

**Reprint
as at 31 March 2014**



**Children, Young Persons, and
Their Families Amendment Act
2013**

Public Act 2013 No 76
Date of assent 24 September 2013
Commencement see section 2

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.

Note 4 at the end of this reprint provides a list of the amendments incorporated.

This Act is administered by the Ministry of Social Development.

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Children, Young Persons, and Their Families Amendment Act 2013.

2 Commencement

This Act comes into force on 1 October 2014 unless it is earlier brought into force on a date appointed by the Governor-General by Order in Council.

Section 2: this Act brought into force, on 31 March 2014, by the Children, Young Persons, and Their Families Amendment Act 2013 Commencement Order 2014 (LI 2014/90).

3 Principal Act

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

4 Section 137 amended (Court to consider report and make directions)

- (1) In section 137(1), delete “, after giving such persons (if any) as it thinks fit an opportunity to be heard.”
- (2) After section 137(1), insert:
 - “(1A) When considering the report and revised plan, the court may, but need not, give to any person the opportunity to be heard.”

5 Section 159 amended (Appointment of barrister or solicitor to represent child or young person)

- (1) Replace the heading to section 159 with “**Appointment of lawyer to represent child or young person in proceedings**”.
- (2) In section 159, replace “barrister or solicitor” with “lawyer” in each place.
- (3) In section 159(3)(a), replace “barrister’s or solicitor’s” with “lawyer’s”.

6 Sections 160 and 161 replaced

Replace sections 160 and 161 with:

“160 Appointment of lawyer to assist court

In any proceedings in a Family Court under Part 2 or 3A, the court may—

- “(a) appoint a lawyer to assist the court; or
- “(b) direct the Registrar of the court to appoint a lawyer to assist the court.

“161 Further provisions relating to appointment under section 159 or 160

- “(1) A lawyer appointed under section 159—
 - “(a) must be served with all documents required to be served on the parties to the proceedings; and
 - “(b) may—
 - “(i) request the court to obtain any report that the court is empowered to obtain for the purposes of the proceedings:
 - “(ii) act on behalf of the child or young person in respect of any matter relating to the detention of that child or young person in secure care, or the care of that child or young person in a residence.
- “(2) A lawyer appointed under section 160—
 - “(a) must be served with all documents required to be served on the parties to the proceedings; and
 - “(b) may request the court to obtain any report that the court is empowered to obtain for the purposes of the proceedings.”

7 Section 162 replaced (Payment of barrister or solicitor appointed under section 159 or section 160)

Replace section 162 with:

“162 Payment of lawyer appointed under section 159 or 160

- “(1) The fees and expenses of any lawyer appointed under section 159 or 160 must—
- “(a) be determined in accordance with regulations made under section 16D of the Family Courts Act 1980 or, if no such regulations are made, by the Registrar of the court; and
 - “(b) be paid in accordance with that determination out of public money appropriated by Parliament for the purpose.
- “(2) An invoice rendered by a lawyer appointed under section 159 or 160 for fees and expenses must be given to the Registrar of the court in which the proceedings were heard, and the Registrar may decide to adjust the amount of the invoice.
- “(3) A lawyer who is dissatisfied with the decision of the Registrar as to the amount of the invoice may, within 14 days after the date of the decision, apply to a Family Court Judge to review the decision, and the Judge may on the application make any order varying or confirming the decision that the Judge considers fair and reasonable.
- “(4) Where the fees and expenses of a lawyer appointed under section 159 or 160 have been paid under subsection (1)(b), the court may, if it thinks it is appropriate, order a party to the proceedings to refund to the Crown an amount that the court specifies in respect of those fees and expenses, and the amount ordered to be refunded is a debt due to the Crown by that party and, in default of payment of that amount, payment may be enforced, by order of a District Court or the High Court, as the case may require, in the same manner as a judgment of that court.”

8 New sections 206A and 206B inserted

After section 206, insert:

**“206A Leave required in certain cases to commence
substantially similar proceedings**

- “(1) A proceeding (a **new proceeding**) may not be commenced under Part 2 without the leave of the court if that new proceeding—
- “(a) is substantially similar to a proceeding previously filed in a Family Court by any person (a **previous proceeding**); and
 - “(b) is to be commenced less than 2 years after the final direction or order was given in the previous proceeding.
- “(2) The leave of the court may only be given under subsection (1) if, since the final direction or order was given in the previous proceeding, there has been a material change in the circumstances of—
- “(a) any party to the previous proceeding;
 - “(b) any child or young person who was the subject of the previous proceeding.
- “(3) In this section, a new proceeding is **substantially similar** to a previous proceeding if—
- “(a) the party commencing the new proceeding was a party to the previous proceeding; and
 - “(b) a child who is the subject of the new proceeding was the subject of the previous proceeding; and
 - “(c) the new proceeding—
 - “(i) is commenced under the same provision of this Act as the previous proceeding; or
 - “(ii) is for an order varying the order made in the previous proceeding; or
 - “(iii) is for an order discharging the order made in the previous proceeding.
- “(4) This section does not apply if—
- “(a) every party to the new proceeding consents to its commencement; or
 - “(b) the new proceeding is commenced by—
 - “(i) the chief executive; or
 - “(ii) a social worker; or
 - “(iii) an iwi social service; or
 - “(iv) a cultural social service; or

- “(v) the director of a child and family support service;
or
- “(vi) a constable.

“206B Power to dismiss proceedings

The court may dismiss proceedings before it under Part 2 if it is satisfied—

- “(a) that the proceedings relate to a specified child and that the continuation of the proceedings is, in the particular circumstances, clearly contrary to the welfare and best interests of the child; or
- “(b) that the proceedings are frivolous or vexatious or an abuse of the procedure of the court.”

9 Section 447 amended (Regulations)

Repeal section 447(e)(i).

Reprints notes

1 *General*

This is a reprint of the Children, Young Persons, and Their Families Amendment Act 2013 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Children, Young Persons, and Their Families Amendment Act 2013
Commencement Order 2014 (LI 2014/90)
