to transfer a child or young person to Australia. This consultation will include appraising the Court of what is happening for the child or young person, and consulting with other significant persons such as counsel for the child or young person.

Therefore we do not recommend that the bill be amended.

### **Transfer of protection proceedings from New Zealand by order of Court**

Sections 207O to 207U deal with the transfer, by a Court, of any protection proceedings pending in the Court, to the Children’s Court in a participating Australian State if:

- the Director-General applies;
- the interstate officer of the Australian State consents; and
- the child or young person is not subject to any criminal order or proceedings.

The Court can direct that a family group conference be convened for the purposes of considering whether the transfer should be ordered. Each parent and the child or young person concerned must be served with a copy of the application to transfer protection proceedings.

The National Council of Women supports the intent of the bill that protection orders are treated consistently between New Zealand and Australia, and that there is a formal process for recognising protection orders between the two countries. It has reservations on the timeframe of 30 days set out in the new section 207R (3) (a) regarding interim orders and argues that often in proceedings

it is difficult to find and serve all necessary parties before the interim order expires. It suggests that a more realistic timeframe for interim orders under the new section 207R (3) (a) is 90 days.

An interim order applies only where the Court transfers protection proceedings between New Zealand and Australia. In order to ensure consistent care and protection of the child or young person, an interim order can be made by the Court releasing the child or young person into the care of a person considered appropriate. The interim order may direct the interstate officer in the Australian State or another person or organisation to provide supervision or support to the child or young person. The interim order lasts for 30 days unless otherwise modified (changed, revoked or extended) by the Australian State's Children's Court. Once the Court orders the transfer of the protection proceedings, the proceedings are stopped in New Zealand and registered in Children's Court in accordance with the law of that State.

Once the transferred proceedings are registered in the Children's Court of the receiving State, the interim order can be extended for as long as necessary to dispose of the protection proceedings. Alternatively, new orders relating to the child or young person can be sought under the child welfare law of the receiving State. In New Zealand, these orders could include an order under section 78 for custody pending determination, an interim services order, an interim support order, an interim restraining order, a counselling order, or an order for medical examination.

If the period of the interim order is not long enough, there are provisions for the Court to extend the timeframe. The 30-day timeframe acts as a safety check, ensuring that the child's or young person's best interests are being met. This is the same timeframe as in the model bill, and was decided upon because of the view that delay is contrary to the best interests of the child or young person.

Therefore we do not recommend that the bill be amended.

### **Miscellaneous provisions**

Sections 207ZE to 207ZJ are miscellaneous provisions dealing with:

- expiry and revival of orders
- transfer of Court files
- disclosure of information
- protection of identity of notifier.

The Privacy Commissioner had concerns over new section 207ZJ. The Commissioner sees this new section regarding the non-disclosure of information identifying a notifier as problematic and recommends that this section be deleted from the bill.

The protection of information supplied by the Australian child welfare agencies to New Zealand is an essential feature of the arrangements being put in place by the bill. This was considered to be of some importance by the Australians during the negotiations that led to the development of the model bill and protocol. The protection of confidentiality of the information transferred to New Zealand, or to a participating Australian State, is one of the conditions upon which the information is transferred. Each State, including New Zealand, is expected to enact confidentiality of notifier provisions if they do not have them already. The intent of the new section is to afford confidential information entrusted to the

New Zealand child welfare agency by an Australian child welfare agency the same degree of confidentiality it would enjoy in Australia.

New Zealand currently does not have such provisions. Some protection is afforded to New Zealand notifiers by section 16 of the CYPF Act, which prevents civil, criminal, or disciplinary proceedings being taken, but that protection does not protect the identity of a notifier from being disclosed. Protection is otherwise afforded under the provisions of the Official Information Act 1982, in relation to requests for information by third parties, or the Privacy Act 1993, in relation to requests by individuals for information about themselves. However, in both cases, the protection afforded is a qualified one. The protection requires the exercise of judgement by officials of the relevant departments or agencies, and on complaint, by either the Ombudsman (under the Official Information Act) or the Privacy Commissioner (under the Privacy Act). However, there are no guarantees that confidentiality will be afforded to the identity of a notifier.

It is acknowledged that the exemption given is a class exemption, but it is a necessary one in this context. Given, however, that it will apply to such a small number of cases and will not extend beyond the cases of children and young persons transferred from Australia to New Zealand, it is considered that the class exemption is justified. The exemption given is consistent with the conclusive reasons for withholding information in section 6 (b) of the Official Information Act and section 27 (1) (b) of the Privacy Act. The Commissioner's suggestion for redrafting the exemption would simply be a class exemption in another form. Therefore we do not recommend that the bill be amended.

### **Issues outside the scope of the bill**

One submitter, on behalf of a yet to be named network established to support and represent families who have an ex-partner, and possibly children, living outside New Zealand, supported the provisions in the bill that ensure the safety of New Zealand children when they are off-shore and expressed the hope that this arrangement is the first of many.

The network raised a number of concerns, including whether or not the CYPFA will have adequate staff and funds to perform this extra work; how a parent could obtain help from a child welfare agency near the child if he or she had concerns; and the extent to which the bill is intended to help children and their families whose cases are not the most problematic.

The measures in the bill are not designed to cover private custody and access arrangements. However, the new arrangements should facilitate access to child welfare agencies in Australia and New Zealand, because the measures in the bill will result in a closer working relationship between the two countries.

### **Cultural issues to be taken into account**

Section 207ZA sets out the conditions that must be met when an Aboriginal or a Torres Strait Islander child or young person is transferred to New Zealand. Any placement must be guided by the principle referred to in section 5 (b) of the CYPF Act. This is the principle that, wherever possible, the relationship between the child or young person and his or her family should be maintained and strengthened. The transfer must also comply with the "indigenous child placement principle" contained within the protocol. This will ensure that the placement is made with another member of the child's community in the first instance. If this does not occur, then there is a provision that the child or young person shall have continued contact with his or her community.

A similar provision to this will be contained in all the Australian State legislation regarding the placement of Maori children or young persons in Australia, or will be given effect by the Australian government child welfare agencies. This provision in the legislation and the “indigenous child placement principle” in the protocol were inserted at the insistence of New Zealand as it represents a key aspect of New Zealand child welfare legislation (in sections 5 and 13 of the CYPF Act). The provision will ensure that placement of Maori children or young persons who are transferred to Australia is made, where practicable, with their whanau, hapu or iwi in the first instance. If this does not occur, then there will be provision that the child or young person shall have continued contact with his or her whanau, hapu or iwi.

### **Amendments resulting from changes to the model bill**

Since the bill was introduced into the House, further versions of the model bill have been produced that contained a number of minor changes to various provisions. There has, however, been no change to the structure or features of the model bill. The model bill was signed-off by the Council of Community Services Ministers on 5 August 1999, and a number of amendments to the bill as introduced are required.

#### **Definition of the term “protection order”**

The term child “protection order” is defined in the model bill as referring to the responsibility for the custody, guardianship, supervision or support of a child or young person. The definition in the model bill now includes the words “however that responsibility is described”. This is because some Australian States, instead of using the term “guardianship”, use other terms, like “parental responsibility”.

We recommend that a similar amendment be made to the definition of the term “protection order” in the new section 207B in clause 3 of the bill.

The revised definition in the model bill also now makes it clear that a child protection order does not include certain temporary or interim orders relating to the care or custody or protection of a “child” as that term is defined in the Victorian Child and Young Persons Act 1989. It is recommended that a similar amendment be made to the definition of the term “protection order” in the new section 207B in clause 3.

#### **Requirement for written consent of interstate officer**

The model bill now makes it explicit that the consent of an interstate officer be a written consent. We recommend that new sections 207C, 207I, and 207O be amended accordingly.

#### **Matters to be considered when deciding whether to transfer protection order or proceeding**

The model bill now requires that, when deciding whether to transfer both a protection order or protection proceedings, both the “Secretary” (in New Zealand, the Director-General) and the Court have regard to the same matters, namely: the principles referred to in sections 5, 6 and 13 of the Act, the matters that section 130 requires a plan prepared under section 128 to specify, contain, or state who is better placed to administer a protection order, and whether the order should be in force in the place the child or young person lives.

We recommend that new sections 207C and 207Q be amended accordingly.

### **Exceptions to requirement for parental consent**

The model bill does not require a parent’s consent to the transfer of a protection order by the “Secretary” if the parent is living in, or moving to, the same State as the child or young person.

We recommend that new section 207D be amended accordingly.

### **Synchronising commencement and ending of protection orders**

Changes have been made to the model bill to ensure that a transferred protection order takes effect in the receiving State, and ceases to have effect in the sending State, on the same date.

We recommend that new sections 207F, 207L, and 207ZE be amended accordingly.

### **Terms of transferred protection order**

A change of wording in the model bill requires the Court to set the terms of the protection order it is transferring.

We recommend that new section 207L be amended accordingly.

### **Provisions that apply to social worker’s report**

When considering whether to transfer a protection order, the Court must obtain a social worker’s report. The model bill applies certain provisions of the Victorian principal Act to the report as if it were a disposition report obtained in child protection proceedings. It is recommended that similar provisions be applied to a social worker’s report obtained by the Court in New Zealand—in particular, provisions for a copy of the report to be given to relevant parties, for the Court to order that all or some of the report not be disclosed, to allow evidence to be called in respect of the report, and to call the social worker as a witness.

We recommend that new section 207I be amended accordingly.

### **Evidence of consent of interstate officer**

The Australian authorities included in the model bill a provision for the judicial recognition of consent given by the interstate officer of another State.

We recommend that a new section 207ZK be included in the bill for this purpose.

## **Other amendments**

### **Transfer of responsibility to Department of Child, Youth, and Family Services**

Amendments are required to the bill as a result of the passage of the Department of Child, Youth, and Family Services Bill. This bill transfers (on 1 October 1999) the functions and powers of the Director-General of Social Welfare under the CYPF Act to the chief executive of the new department.

We recommend that the bill be amended accordingly.

### **Authorising persons served to appear at hearing**

Provision is made in the bill for various persons to be served with notices of an application to the Court, but no provision is made for them to appear at the hearing of the application. This is a matter not dealt with in the model bill, and a matter that was noticed too late to be included in the bill as introduced.

We recommend that new sections 207J, 207P, and 207ZAB provide accordingly.

**Correction of drafting errors**

Minor drafting errors occurred in two sections, where the words “or young person” were left out, and in another section where a reference to section 128 was transposed to section 182.

We recommend that new sections 207K, 207L and 207Y be amended to correct these errors.

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## KEY TO SYMBOLS USED IN REPRINTED BILL

AS REPORTED FROM A SELECT COMMITTEE

*Struck Out (Unanimous)*

Subject to this Act,

Text struck out unanimously

*New (Unanimous)*

Subject to this Act,

Text inserted unanimously

*(Subject to this Act,)*

Words struck out unanimously

Subject to this Act,

Words inserted unanimously

Hon Roger Sowry

**CHILDREN, YOUNG PERSONS, AND THEIR FAMILIES  
(TRANS-TASMAN TRANSFER OF PROTECTION  
ORDERS AND PROCEEDINGS) AMENDMENT**

ANALYSIS

Title  
1. Short Title and commencement

PART 1

MAIN AMENDMENTS TO PRINCIPAL ACT

2. Conduct outside New Zealand  
3. New Part 3A inserted

PART 3A

TRANS-TASMAN TRANSFER OF  
PROTECTION ORDERS AND  
PROTECTION PROCEEDINGS

*Purpose of Part*

207A. Purpose of Part

*Interpretation*

207B. Interpretation  
207BA. Meaning of 'protection  
order'

*Transfer of Protection Orders from  
New Zealand by Chief Executive*

207C. Chief executive may transfer  
protection order  
207CA. Chief executive to have  
regard to certain matters  
207D. Consent required  
207E. Consultation required  
207F. Conditions and duration of  
order to be transferred  
207G. Notice of decision to transfer  
207H. Review of decision to transfer

*Transfer of Protection Orders from  
New Zealand by Order of Court*

207I. Court may order transfer of  
protection order

207J. Service of application  
207K. Court to have regard to cer-  
tain matters  
207L. Terms, conditions, and dura-  
tion of order to be transferred  
207M. Appeal against order for  
transfer  
207N. Review of order for transfer

*Transfer of Protection Proceedings  
from New Zealand by Order of Court*

207O. Court may order transfer of  
protection proceedings  
207P. Service of application  
207Q. Court to have regard to cer-  
tain matters  
207R. Interim order  
207S. Appeal against order for  
transfer  
207T. Review of order for transfer  
207U. Transferred proceedings  
discontinued

*Transfer of Protection Orders and  
Protection Proceedings to New  
Zealand*

207V. Registration of orders and  
proceedings to be transferred  
to New Zealand  
207W. Notice of registration  
207X. Effect of registration  
207Y. Court to obtain plan for child  
or young person  
207Z. Hearing and determination of  
transferred proceedings  
207ZA. Aboriginal or Torres Strait  
Islander children or young  
persons  
207ZAA. Application to have regis-  
tration revoked  
207ZAB. Service of application  
207ZB. Revocation of registration  
207ZC. Notice of revocation

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207ZD. Effect of revocation on plan  
and documents

*Miscellaneous Provisions*

207ZE. Expiry and revival of order  
transferred from New Zealand

207ZF. Expiry and revival of ancil-  
lary orders

207ZG. Transfer of Court file

207ZH. Disclosure of information to  
interstate officer

207ZI. Information disclosed to  
chief executive by interstate  
officer

207ZJ. Department not to disclose  
information identifying notifier

207ZK. Written consent of interstate  
officer

PART 2

OTHER AMENDMENTS TO PRINCIPAL ACT

4. New sections inserted

446A. Children and young persons  
to whom section 446B applies

446B. Offences available if child or  
young person is subject of cer-  
tain protection orders or pro-  
ceedings under Part 3A

5. Regulations

6. Consequential amendments to principal  
Act

SCHEDULE

Consequential Amendments to Principal Act

A BILL INTITULED

**An Act to amend the Children, Young Persons, and  
Their Families Act 1989 to provide for the transfer of  
protection orders and proceedings between New  
Zealand and the States and Territories of Australia** 5

BE IT ENACTED by the Parliament of New Zealand as follows:

**1. Short Title and commencement**—(1) This Act may be  
cited as the Children, Young Persons, and Their Families  
(Trans-Tasman Transfer of Protection Orders and Proceedings)  
Amendment Act 1999, and is part of the Children, Young  
Persons, and Their Families Act 1989\* (“the principal Act”). 10

(2) This Act comes into force on **1 November 1999**, unless it is  
earlier brought into force on a date appointed by the Governor-  
General by Order in Council.

\*1989, No. 24

Amendments: 1989, No. 70; 1994, No. 121; 1996, No. 112; 1998, No. 30

PART 1

15

MAIN AMENDMENTS TO PRINCIPAL ACT

**2. Conduct outside New Zealand**—The principal Act is  
amended by inserting, after section 14, the following section:

“14A. For the purposes of this Act, it does not matter  
whether the conduct constituting a ground referred to in  
section 14 (1) occurred partly or wholly outside New Zealand.” 20

**3. New Part 3A inserted**—The principal Act is amended by  
inserting, after Part III, the following Part:

“PART 3A

“TRANS-TASMAN TRANSFER OF PROTECTION ORDERS AND  
PROTECTION PROCEEDINGS

“*Purpose of Part*

5 “207A. **Purpose of Part**—The purpose of this Part is to  
provide for the transfer of protection orders and protection  
proceedings from New Zealand to a State or Territory of  
Australia, and from a State or Territory of Australia to New  
Zealand, so that—

10 “(a) Children or young persons who are the subject of  
protection orders can continue to receive care or  
protection even though they move to or from New  
Zealand; and

15 “(b) Protection proceedings can be determined speedily even  
though the children or young persons who are the  
subject of the proceedings move to or from New  
Zealand.

“*Interpretation*

20 “207B. **Interpretation**—In this Part, unless the context  
otherwise requires,—

“ ‘Child welfare law’ means—

“(a) Parts II and III; or

“(b) A law of a participating State that—

“(i) Corresponds to Parts II and III; or

25 “(ii) Is declared to be a child welfare law for the  
purposes of this Part by regulations made  
under **section 447 (aa)**:

30 “ ‘Children’s Court’, in relation to a participating State,  
means the Court with jurisdiction to hear and  
determine protection proceedings at first instance:

“ ‘Interim order’ means—

“(a) An order under **section 207R**; or

“(b) An equivalent order made under an interstate  
law:

35 “ ‘Interstate law’, in relation to a participating State,—

“(a) Means a law that corresponds to this Part; and

“(b) Includes a law that is declared to be an  
interstate law for the purposes of this Part by  
regulations made under **section 447 (ab)**:

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“ ‘Interstate officer’, in relation to a participating State, means—

“(a) The holder of an office or position (by whatever name called) that is an office or position the holder of which is declared, in relation to that State, to be the interstate officer for the purposes of this Part by regulations made under **section 447 (ac)**; or 5

“(b) The holder of the office or position (by whatever name called) that, by or under the child welfare law of that State, has principal responsibility for the care or protection of children and young persons in that State: 10

“ ‘Participating State’ means a State or Territory of Australia in which an interstate law is in force:

*Struck Out (Unanimous)* 15

“ ‘Protection order’ means an order (other than an interim order) under a child welfare law that makes the custody, guardianship, supervision, or support of a child or young person the responsibility, in whole or in part, of— 20

“(a) A government department or statutory authority; or

“(b) A person who is the head of a government department or statutory authority or otherwise holds an office or position in, or is employed in, a government department or statutory authority; or 25

“(c) An organisation or body approved or authorised by or under the child welfare law to exercise or perform powers, duties, or functions conferred, imposed, or prescribed by or under the child welfare law; or 30

“(d) The chief executive (by whatever name called) of an organisation or body referred to in **paragraph (c)**:

*New (Unanimous)*

“ ‘Protection order’ has the meaning given to it by **section 207BA**: 35

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“ ‘Protection proceedings’ means—

5 “(a) Proceedings in a Court or a Children’s Court under a child welfare law for the making, variation, discharge, or revocation of a protection order or interim order, or for the extension of any period of such an order; or

10 “(b) Proceedings in a Court or a Children’s Court under a child welfare law (for example, proceedings for a declaration under section 67 that a child or young person is in need of care or protection) for a declaration or finding (by whatever name called)—

“(i) That a child or young person is in need of care or protection; and

15 “(ii) That empowers the Court or Children’s Court to make a protection order:

“ ‘Review proceedings’ means proceedings—

“(a) By way of an application for review under the Judicature Amendment Act 1972; or

20 “(b) By way of an application for mandamus, injunction, prohibition, or certiorari; or

“(c) By way of an application for a declaratory judgment:

25 “ ‘Sending State’ means the participating State from which a protection order or protection proceedings are transferred to New Zealand under this Part and the interstate law of that State:

“ ‘Young person’ includes a person—

“ (a) Who is 17 years old or older; and

30 “ (b) To whom a guardianship order made under section 110 applies.

*New (Unanimous)*

“207BA. **Meaning of ‘protection order’**—(1) In this Part, ‘protection order’—

35 “(a) Means a final order under a child welfare law that makes the custody, guardianship, supervision, or support of a child or young person the responsibility (in whole or in part, and however that responsibility is

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*New (Unanimous)*

described) of any 1 or more of the persons specified in <b>subsection (2)</b> ; and	
“(b) Includes an interim custody order made pursuant to section 102 that makes the custody of a child or young person the responsibility (in whole or in part) of any 1 or more of the persons specified in <b>subsection (2)</b> .”	5
“(2) The persons referred to in <b>subsection (1)</b> are—	
“(a) A government department or statutory authority:	10
“(b) A person who is the head of a government department or statutory authority or otherwise holds an office or position in, or is employed in, a government department or statutory authority:	
“(c) An organisation or body approved or authorised by or under the child welfare law to exercise or perform powers, duties, or functions conferred, imposed, or prescribed by or under the child welfare law:	15
“(d) The chief executive (by whatever name called) of an organisation or body referred to in <b>paragraph (c)</b> .”	20

*“Transfer of Protection Orders from New Zealand  
by (Director-General) Chief Executive*

<b>“207C. Chief executive may transfer protection order—</b>	
(1) The <b>(Director-General) chief executive</b> may transfer a protection order (‘the home order’) to a participating State if,—	25
“(a) In his or her opinion, a protection order to the same or a similar effect as the home order could be made under the child welfare law of that State; and	
“(b) The home order is not subject to an appeal to the High Court, or to any review proceedings; and	30
“(c) The interstate officer of the participating State has consented <u>in writing</u> to the transfer and to the proposed terms of the protection order to be transferred (‘the interstate order’); and	
“(d) Any consent required under <b>section 207D</b> has been given; and	35
“(e) Any consultation required under <b>section 207E</b> has been carried out; and	

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“(f) The child or young person is not subject to—

“(i) An order made under paragraph (c), or any of paragraphs (k) to (o), of section 283; or

5 “(ii) A community-based sentence, or a suspended sentence, under the Criminal Justice Act 1985; and

“(g) Neither the *(Director-General)* chief executive, nor any officer or employee of the Department, knows of any information laid, or of any proceedings pending before a Youth Court or any other court, that could lead to the child or young person being made subject to an order or sentence referred to in paragraph (f).

10  
15 “(2) In determining whether a protection order to the same or a similar effect as the home order could be made under the child welfare law of a participating State, the *(Director-General)* chief executive must not take into account the maximum period for which such an order can have effect in that State.

*Struck Out (Unanimous)*

20 “(3) In deciding whether to transfer a protection order, the Director-General must have regard to—

“(a) The principles referred to in sections 5, 6, and 13; and

“(b) The matters that section 130 requires a plan prepared under section 128 to specify, contain, or state.

25 “(4) Before deciding whether to transfer a protection order, the *(Director-General)* chief executive may request a Care and Protection Co-ordinator to convene a family group conference for the purpose of considering whether the order should be transferred, and sections 20 to 36 apply, with any necessary modification, to the convening of such a family group  
30 conference.

*New (Unanimous)*

35 “207CA. **Chief executive to have regard to certain matters**—In deciding whether to transfer a protection order, the chief executive must have regard to—

“(a) The principles referred to in sections 5, 6, and 13; and



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*New (Unanimous)*

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| <p>“(b) The matters that section 130 requires a plan prepared under section 128 to specify, contain, or state; and</p> <p>“(c) Whether an interstate officer is in a better position to exercise powers and responsibilities under a protection order relating to the child or young person than the person exercising those powers and responsibilities under the protection order; and</p> <p>“(d) The desirability of a protection order being an order under the child welfare law of the place where the child or young person resides.</p> | <p>5</p> <p>10</p> |
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- “207D. **Consent required**—(1) This section applies if—
- “(a) The home order is a support order made under section 91; or
- “(b) The home order is a custody order made under section 101 placing the child or young person in the custody of any of the persons specified in paragraphs (a) to (d) of that section; or
- “(c) The home order is a custody order made under section 101 (e) and made subject to a condition that the *(Director-General)* chief executive or a Social Worker supervises the order; or
- “(d) The home order is a sole guardianship order made under section 110.
- “(2) If this section applies, consent to the transfer of the order is required from—
- “(a) Each parent of the child or young person (other than a parent who resides, or intends to reside, in the relevant participating state); and
- “(b) Each guardian of the child or young person (other than the *(Director-General)* chief executive); and
- “(c) Each person who, under this Act or the Guardianship Act 1968, has custody of, or is given access to, or has the care of, the child or young person.
- “(3) Despite this section, the consent of a person is not required if the *(Director-General)* chief executive is not able to locate the person after having made all reasonable efforts to locate the person.

“207E. **Consultation required**—(1) This section applies if the child or young person is subject to—

5 “(a) A services order made under section 86 directing a person or organisation (other than the *(Director-General) chief executive*, or an officer or employee of the Department) to provide services and assistance to the child or young person; or

10 “(b) A support order made under section 91 directing a person or organisation (other than the *(Director-General) chief executive*, or an officer or employee of the Department) to provide support to the child or young person.

15 “(2) If this section applies, the *(Director-General) chief executive* must consult the person or organisation on whether the order should be transferred.

20 “207F. **Conditions and duration of order to be transferred**—(1) The *(Director-General) chief executive* may include in the proposed interstate order any conditions that may be included in a protection order of that type made in the participating State.

“(2) The *(Director-General) chief executive* must determine, and specify in the interstate order, the period for which the interstate order is to remain in force.

25 “(3) The period must be a period—

“(a) That commences *(from)* on the date of the registration of the interstate order in a participating State; and

“(b) That is—

30 “(i) The same as the period of the home order, if that is possible under the child welfare law of the participating State; or

“(ii) In any other case, as similar a period as is possible under that law but in no case longer than the period of the home order.

35 “207G. **Notice of decision to transfer**—(1) As soon as practicable but in any event no later than 3 working days after deciding to transfer a protection order, the *(Director-General) chief executive* must give a notice of the decision to—

“(a) Each parent of the child or young person concerned; and

40 “(b) The child or young person concerned, unless he or she is incapable of understanding the notice because of his or her level of maturity.

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“(2) A notice must also—

“(a) State that the decision may be reviewed on certain grounds if, within 13 working days after the date of the decision, review proceedings are brought in the High Court and served on the *(Director-General) chief executive*; and 5

“(b) Inform the child, young person, or parent on whom it is served that he or she may bring review proceedings (or, as the case requires, have review proceedings brought on his or her behalf) and how, in general terms, the review proceedings may be brought. 10

“(3) Nothing in this section requires the *(Director-General) chief executive* to give a person a notice if the *(Director-General) chief executive* is not able to locate the person after having made all reasonable efforts to locate the person. 15

“207H. **Review of decision to transfer**—Any review proceedings in respect of a decision to transfer a protection order—

“(a) Must be brought, and served on the *(Director-General) chief executive*, within 13 working days after the date of the decision, and the 13-working day period cannot be extended: 20

“(b) Operate on and after filing as a stay of the decision until the review proceedings are withdrawn or finally determined. 25

*“Transfer of Protection Orders from New Zealand  
by Order of Court*

“207I. **Court may order transfer of protection order**—

(1) A Court may order that a protection order be transferred to a participating State if— 30

“(a) The *(Director-General) chief executive* applies to the Court for the order to be transferred; and

“(b) The Court has obtained and considered, in relation to the child or young person, a report from a Social Worker that covers the matters that section 130 requires a plan prepared under section 128 to specify, contain, or state; and 35

“(c) The protection order is not subject to an appeal to the High Court, or to any review proceedings; and

“(d) The interstate officer of the participating State has consented in writing to the transfer of the protection order and to the proposed terms of the order to be transferred; and

5 “(e) The child or young person is not subject to—

“(i) An order made under paragraph (c), or any of paragraphs (k) to (o), of section 283; or

“(ii) A community-based sentence, or a suspended sentence, under the Criminal Justice Act 1985; and

10 “(f) The *(Director-General)* chief executive certifies that neither the *(Director-General)* chief executive, nor any officer or employee of the Department, knows of any information laid, or of any proceedings pending before a Youth Court or any other Court, that could  
15 lead to the child or young person being made subject to an order or sentence referred to in **paragraph (e)**.

“(2) Before deciding whether to order the transfer of a protection order, the Court may direct a Care and Protection  
20 Co-ordinator to convene a family group conference for the purpose of considering whether the transfer should be ordered, and sections 20 to 36 apply, with any necessary modification, to the convening of such a family group conference.

*New (Unanimous)*

25 “(3) Sections 188, 189, and 191 to 194 apply to a report obtained from a Social Worker under **subsection (1) (b)** as if it were a report obtained from a Social Worker under section 186.

“207J. **Service of application**—(1) As soon as possible after the *(Director-General)* chief executive files in a Court an  
30 application under **section 207I**, the Registrar of the Court must serve copies of the application in accordance with section 154 as if the application were an application by the *(Director-General)* chief executive under section 125 for the variation or discharge of the protection order to be transferred.

35 “(2) Section 155 (Court may dispense with service) applies, with any necessary modification, to the service of copies of the application.

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*New (Unanimous)*

“(3) A person served with proceedings under **subsection (1)** is entitled to appear and be heard as a party to the proceedings.

“**207K. Court to have regard to certain matters**—In considering an application under **section 207I**, the Court must have regard to— 5

“(a) The principles referred to in sections 5, 6, and 13; and

“(b) Whether an interstate officer is in a better position to exercise powers and responsibilities under a protection order relating to the child or young person than the person exercising those powers and responsibilities under the protection order; and 10

“(c) The desirability of a protection order being an order under the child welfare law of the place where the child or young person resides. 15

“**207L. Terms, conditions, and duration of order to be transferred**—

*Struck Out (Unanimous)*

(1) If a Court orders that a protection order (‘the home order’) be transferred, the type of protection order to be transferred (‘the interstate order’) must be a protection order that could be made under the child welfare law of the participating State and that the Court considers to be— 20

“(a) To the same or a similar effect as the home order; or 25

“(b) Otherwise appropriate for the child.

*New (Unanimous)*

(1) If a Court orders that a protection order (‘the home order’) be transferred, the terms of the protection order to be transferred (‘the interstate order’) must be terms that could be the terms of 30

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*New (Unanimous)*

a protection order made under the child welfare law of the participating State and that the Court considers to be—

5 “(a) To the same or a similar effect as the terms of the home order; or

“(b) Otherwise appropriate for the child or young person.

“(2) The Court may include in the interstate order any conditions that could be included in a protection order of that type made in the participating State.

10

*Struck Out (Unanimous)*

15 “(3) In determining whether an order to the same or similar effect as the home order could be made under the child welfare law of the participating State, the Court must not take into account the maximum period for which such an order can have effect in that State.

*New (Unanimous)*

20 “(3) In determining whether terms that could be the terms of a protection order made under the child welfare law of the participating State are to the same or similar effect as the terms of the home order, the Court must not take into account the maximum period for which such an order can have effect in that State.

25 “(4) The Court must determine, and specify in the interstate order, the period for which the interstate order is to remain in force.

“ (5) The period must be a period—

“ (a) That commences *(from)* on the date of the registration in the participating State of the interstate order; and

30 “ (b) That is possible for a protection order of the type of the proposed interstate order under the child welfare law of the participating State; and

“ (c) That the Court considers appropriate.

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“207M. **Appeal against order for transfer**—The following provisions apply to an appeal to the High Court under section 341 against an order that a protection order be transferred:

“(a) Despite section 346 (b), the appeal is on a question of law only: 5

“(b) Despite section 342 (1) (a), the appeal must be brought within 10 working days after the day on which the order was made, and the 10-working day period cannot be extended under section 342 (1) (b) or otherwise: 10

“(c) Despite section 344, the appeal operates on and after filing as a stay of the order appealed against until the appeal is withdrawn or finally determined:

“(d) The appeal must be heard and determined by the High Court as soon as possible. 15

“207N. **Review of order for transfer**—(1) Any review proceedings in respect of an order that a protection order be transferred—

“(a) Must be brought within 10 working days after the date of the order, and the 10-working day period cannot be extended: 20

“(b) Operate on and after filing as a stay of the order until the review proceedings are withdrawn or finally determined. 25

“(2) **Subsection (3)** applies if a person—

“(a) Brings review proceedings in respect of an order that a protection order be transferred; and

“(b) Has also appealed to the High Court under section 341 against that order, and the High Court has not yet started to hear the appeal. 30

“(3) If this subsection applies in accordance with **subsection (2)**, the High Court must hear both matters together, unless it considers it impracticable in the particular circumstances of the case to do so. 35

*“Transfer of Protection Proceedings from New Zealand  
by Order of Court*

“207O. **Court may order transfer of protection proceedings**—(1) A Court may order that protection

proceedings pending in the Court be transferred to the Children's Court in a participating State if—

5 “(a) The *(Director-General)* chief executive applies to the Court for an order that the proceedings be transferred; and

“(b) The interstate officer of the participating State has consented in writing to the transfer of the proceedings; and

10 “(c) The child or young person is not subject to—

“(i) An order made under paragraph (c), or any of paragraphs (k) to (o), of section 283; or

“(ii) A community-based sentence, or a suspended sentence, under the Criminal Justice Act 1985; and

15 “(d) The *(Director-General)* chief executive certifies that neither the *(Director-General)* chief executive, nor any officer or employee of the Department, knows of any information laid, or of any proceedings pending before a Youth Court or any other court, that could lead to the child or young person being made  
20 subject to an order or sentence referred to in **paragraph (c).**

“**(2)** Before deciding whether to order that protection proceedings be transferred, the Court may direct a Care and Protection Co-ordinator to convene a family group conference  
25 for the purpose of considering whether the transfer should be ordered, and sections 20 to 36 apply, with any necessary modification, to the convening of such a family group conference.

30 “**207P. Service of application**—(1) As soon as possible after the *(Director-General)* chief executive files in a Court an application under **section 2070**, the Registrar of the Court must serve a copy of the application on—

35 “(a) Each parent of the child or young person concerned or other person with whom the child or young person concerned is living; and

“(b) The child or young person concerned, unless he or she is incapable of understanding the application because of his or her level of maturity.

40 “**(2)** Section 155 (Court may dispense with service) applies, with any necessary modification, to the service of a copy of the application.



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*New (Unanimous)*

“(3) A person served with proceedings under **subsection (1)** is entitled to appear and be heard as a party to the proceedings.

“207Q. **Court to have regard to certain matters**—In considering an application under **section 2070**, the Court must have regard to— 5

“(a) Whether any other proceedings relating to the child or young person are pending, or have previously been heard and determined, under the child welfare law in the participating State; and 10

“(b) The place or places where any of the matters giving rise to the proceedings in the Court occurred; and

“(c) The place of residence, or likely place of residence, of the child or young person, his or her parents, and of any other people who are significant to the child or young person; and 15

*New (Unanimous)*

“(d) The principles referred to in sections 5, 6, and 13; and

“(e) Whether the chief executive or an interstate officer is in the better position to exercise powers and responsibilities under a protection order relating to the child or young person; and 20

“(f) The desirability of a protection order being an order under the child welfare law of the place where the child or young person resides. 25

“207R. **Interim order**—(1) A Court that orders that protection proceedings be transferred may also make an interim order in respect of the child or young person concerned.

“(2) An interim order— 30

“(a) May release the child or young person into the care of any person, subject to any conditions that the Court considers appropriate; and

“(b) May direct that supervision or support be provided to the child or young person by the interstate officer in 35

the participating State or by any other person who could be so directed under the child welfare law of that State.

5 “(3) Part II applies, with any necessary modification, to an interim order, as if the interim order were an order made under section 78, except that an interim order—

“(a) Remains in force for the period (not exceeding 30 days) specified in the interim order:

10 “(b) May be varied, or revoked, or extended, by the Children’s Court in the participating State in accordance with the interstate law of that State.

“207s. **Appeal against order for transfer**—The following provisions apply to an appeal to the High Court under section 341 against an order that protection proceedings be transferred:

15 “(a) Despite section 346 (b), the appeal is on a question of law only:

20 “(b) Despite section 342 (1) (a), the appeal must be brought within 3 working days after the day on which the order was made, and the 3-working day period cannot be extended under section 342 (1) (b) or otherwise:

25 “(c) Despite section 344, the appeal operates on and after filing as a stay of the order appealed against (but not of any interim order made at the same time) until the appeal is withdrawn or finally determined:

“(d) The appeal must be heard and determined by the High Court as soon as possible.

30 “207T. **Review of order for transfer**—(1) Any review proceedings in respect of an order that protection proceedings be transferred must be brought within 3 working days after the day on which the order was made, and the 3-working day period cannot be extended.

“**(2) Subsection (3)** applies if a person—

35 “(a) Brings review proceedings in respect of an order that protection proceedings be transferred; and

“(b) Has also appealed to the High Court under section 341 against that order, and the High Court has not yet started to hear the appeal.

40 “(3) If this subsection applies in accordance with **subsection (2)**, the High Court must hear both matters together, unless it

considers it impracticable in the particular circumstances of the case to do so.

“207U. **Transferred proceedings discontinued**—If a Court orders that protection proceedings be transferred, the proceedings are discontinued in the Court on the registration of the order in the Children’s Court of the participating State in accordance with the interstate law of that State. 5

*“Transfer of Protection Orders and Protection Proceedings  
to New Zealand*

“207V. **Registration of orders and proceedings to be transferred to New Zealand**—(1) As soon as practicable after a decision or order is made under an interstate law for the transfer to New Zealand of a protection order, the (*Director-General*) chief executive must register the protection order in a Court by filing the protection order in the office of the Court. 10 15

“(2) As soon as practicable after an order is made under an interstate law for the transfer to New Zealand of protection proceedings, the (*Director-General*) chief executive must register the proceedings in a Court by filing the order, together with any interim order made at the same time, in the office of the Court. 20

“(3) The (*Director-General*) chief executive must not register a protection order, an order that protection proceedings be transferred, or an interim order, under this section if,—

“(a) As the case requires,— 25

“(i) The decision to transfer the protection order;  
or

“(ii) The order that the protection order be transferred; or

“(iii) The order that the protection proceedings be transferred,— 30

is subject to appeal, or review, or a stay; or

“(b) The period the interstate law allows for an appeal to be brought, or a review to be sought, has not expired.

“207W. **Notice of registration**—As soon as practicable after an order is registered in a Court under **section 207v**, the Registrar of the Court must give notice of the registration to— 35

“(a) The appropriate officer of the Children’s Court in the sending State; and

“(b) The interstate officer of that State. 40

“207x. **Effect of registration**—(1) If a protection order is registered in a Court under **section 207v**,—

5 “(a) The order is to be treated for all purposes as a protection order of the relevant kind made by the Court under Part II on the day on which it is registered; but

“(b) The making of the order cannot be appealed against under section 341.

10 “(2) If an order made under an interstate law for the transfer to New Zealand of protection proceedings is registered in a Court under **section 207v**, the proceedings must be treated as having been commenced in the Court on the day on which the order is registered.

“(3) If an interim order is registered in a Court under **section 207v**,—

15 “(a) The order is to be treated for all purposes as if it were an order made by the Court under section 78 on the day on which it is registered; but

“(b) The making of the interim order cannot be appealed against under section 341.

20 “207y. **Court to obtain plan for child or young person**—(1) As soon as practicable after a protection order of a kind referred to in section (182) 128 (2) is registered in a Court under **section 207v**, the Court must obtain a plan in relation to the child or young person concerned, and sections 129  
25 to 133 apply, with any necessary modification, to the obtaining of a plan required by this section, and to a plan required by this section.

“(2) A person preparing a plan required by this section must have regard to—

30 “(a) The terms of the protection order:

“(b) Any plan, or other document (by whatever name called) that corresponds to a plan, prepared in relation to the child or young person under the child welfare law of the sending State:

35 “(c) The matters addressed in any report made to the Children’s Court in the sending State in relation to the application for the transfer of the protection order.

40 “(3) On obtaining a plan required by this section, the Court must fix a date in accordance with section 134 for the review of the plan, as if it were a plan required to be prepared under

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section 128, and sections 135 to 138 apply, with any necessary modification, to—

“(a) The review of the plan; and

“(b) The resulting report and revised plan.

“207Z. **Hearing and determination of transferred proceedings**—If an order made under an interstate law for the transfer to New Zealand of protection proceedings is registered in a Court under **section 207v**, the Court—

“(a) Is not bound by any finding of fact made in the proceedings in the Children’s Court in the sending State; and

“(b) May have regard to any transcript of, or evidence adduced in, the proceedings in the Children’s Court in the sending State.

“207ZA. **Aboriginal or Torres Strait Islander children or young persons**—(1) This section applies if—

“(a) A protection order, or an order made under an interstate law for the transfer to New Zealand of protection proceedings, is registered in a Court under **section 207v**; and

“(b) A child or young person concerned is an Aboriginal or a Torres Strait Islander.

“(2) If this section applies in accordance with **subsection (1)**, a Court or person exercising a power conferred by or under this Act in relation the child or young person must be guided by the principle referred to in section 5 (b).

*Struck Out (Unanimous)*

“207ZB. **Revocation of registration**—(1) Any of the following persons may apply to a Court to have the registration of an order under **section 207v** revoked:

“(a) The Director-General:

“(b) The child or young person concerned:

“(c) A parent of the child or young person concerned:

“(d) A party to the proceedings in the Children’s Court in the sending State in which the decision to transfer the order or proceedings (as the case requires) was made.

*Struck Out (Unanimous)*

“(2) As soon as practicable after an application is filed in a Court, the Registrar of the Court must serve a copy of the application on—

5 “(a) The interstate officer of the sending State; and

“(b) Each person (other than the applicant) who could have made an application.

“(3) Section 155 (Court may dispense with service) applies, with any necessary modification, to the service of a copy of the application.

10 “(4) The Court may revoke the registration of an order if, and only if, the Court is satisfied that, at the time of registration,—

15 “(a) As the case requires,—

“(i) The interstate officer’s decision to transfer the protection order; or

“(ii) The order of the Children’s Court that the protection order be transferred; or

20 “(iii) The order of the Children’s Court that the protection proceedings be transferred,—  
was subject to appeal, or review, or a stay; or

“(b) The period the interstate law allows for an appeal to be brought, or a review to be sought, had not expired.

25 “(5) The revocation of the registration of an order does not prevent the later re-registration of that order.

*New (Unanimous)*

“207ZAA. **Application to have registration revoked**—  
Any of the following persons may apply to a Court to have the registration of an order under **section 207v** revoked:

30 “(a) The chief executive:

“(b) The child or young person concerned:

“(c) A parent of the child or young person concerned:

35 “(d) A party to the proceedings in the Children’s Court in the sending State in which the decision to transfer the order or proceedings (as the case requires) was made.

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“207ZAB. **Service of application**—(1) As soon as practicable after an application under **section 207ZAA** is filed in a Court, the Registrar of the Court must serve a copy of the application on—

“**(a)** The interstate officer of the sending State; and

“**(b)** Each person (other than the applicant) who could have made an application.

“(2) Section 155 (Court may dispense with service) applies, with any necessary modification, to the service of a copy of the application.

“(3) A person served with proceedings under **subsection (1)** is entitled to appear and be heard as a party to the proceedings.

“207ZB. **Revocation of registration**—(1) On an application under **section 207ZAA**, the Court may revoke the registration of the order if, and only if, the Court is satisfied that, at the time of registration,—

“**(a)** As the case requires,—

“**(i)** The interstate officer’s decision to transfer the protection order; or

“**(ii)** The order of the Children’s Court that the protection order be transferred; or

“**(iii)** The order of the Children’s Court that the protection proceedings be transferred,—

was subject to appeal, or review, or a stay; or

“**(b)** The period the interstate law allows for an appeal to be brought, or a review to be sought, had not expired.

“(2) The revocation of the registration of an order does not prevent the later re-registration of that order.

“207ZC. **Notice of revocation**—As soon as practicable after the registration of an order is revoked under **section 207ZB**, the Registrar of the Court must give notice of the revocation to—

“**(a)** The appropriate officer of the Children’s Court in the sending State; and

“**(b)** The interstate officer of that State.

“207ZD. **Effect of revocation on plan and documents**—If the Court revokes the registration of an order under **section 207ZB**,—

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- 5 “(a) The Court may, on its own initiative or on an application for the purpose, make such orders as it thinks fit with respect to the preparation or review of any plan or revised plan relating to the child or young person concerned:
- “(b) The Registrar of the Court must send the documents filed when the order was registered to the appropriate officer of the Children’s Court in the sending State.

10 “*Miscellaneous Provisions*

“207ZE. **Expiry and revival of order transferred from New Zealand**—(1) A protection order transferred from New Zealand (“the home order”) ceases to have effect under this Act *(from)* on the date on which the interstate officer registers a protection order (“the interstate order”) under the interstate law in the participating State to which the home order is transferred.

15 “(2) If the registration of the interstate order is revoked under the interstate law in the participating State to which the home order is transferred, then the home order is revived under this Act.

“(3) The home order is revived—

“(a) On the revocation; and

25 “(b) Until the time at which it would have ceased to have effect if it had not been transferred.

“207ZF. **Expiry and revival of ancillary orders**—(1) This section applies if—

30 “(a) A child or young person is the subject of a protection order (“the home order”) that ceases to have effect in accordance with **section 207ZE (1)**; and

“(b) That child or young person is subject to any other order (“the ancillary order”) that is an order of a kind referred to in any of paragraphs (b) to (h) (except paragraph (e)) of section 83 (1).

35 “(2) The ancillary order ceases to have effect under this Act at the same time as the home order ceases to have effect.

“(3) If the home order is revived in accordance with **section 207ZE (2)**, the ancillary order is revived in the same way as the home order.



**“207ZG. Transfer of Court file—**(1) The Registrar of a Court must send all documents filed in the Court in connection with protection proceedings to the appropriate officer of the Children’s Court in a participating State if—

“(a) A protection order made in the proceedings, or the proceedings themselves, are transferred to the participating State under this Part; and 5

“(b) The transfer decision or order is not subject to an appeal or a review or a stay; and

“(c) The period allowed under this Part for bringing an appeal, or bringing review proceedings, has expired. 10

“(2) The Registrar of the Court must make a copy of all documents sent under this section, and keep the copies for the same period as the sent documents would have been kept.

**“207ZH. Disclosure of information to interstate officer—**(1) This section applies to information that has come to the notice of the (*Director-General*) chief executive, or to an officer or employee of the Department, in the performance of duties or exercise of powers under this Act. 15

“(2) Despite anything to the contrary in this Act, the (*Director-General*) chief executive may disclose to an interstate officer information to which this section applies if the (*Director-General*) chief executive considers the disclosure necessary or desirable to enable the interstate officer to perform duties or exercise powers under a child welfare law or an interstate law. 20 25

**“207ZI. Information disclosed to chief executive by interstate officer—**(1) This section applies to information that an interstate officer has disclosed to the (*Director-General*) chief executive under a provision of a child welfare law or an interstate law that corresponds to **section 207ZH**. 30

“(2) Information to which this section applies is to be taken for the purposes of this Act to have been given directly to the (*Director-General*) chief executive in New Zealand instead of to the interstate officer.

“(3) This section is subject to **section 207ZJ**. 35

**“207ZJ. Department not to disclose information identifying notifier—**(1) This section applies to information—

“(a) To which **section 207ZI** applies; and

“(b) That, if disclosed, would be likely to identify, or lead to the identification of, a person (‘a notifier’) who 40

notified the interstate officer of the person's belief that a child or young person was in need of care or protection.

5 “(2) This section does not apply to information that is or may be evidence of any grounds that the notifier had for his or her belief.

“(3) The (*Director-General*) chief executive, or an officer or employee of the Department, must not disclose information to which this section applies unless—

10 “(a) The notifier has consented in writing to the disclosure; or

“(b) The disclosure is to enable—

“*(i)* The investigation, or consideration, of any need to take action under this Act in respect of the child or young person; or

15 “*(ii)* The taking of any such action; or

“*(c)* The disclosure is in accordance with **subsection (4)**.

“*(4)* In proceedings in any court, or in any proceedings of a judicial nature, unless the notifier has consented in writing or the court or tribunal concerned has granted leave,—

20 “*(a)* A witness must not be asked, and if asked is entitled to refuse to answer, a question the answer to which would be information to which this section applies; and

25 “*(b)* Information to which this section applies is not admissible as evidence.

“*(5)* A court or tribunal may grant leave under **subsection (4)** only if satisfied that the asking and answering of the question, or the admission as evidence of the information, is necessary—

30 “*(a)* To ensure the safety and wellbeing of the child or young person; or

“*(b)* In the interests of justice.

*New (Unanimous)*

35 “**207ZK. Written consent of interstate officer**—A document that purports to be the written consent of an interstate officer (or of an interstate officer's authorised delegate) for the purposes of **section 207c (1) (c)** or **section 207i (1) (d)** or **section 207o (1) (b)** is sufficient evidence of that consent for the purposes of this Part, unless the contrary is proved.”

PART 2

OTHER AMENDMENTS TO PRINCIPAL ACT

**4. New sections inserted**—The principal Act is amended by inserting, after section 446, the following sections:

- “446A. Children and young persons to whom section 446B applies**—(1) **Section 446B** applies to a child or young person who is the subject of a protection order (as defined in **(section 207B) section 207BA**) that has not ceased to have effect under this Act in accordance with **section 207ZE (1)** and—
- “(a) That the **(Director-General) chief executive** proposes to transfer under **section 207C** to a participating State (as defined in **section 207B**); or
- “(b) That the **(Director-General) chief executive** has decided to transfer under **section 207C** to a participating State; or
- “(c) That is an order in relation to which the **(Director-General) chief executive** has filed in a Court an application under **section 207I**; or
- “(d) That a Court has ordered under **section 207I** be transferred to a participating State.
- “(2) **Section 446B** applies to a child or young person who is the subject of protection proceedings (as defined in **section 207B**) that have not been discontinued under this Act in accordance with **section 207U** and—
- “(a) That are proceedings in relation to which the **(Director-General) chief executive** has filed in a Court an application under **section 207O**; or
- “(b) That a Court has ordered under **section 207O** be transferred to a participating State.
- “(3) **Section 446B** applies to a child or young person who is the subject of a protection order registered in a Court under **section 207V**.
- “(4) **Section 446B** applies to a child or young person who is the subject of protection proceedings registered in a Court under **section 207V**.
- “446B. Offences available if child or young person is subject of certain protection orders or proceedings under Part 3A**—(1) If this section applies to a child or young person,—
- “(a) A person may be prosecuted for an offence against section 446 in relation to that child or young person; and

“(b) It does not matter whether the conduct that constitutes the offence occurs wholly within or wholly outside New Zealand or partly within or partly outside New Zealand.

5 “(2) A person is not liable to be prosecuted under section 446 in respect of conduct—

“(a) That constitutes an offence not only under section 446 but also under a law of a participating State (as defined in **section 207B**); and

10 “(b) For which the person was prosecuted in the participating State and convicted or found guilty or acquitted.

“(3) The Attorney-General must be consulted before a prosecution is commenced for an offence against section 446 that is alleged to have occurred partly or wholly outside New Zealand.”

**5. Regulations**—Section 447 of the principal Act is amended by inserting, immediately before paragraph (a), the following paragraphs:

20 “(aa) Declaring a law of a participating State to be a child welfare law for the purposes of **Part 3A**:

“(ab) Declaring a law to be an interstate law in relation to a participating State for the purposes of **Part 3A**:

25 “(ac) Declaring the holder of an office or position to be the interstate officer in relation to a participating State for the purposes of **Part 3A**.”

**6. Consequential amendments to principal Act**—The principal Act is amended in the manner indicated in the **Schedule**.

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*Children, Young Persons, and Their  
Families (Trans-Tasman Transfer of  
Protection Orders and Proceedings)  
Amendment*

## Section 6

## SCHEDULE

## CONSEQUENTIAL AMENDMENTS TO PRINCIPAL ACT

Provision of Principal Act	Amendment
Section 2 (1)	<p>By omitting from the definition of the term "Court" the expression "Parts II and III", and substituting the expression "Parts II, III, and 3A".</p> <p>By repealing the definition of the term "working day", and substituting the following definition:</p> <p style="padding-left: 40px;">"Working day" means a day of the week other than—</p> <p style="padding-left: 80px;">(a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday, and Waitangi Day; and</p> <p style="padding-left: 80px;">(b) A day in the period commencing with 25 December in a year and ending with 15 January in the following year; and</p> <p style="padding-left: 80px;">(c) In relation to a requirement to file a document with any court or to supply a document before a sitting of any court,—</p> <p style="padding-left: 80px;">(i) The day observed as the anniversary of the province in which the court is situated; and</p> <p style="padding-left: 80px;">(ii) Any other day that is observed by the court as a court holiday."</p>
Section 13	By inserting, after the expression "Part III", the expression "or Part 3A".
Heading to Part III	By omitting the heading, and substituting the heading "PROVISIONS RELATING TO PROCEDURE IN RESPECT OF PROCEEDINGS UNDER PARTS II AND 3A".
Heading immediately before section 150	By omitting the heading, and substituting the heading " <i>Courts Having Jurisdiction Under Parts II and 3A</i> ".
Section 150, etc	By inserting in sections 150, 157 (1), 159 (1), 160, 163 (1), 166 (1), 167, 169 (1) and (2), 170 (1), 178 (1) and (2), 195, 196 (1), 197, 199 (1), 201 (1) and (2), 202, 203, and 204 (1), after the expression "Part II"

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29

SCHEDULE—*continued*

CONSEQUENTIAL AMENDMENTS TO PRINCIPAL ACT—*continued*

Provision of Principal Act	Amendment
Section 150, etc— <i>continued</i>	wherever it appears, the expression “or <b>Part 3A</b> ”.
Section 156 (1)	By inserting, after the expression “section 154”, the expression “or <b>section 207J</b> or <b>section 207P</b> ”.
Section 158	By inserting, immediately before the words “in conjunction with”, the expression “or an application under <b>Part 3A</b> of this Act”.
Section 205 (1) (a)	By omitting the expression “of this Act”, and substituting the expression “, or for an order under <b>section 207I</b> or <b>section 207O</b> ,”.
Section 206 (1)	By omitting the expression “of this Act”, and substituting the expression “, or for an order under <b>section 207I</b> or <b>section 207O</b> ,”.