

Oranga Tamariki (Repeal of Section 7AA) Amendment Bill

Government Bill

Explanatory note

General policy statement

The Oranga Tamariki (Repeal of section 7AA) Amendment Bill repeals section 7AA of the Oranga Tamariki Act 1989. The Bill also makes consequential amendments to that Act, the Oversight of Oranga Tamariki System Act 2022 and the Oversight of Oranga Tamariki System Regulations 2023.

Purpose of Bill

The Bill repeals section 7AA of the Oranga Tamariki Act 1989. The intention of the Bill is to enable Oranga Tamariki—Ministry for Children to renew its focus on the safety and well-being of children in care arrangements.

The Government is concerned that the introduction of section 7AA has led Oranga Tamariki—Ministry for Children staff to prioritise cultural factors over the safety and stability of children in long-term care arrangements. Concerns have been raised that Oranga Tamariki—Ministry for Children has moved tamariki Māori from stable long-term care arrangements and placed them with whānau, hapū, and iwi groups to which they whakapapa.

Concerned voices in this area have described these changes in placement as traumatic and argue that they should only occur in cases where there is risk to the safety of the child. Anecdotal concerns have also been raised that tamariki and rangatahi Māori living in stable care arrangements have been forced to visit whānau members due to perceived obligations under section 7AA, even in instances where contact was not in the best interests of the child.

Departmental disclosure statement

Oranga Tamariki—Ministry for Children 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=2024&no=43>

Regulatory impact statement

Oranga Tamariki—Ministry for Children produced a regulatory impact statement on 12 March 2024 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this regulatory impact statement can be found at—

- <https://www.orangatamariki.govt.nz/about-us/information-releases/cabinet-papers/>
- <https://treasury.govt.nz/publications/informationreleases/ris>

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause and provides that the Bill comes into force on the day after Royal assent.

Part 1

Amendments to Oranga Tamariki Act 1989

Clause 3 provides that *Part 1* amends the Oranga Tamariki Act 1989 (the **Act**).

Clause 4 amends section 4 of the Act to align the Act's purpose with the repeal of section 7AA.

Clause 5 repeals section 7AA of the Act, which sets out the duties of the chief executive of Oranga Tamariki—Ministry for Children (the **chief executive**) in relation to the Treaty of Waitangi (te Tiriti o Waitangi).

Part 2

Consequential amendments to other legislation

Subpart 1—Amendments to Oversight of Oranga Tamariki System Act
2022

Clause 6 provides that *subpart 1* amends the Oversight of Oranga Tamariki System Act 2022.

Clause 7 amends section 24(2), which requires the Independent Monitor of the Oranga Tamariki System (the **Monitor**) to report annually on outcomes for Māori children and young people and their whānau. The amendment reflects that the section 7AA report will not be available when the Monitor prepares the annual report.

Clause 8 repeals section 57(1)(e)(i), which permits the Governor-General, by Order in Council, to make regulations prescribing matters to be contained in the Monitor's 3-yearly State of the Oranga Tamariki system report, which has a specific focus on the application of section 7AA of the Act.

Subpart 2—Amendments to Oversight of Oranga Tamariki System Regulations 2023

Clause 9 provides that *subpart 2* amends the Oversight of Oranga Tamariki System Regulations 2023.

Clause 10 replaces regulation 6(1)(d), which relates to matters the Monitor must report on in their State of the Oranga Tamariki system report. The effect of the amendment is to remove the requirement for the Monitor to report on the performance of the chief executive's section 7AA duties in that report and instead requires an assessment of outcomes being achieved for Māori children and young people and their whānau.

Clause 11 replaces regulation 8(1)(a) and (b), which sets out matters that must be contained in the Monitor's annual report for Māori children and young people and their whānau, to remove references to section 7AA. The Monitor will still be required to report on the outcomes achieved by the chief executive in relation to Māori children and young people and their whānau, and on the impact of measures taken by the chief executive in relation to Māori children and young people who come to the attention of Oranga Tamariki—Ministry for Children.

Hon Karen Chhour

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Oranga Tamariki (Repeal of Section 7AA) Amendment Act **2024**.
- 2 Commencement** 5
This Act comes into force on the day after Royal assent.

Part 1
Amendments to Oranga Tamariki Act 1989

- 3 Principal Act** 10
This Part amends the Oranga Tamariki Act 1989.
- 4 Section 4 amended (Purposes)**
In section 4(1)(f), delete “in the way described in this Act”.
- 5 Section 7AA repealed (Duties of chief executive in relation to Treaty of Waitangi (Tiriti o Waitangi))** 15
Repeal section 7AA.

Part 2
Consequential amendments to other legislation

Subpart 1—Amendments to Oversight of Oranga Tamariki System Act
2022

- 6 Principal Act** 20
This subpart amends the Oversight of Oranga Tamariki System Act 2022.
- 7 Section 24 amended (Annual report on outcomes for Māori children and young people and their whānau)**
Replace section 24(2) with:
- (2)** When preparing the report, the Monitor must consider and be informed by any information obtained in accordance with this Act. 25
- 8 Section 57 amended (Regulations)**
Repeal section 57(1)(e)(i).

Subpart 2—Amendments to Oversight of Oranga Tamariki System
Regulations 2023

9 Principal regulations

This subpart amends the Oversight of Oranga Tamariki System Regulations 2023.

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10 Regulation 6 amended (Matters that must be contained in State of Oranga Tamariki system report)

Replace regulation 6(1)(d) with:

(d) an assessment of outcomes being achieved for Māori children and young people and their whānau; and

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11 Regulation 8 amended (Matters that must be contained in annual report for Māori children and young people and their whānau)

Replace regulation 8(1)(a) and (b) with:

(a) an assessment of the outcomes being achieved by the chief executive of Oranga Tamariki for Māori children and young people and their whānau; and

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(b) the impact of measures taken by the chief executive of Oranga Tamariki in improving outcomes for Māori children and young people who come to the attention of Oranga Tamariki under the Oranga Tamariki Act 1989; and

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