



Children's Amendment Act 2018

Public Act 2018 No 58
Date of assent 20 December 2018
Commencement see section 2

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Children's Amendment Act 2018.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act

This Act amends the Vulnerable Children Act 2014 (the **principal Act**).

*Title***4 Name of principal Act changed**

On and after the commencement of this section,—

- (a) the Vulnerable Children Act 2014 is called the Children's Act 2014;
- (b) every reference in any enactment (other than an enactment amended or replaced by this Act), and in any document, to the Vulnerable Children Act 2014 must, unless the context otherwise requires, be read as a reference to the Children's Act 2014.

5 Section 1 amended (Title)

In section 1, replace “Vulnerable Children” with “Children's”.

*Transitional, savings, and related provisions***6 New section 2A inserted (Transitional, savings, and related provisions)**

After section 2, insert:

2A Transitional, savings, and related provisions

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

*Act binds the Crown***7 Section 3 amended (Act binds the Crown)**

In section 3(2), replace “section 11 (effect of vulnerable children's plan)” with “section 12 (effect of strategy and plan)”.

*Strategy for improving children's well-being and oranga tamariki action plan***8 Part 1 replaced**

Replace Part 1 with:

Part 1

Strategy for improving children's well-being and oranga tamariki action plan

4 Purpose of this Part

The purpose of this Part is to—

- (a) require the Government to adopt, publish, and review a strategy for improving the well-being of children; and
- (b) ensure that children's agencies work together to improve the well-being of particular groups of children.

4A Treaty of Waitangi (Tiriti o Waitangi)

The duties of the responsible Minister set out in sections 6D(1)(d) and 7C(2)(a) are imposed in order to recognise and provide a practical commitment to the Treaty of Waitangi (te Tiriti o Waitangi).

5 Interpretation

(1) In this Part, unless the context otherwise requires,—

child means any of the following:

- (a) a person who is under the age of 18 years;
- (b) a person who is under the age of 21 years and has been in care (as defined in this subsection);
- (c) a person who is under the age of 25 years and is receiving transition support from the department under Part 7 of the Oranga Tamariki Act 1989

children's agencies means those departments of State or instruments of the Crown that are, with the authority of the Prime Minister, for the time being responsible (alone, or with 1 or more other departments or instruments) for the administration of all or any provisions of 1 or more of the following Acts:

- (a) Domestic Violence Act 1995;
- (b) Education Act 1989;
- (c) New Zealand Public Health and Disability Act 2000;
- (d) Oranga Tamariki Act 1989;
- (e) Policing Act 2008;
- (f) Social Security Act 2018;
- (g) any other Act or Acts for the time being prescribed under subsection (2)

Children's Commissioner means the Children's Commissioner continued under section 6 of the Children's Commissioner Act 2003

children's Ministers means the Ministers of the Crown who for the time being—

- (a) have relevant portfolio responsibilities for 1 or more of the children's agencies (but excluding all related Associate Ministers of the Crown, if any); or
- (b) are designated by the Prime Minister as children's Ministers for the purpose of this Part

core populations of interest to the department means the following groups of children:

- (a) children who have early risk factors for future involvement in the statutory care, protection, and youth justice systems under the Oranga Tamariki Act 1989:
- (b) children who are all or any of the following:
 - (i) children receiving assistance from the department (whether or not they are children in need of care or protection) under Part 2 of that Act (which relates to care and protection):
 - (ii) children who are subject to a custody order, an order appointing a person specified in section 110(1)(a) to (e) of that Act as their sole guardian, or an agreement for care, under Part 2 of that Act:
 - (iii) children who are subject to proceedings or orders under Part 4 of that Act (which relates to youth justice), or who are remanded in the custody of the chief executive of the department under section 173 or 174 of the Criminal Procedure Act 2011:
 - (iv) children receiving transition support from the department under Part 7 of the Oranga Tamariki Act 1989:
- (c) children who are any persons who are under the age of 21 years and who have been in care (as defined in this subsection)

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

financial year means a period of 12 months commencing on 1 July and ending with 30 June

household, for a child, has the same meaning as the term **child's household** in section 5 of the Child Poverty Reduction Act 2018

in care, for a child, means that the child is—

- (a) placed or detained in the custody or care of the chief executive of the department, a person, a body, or an organisation under the Oranga Tamariki Act 1989; or
- (b) remanded in the custody of the chief executive of the department under section 173 or 174 of the Criminal Procedure Act 2011; or

(c) detained in a residence under section 34A of the Corrections Act 2004
oranga tamariki action plan means the plan prepared, approved, published, and from time to time amended or replaced, under this Part

plan Minister means the Minister of the Crown for the time being designated by the Prime Minister as the responsible Minister for all purposes related to the oranga tamariki action plan (for example, approving it, or approving any amendment to it or replacement of it, or receiving any report in respect of it)

responsible Minister means the Minister of the Crown for the time being designated by the Prime Minister as the responsible Minister for the purposes of this Part (except all purposes related to the oranga tamariki action plan)

strategy means the strategy adopted, and from time to time changed, under this Part

UNCROC means the United Nations Convention on the Rights of the Child (a copy of the English text of which is set out in Schedule 2 of the Children's Commissioner Act 2003)

UNCRPD means the United Nations Convention on the Rights of Persons with Disabilities.

- (2) The Governor-General may, by Order in Council, prescribe any other Act or Acts for the purposes of paragraph (g) of the definition of children's agencies in subsection (1).

Strategy for improving children's well-being

6 Adoption of strategy

- (1) The responsible Minister must, after consulting the children's Ministers, adopt a strategy to address—
- (a) improving the well-being of all children; and
 - (b) improving, as a particular focus, the well-being of children with greater needs; and
 - (c) reducing child poverty and mitigating impacts of child poverty and of socio-economic disadvantage experienced by children; and
 - (d) improving the well-being of the core populations of interest to the department.
- (2) The responsible Minister may, after consulting with the children's Ministers, change a strategy adopted under this section.
- (3) Subsections (1) and (2) do not limit or affect consultation with any other Ministers that the responsible Minister considers it appropriate to consult on the strategy.

6A Strategy and international obligations

- (1) The strategy is intended to help New Zealand meet its international obligations relating to children.
- (2) Those obligations include New Zealand's obligations relating to children under the UNCROC and the UNCRPD.
- (3) However, this Part does not, in and of itself, give domestic legal effect to, or implement in New Zealand law, any of those obligations.

6B Policy-related principles Minister must have regard to before strategy adopted or changed

- (1) Before adopting a strategy, or changing a strategy adopted, under section 6, the responsible Minister must have regard to the following policy-related principles:
 - (a) policies should be informed by evidence about their expected effectiveness in achieving the social and economic outcomes sought by the strategy:
 - (b) policies should prevent or minimise negative social outcomes and, if they do occur, should address them as early as possible:
 - (c) the Government should evaluate the effectiveness of policies.
- (2) In this section, **policies** means policies implemented, or to be implemented, by the Government to achieve the outcomes sought by the strategy.

6C Child-related principles Minister must have regard to before strategy adopted or changed

Before adopting a strategy, or changing a strategy adopted, under section 6, the responsible Minister must have regard to the following child-related principles:

- (a) children's intrinsic value and inherent dignity should be acknowledged:
- (b) children's rights in New Zealand law (including children's rights in New Zealand law that are derived from the UNCROC or the UNCRPD) must be respected and upheld:
- (c) children should be viewed in the context of their families, whānau, hapū, and iwi, other culturally recognised family groups, and communities.

6D Other consultation before strategy adopted or changed

- (1) Before adopting a strategy, or changing a strategy adopted, under section 6, the responsible Minister must consult, on the proposed strategy or change to the strategy,—
 - (a) any children, or representatives of children, that the responsible Minister considers appropriate (in order to ensure that children's views on the proposed strategy or change are taken into account); and
 - (b) the Children's Commissioner; and

- (c) the Minister of the Crown who is responsible for the Ministry of Māori Development; and
 - (d) any representatives of Māori (for example, of iwi, and of Māori organisations) that the responsible Minister considers appropriate.
- (2) Subsection (1) does not limit or affect consultation with any other organisations, or any other individuals, that the responsible Minister considers it appropriate to consult on the strategy.

6E Publication and status of strategy

- (1) A strategy, or changes to a strategy, adopted under section 6 (for example, after a review under section 7A), must—
- (a) be notified in the *Gazette*; and
 - (b) be published on, and available at all reasonable times from, an Internet site maintained by or on behalf of the children's agencies.
- (2) The *Gazette* notice required by subsection (1)(a) need not contain or set out the strategy or changes, but must specify details of the Internet site referred to in subsection (1)(b).
- (3) An instrument recording, or a notice notifying, a strategy, or changes to a strategy, adopted under section 6, is neither a legislative instrument nor a disallowable instrument for the purposes of the Legislation Act 2012, and does not have to be presented to the House of Representatives under section 41 of that Act.

7 Content of strategy

- (1) The strategy must include outcomes sought—
- (a) under section 6(1)(a), (b), and (d); and
 - (b) in particular, under section 6(1)(c) (which relates to reducing child poverty and mitigating impacts of child poverty and of socio-economic disadvantage).
- (2) The strategy must indicate—
- (a) the extent to which the outcomes included in the strategy are measurable;
 - (b) how the measurable outcomes will be measured, including by analysing disparities of outcome for—
 - (i) children in poverty; and
 - (ii) children who, compared with all children, are children with socio-economic disadvantage;
 - (c) if 1 or more earlier strategies have been adopted under section 6, the policies that the Government has implemented, after the adoption of the last of those earlier strategies, to achieve the well-being outcomes sought

by the last of those strategies, and any steps that the Government has taken to evaluate the effectiveness of those policies:

- (d) the policies that the Government intends to implement, after the adoption of the strategy, to achieve the outcomes sought by that strategy, and any steps that the Government intends to take to evaluate the effectiveness of those policies.
- (3) The strategy must include an assessment of the likely effect of Government policies whose aim is or includes all or any of the following:
- (a) reducing child poverty;
 - (b) mitigating impacts of child poverty or of socio-economic disadvantage experienced by children.
- (4) The assessment required by subsection (3) must address the following matters:
- (a) economic changes likely to arise from the implementation of the policies;
 - (b) how the impact of the policies may be affected by any economic changes external to the policies.

7A Duty to review strategy

The responsible Minister must, in consultation with the children's Ministers, complete a review of the strategy—

- (a) within 3 years after the date of its first adoption under section 6; and
- (b) thereafter within 3 years after the date of completion of the most recent review of it under this section.

7B Duty to prepare and publish annual report on progress in achieving strategy's outcomes

- (1) The responsible Minister must, within 9 months after a financial year, prepare a report on achievement, during that year, of the outcomes that the strategy indicates are sought, during that year, for children identified in the strategy.
- (2) Before finalising the report, the responsible Minister must consult the children's Ministers on a draft of the report.
- (3) As soon as is reasonably practicable after the report is prepared, the responsible Minister must ensure that it is—
 - (a) presented to the House of Representatives; and
 - (b) published on 1 or more Internet sites maintained by or on behalf of the children's agencies.

7C Annual report: analysis of identified populations

- (1) The report required by section 7B must include analysis of the identified populations.

- (2) The **identified populations** are the following children who are living in households in New Zealand:
 - (a) Māori children; and
 - (b) any groups identified for the report under subsection (3).
- (3) The responsible Minister may identify for the report 1 or more groups of other children, analysis of whom may help achieve outcomes sought by the strategy.
- (4) Examples of groups of other children who may be identified are Pacific children, disabled children, and children with a disabled parent, guardian, or caregiver.
- (5) However, this section does not require the report to include analysis of the identified populations if, or so far as, available data is not reasonably adequate to enable that analysis to be done using the relevant statistical methodology.

Oranga tamariki action plan

7D Purpose of plan

The purpose of the oranga tamariki action plan is to indicate how the chief executives of the children's agencies will work together to improve the well-being of the core populations of interest to the department.

8 Preparation of plan

- (1) The chief executives of the children's agencies must, after the strategy is adopted or changed under section 6, work together, under the co-ordination of the chief executive of the department, to do both of the following no later than a date specified (under this subsection and, if applicable, section 10A(1)(b)) by the plan Minister:
 - (a) develop a draft oranga tamariki action plan; and
 - (b) submit it to the plan Minister for approval.
- (2) The plan Minister must, after consulting the children's Ministers about the draft plan,—
 - (a) approve the draft plan; or
 - (b) refer it to the chief executives of the children's agencies for reconsideration, together with the Minister's reasons for referring it back to the chief executives.
- (3) The chief executives, on receiving a referral under subsection (2)(b), must reconsider the draft plan and, as soon as is reasonably practicable, submit a revised draft plan to the plan Minister for approval under subsection (1).

8A Publication and status of plan

- (1) The oranga tamariki action plan must, after it is approved by the plan Minister,—
 - (a) be notified in the *Gazette*; and
 - (b) be published on, and available at all reasonable times from, an Internet site maintained by or on behalf of the children's agencies.
- (2) The *Gazette* notice required by subsection (1)(a) need not contain or set out the oranga tamariki action plan, but must specify details of the Internet site referred to in subsection (1)(b).
- (3) The oranga tamariki action plan may be published under subsection (1)(b) with, or without, any related reports accompanying the draft plan submitted for approval under section 8(1)(b).
- (4) An instrument recording, or a notice notifying, an oranga tamariki action plan, or changes to one, approved under section 8, is neither a legislative instrument nor a disallowable instrument for the purposes of the Legislation Act 2012, and does not have to be presented to the House of Representatives under section 41 of that Act.

9 Content of plan

- (1) The oranga tamariki action plan (and any draft of it)—
 - (a) must set out the steps that the chief executives of the children's agencies will take to work together to achieve the outcomes that the strategy sets out for the core populations of interest to the department; and
 - (b) may set out any other steps that the chief executives have decided that they will take to work together to improve the well-being of those groups.
- (2) The chief executives must consider how the steps to be set out in the plan will promote the best interests of the core populations of interest to the department (having regard to the whole of their lives), including (without limitation) by—
 - (a) protecting them from abuse and neglect:
 - (b) improving their physical and mental health and their cultural and emotional well-being:
 - (c) improving their education and training and their participation in recreation and cultural activities:
 - (d) strengthening their connection to their families, whānau, hapū, and iwi, or other culturally recognised family group:
 - (e) increasing their participation in decision making about them, and their contribution to, and participation in, society:
 - (f) improving their social and economic well-being (for example, by reducing, or mitigating the impacts of, poverty).

- (3) The steps to improve the well-being of children specified in paragraph (b) of the definition in section 5(1) of core populations of interest to the department must include—
- (a) participation by the children's agencies (and any contracted or related service providers, where appropriate) in assessment, planning, and decision making in relation to those children:
 - (b) the provision of services (including any contracted or related services where appropriate) to those children.

10 Duration of plan

The oranga tamariki action plan—

- (a) comes into effect on a date (after the date on which it is approved) specified in it for the purpose; and
- (b) continues in force until it is amended or replaced under section 10A.

10A Review and amendment or replacement of plan

- (1) The chief executives of the children's agencies must, working together, review the plan, within a time specified by the plan Minister, if—
- (a) the strategy adopted from time to time under section 6 changes; or
 - (b) the plan Minister so directs.
- (2) When reviewing the oranga tamariki action plan, the chief executives must—
- (a) consider whether the plan is still consistent with the current strategy adopted under section 6; and
 - (b) if the chief executives consider it appropriate, recommend to the plan Minister that he or she—
 - (i) approve amendments to the plan; or
 - (ii) approve a new plan.
- (3) Sections 8(2) and (3) and 8A apply with any necessary modifications.

11 Implementation reports

Once the oranga tamariki action plan has come into effect, the chief executive of each children's agency must—

- (a) report (jointly with each of the other chief executives of the children's agencies) to the plan Minister, by a date in each year specified by the plan Minister, on whether the agency has, or on the extent to which the agency has, before that date (and after the periods covered by all earlier reports, if any, under this paragraph), implemented the plan while it has been in force; and
- (b) ensure that a copy of every implementation report required by paragraph (a) is included in the agency's next annual report (under section 43

of the Public Finance Act 1989 or another enactment) and is available on an Internet site maintained by or on behalf of the agency.

Effect and accountabilities

12 Effect of strategy and plan

- (1) The strategy and the oranga tamariki action plan do not—
- (a) create legal rules; or
 - (b) create any legal right enforceable in a court of law; or
 - (c) affect or limit the way in which a person (for example, a Minister of the Crown or chief executive of a department of State) is required to exercise a statutory power of decision; or
 - (d) affect the interpretation of any enactment or the operation of a rule of law; or
 - (e) restrict the ability of the Crown to exercise its powers and perform its functions and duties in accordance with the law and Government policy, for example, the ability to—
 - (i) introduce legislation and change Government policy; and
 - (ii) interact with or consult a person the Crown considers appropriate; or
 - (f) restrict the responsibilities of a Minister of the Crown or a department of State.
- (2) Subsection (1) overrides section 13(1).

13 Accountabilities

- (1) For the purposes of the operation of the legislative and executive branches of Government,—
- (a) in the adopting and implementation of the strategy for improving the well-being of children, the responsible Minister is the Minister of the Crown who is accountable, both to Parliament and the Executive; and
 - (b) in any matter relating to the oranga tamariki action plan, the plan Minister is the Minister of the Crown who is accountable, both to Parliament and the Executive; and
 - (c) in any matter relating to the oranga tamariki action plan, the chief executive of each of the children's agencies is accountable to the plan Minister.
- (2) Subsection (1)—
- (a) does not limit or affect—
 - (i) section 12(1) of this Act; or
 - (ii) the operation of the Public Finance Act 1989; or

- (iii) the independence of the Commissioner of Police (as affirmed by sections 8(e) and 16(2) of the Policing Act 2008); but
- (b) overrides any other law to the contrary.
- (3) A duty, function, or power of the responsible Minister or the plan Minister, or of the chief executive of a children's agency, is affected by this Part only to the extent necessary to give effect to subsection (1) (as overridden by section 12(1)).

Transitional, savings, and related provisions

9 New Schedule 1AA inserted

Insert the Schedule 1AA set out in Schedule 1 of this Act as the first schedule to appear after the last section of the principal Act.

Consequential amendments and revocation

10 Consequential amendments and revocation

- (1) Amend the Acts listed in Part 1 of Schedule 2 as indicated in that Part.
- (2) Amend the legislative instruments listed in Part 2 of Schedule 2 as indicated in that Part.
- (3) Revoke the legislative instrument specified in Part 3 of Schedule 2.

Schedule 1
New Schedule 1AA inserted

s 9

Schedule 1AA
Transitional, savings, and related provisions

s 2A

Part 1
Children's Amendment Act 2018

1 Strategy

A strategy is required by section 6 to be adopted before the first anniversary of the day on which the Children's Amendment Act 2018 comes into force.

2 Annual report on progress in achieving strategy's outcomes

- (1) The annual report is required by section 7B only for and after the first full financial year after the date of the strategy's first adoption under section 6.
- (2) However, the first annual report under section 7B may (as well as covering that first full financial year) also cover a period—
 - (a) on or after the date of the strategy's first adoption under section 6; and
 - (b) before that full financial year.

Schedule 2

Consequential amendments and revocation

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Part 1

Amendments to Acts

Criminal Records (Clean Slate) Act 2004 (2004 No 36)

In section 6(1), replace "Vulnerable Children" with "Children's".

Crown Organisations (Criminal Liability) Act 2002 (2002 No 37)

In section 6(1)(e), replace "Vulnerable Children" with "Children's".

In section 7(a), replace "Vulnerable Children" with "Children's".

Education Act 1989 (1989 No 80)

In section 353(e)(i) and (ii), replace "Vulnerable Children" with "Children's".

In section 366(4)(b)(i) and (ii), replace "Vulnerable Children" with "Children's".

Privacy Act 1993 (1993 No 28)

In Schedule 2A, item relating to the Approved Information Sharing Agreement for Improving Public Services for Vulnerable Children dated 25 June 2015, column headed "Name of agreement", replace "Vulnerable" with "At-risk".

In Schedule 2A, item relating to the Approved Information Sharing Agreement for Improving Public Services for Vulnerable Children dated 25 June 2015, column headed "Public service(s) to be facilitated by agreement", replace "Vulnerable" with "At-risk".

Sentencing Act 2002 (2002 No 9)

In section 4(4), replace "Vulnerable Children" with "Children's".

Part 2

Amendments to legislative instruments

Corrections Regulations 2005 (SR 2005/53)

In regulation 106B(3), replace "Vulnerable Children" with "Children's".

Privacy (Information Sharing Agreement for Improving Public Services for Vulnerable Children) Order 2015 (LI 2015/162)

In clause 1, replace "Vulnerable" with "At-risk".

In clause 3(1), insert in its appropriate alphabetical order:

Privacy (Information Sharing Agreement for Improving Public Services for Vulnerable Children) Order 2015 (LI 2015/162)—*continued*

at-risk children means children who are at significant risk of harm to their well-being, now and into the future, as a consequence of either or both of the following:

- (a) the environment in which they are being raised:
- (b) their own complex needs

In clause 3(1), definition of **child**, replace “Vulnerable Children” with “Children’s”.

In clause 3(1), definition of **Hub**, replace “vulnerable” with “at-risk”.

In clause 3(1), replace the definition of **improving the well-being of vulnerable children** with:

improving the well-being of at-risk children means promoting the best interests of at-risk children (having regard to the whole of their lives), including (without limitation) taking measures aimed at—

- (a) protecting them from abuse and neglect:
- (b) improving their physical and mental health and their cultural and emotional well-being:
- (c) improving their education and training and their participation in recreation and cultural activities:
- (d) strengthening their connection to their families, whānau, hapū, and iwi, or other culturally recognised family group:
- (e) increasing their participation in decision making about them, and their contribution to, and participation in, society:
- (f) improving their social and economic well-being (for example, by reducing, or mitigating the impacts of, poverty).

Revoke clause 3(2).

After clause 4(2), insert:

- (2A) However, after the commencement of the Children’s Amendment Act 2018,—
- (a) the agreement is to be called the Information Sharing Agreement for Improving Public Services for At-risk Children made on 25 June 2015; and
 - (b) every reference in the agreement to vulnerable children is to be read as a reference to at-risk children (as defined in clause 3(1)); and
 - (c) every reference in any document to the agreement, or to vulnerable children in or in connection with the agreement, must, unless the context otherwise requires, be read as required by this subclause.

In clause 6(a), (b), and (d), replace “vulnerable” with “at-risk”.

Privacy (Information Sharing Agreement for Improving Public Services for Vulnerable Children) Order 2015 (LI 2015/162)—*continued*

In clause 10, replace “improving the well-being of vulnerable children” with “improving the well-being of at-risk children”.

In clause 10(a), and 10(b), replace “vulnerable” with “at-risk”.

Vulnerable Children (Children’s Services) Order 2016 (LI 2016/54)

In clause 1, replace “Vulnerable Children” with “Children’s”.

In clause 3, replace “Vulnerable Children” with “Children’s”.

Vulnerable Children (Prescribed State Service) Order 2017 (LI 2017/203)

In clause 1, replace “Vulnerable Children” with “Children’s”.

Vulnerable Children (Requirements for Safety Checks of Children’s Workers) Regulations 2015 (LI 2015/106)

In regulation 1, replace “Vulnerable Children” with “Children’s”.

In regulation 3, definition of **Act**, replace “Vulnerable Children” with “Children’s”.

Part 3 Revocation

Vulnerable Children (Children’s Agencies) Order 2017 (LI 2017/202)

Revoke.

Legislative history

27 November 2018	Divided from Child Poverty Reduction Bill (Bill 14–2) as Bill 14–3A
18 December 2018	Third reading
20 December 2018	Royal assent

This Act is administered by Oranga Tamariki—Ministry for Children and the Ministry of Education.