

# **Responding to Abuse in Care Legislation Amendment Bill**

Government Bill

## **Explanatory note**

### **General policy statement**

This Bill is introduced under Standing Order 267(1)(c), which permits a Bill to be introduced as an omnibus Bill if, as is the case, the Business Committee has agreed to the Bill's introduction as an omnibus Bill.

This Bill makes a suite of initial legislative changes to improve safety and well-being for children and young people, and adults in care in response to the report of the Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions. The Government is committed to driving change for survivors and for all those engaged in the current care system.

This Bill amends the following legislation:

- the Oranga Tamariki Act 1989, to authorise universal searches on entry to secure youth justice residences, for search plans to be made with children and young people in all secure residences, to repeal the ability to undertake strip searches, and to clarify the length of time for secure care prior to judicial oversight:
- the Children's Act 2014, to extend the existing workforce restriction on core children's workers to include convictions for overseas offences equivalent to specified New Zealand offences, and to include offences against children and young people under the Prostitution Reform Act 2003 in the list of specified offences:
- the Crimes Act 1961, to explicitly include disability in the definition of a vulnerable adult:
- the Public Records Act 2005, to enable earlier re-audit of agencies identified as having low information management maturity, create an ability to require an action plan and time-bound correction of non-compliance and make clear that Archives New Zealand may undertake its own audits.

## **Amendments to Oranga Tamariki Act 1989**

### *Amendments that apply solely to secure youth justice residences*

The amendments to the Oranga Tamariki Act 1989 aim to improve the safety and well-being of all people within secure care and protection residences and secure youth justice residences. These are the Oranga Tamariki residences with lockable gates and secure perimeters. They are used to care for the children and young people in state care who have the most complex care needs or who are engaged in the youth justice system.

The amendments introduce new provisions that will allow all young people, visitors, staff, and contractors to be searched before entry to a secure youth justice residence. This is to ensure that harmful and unauthorised items are not brought inside these residences. The new provisions allow searches to be undertaken using body imaging scanners.

Currently, visitors, staff, and contractors cannot be searched. However, they can be a source of harmful items entering secure youth justice residences. As a result of the amendments, any visitors, staff, or contractors who refuse to be searched may be denied entry to the residence.

The new search on entry power will not require the person conducting the scanner search to believe on reasonable grounds that a person has a harmful or unlawful item in their possession. The requirement for belief on reasonable grounds will remain in place for all other (not on entry) searches of children and young persons in youth justice residences and to all pat down searches conducted at any time (including on entry).

The Bill supplements the definition of harmful item in section 384A of the Oranga Tamariki Act 1989, for secure youth justice residences, with a list of items that will always be considered harmful; for example, alcohol and drugs, vapes and smokeless tobacco products, and any item that could be used to facilitate absconding from the residence. This will remove current ambiguity around certain items and the current case-by-case assessment process to determine if these items are harmful.

Before conducting any search on entry to a secure youth justice residence, every entrant must be advised that they and their personal possessions and vehicle may be searched, the purpose of that search, and the consequences if any unauthorised item is found. Visitors, staff, and contractors will be able to choose whether to consent to each search before it is conducted and can withdraw their consent at any time (but may be denied entry to the secure residence if they do so). They must be invited to hand over any harmful or unlawful items that they might have in their possession at the time.

### *Amendments that apply to all secure residences*

The Bill repeals the power in section 384E of the Oranga Tamariki Act 1989 to strip search children and young persons as it is rarely used and strip searches are traumatising. It also removes the requirements in section 384G(2) and (3) that searches be car-

ried out by a staff member of the same sex, and that a person who is not of the same sex must not be present during a search, because they do not take account of the child's or young person's gender preferences.

The Bill replaces the above requirements with new requirements on the chief executive of Oranga Tamariki to ensure that a search plan is developed for each child or young person to meet their needs and preferences for how they are searched and by whom. This will enable search plans and the undertaking of searches to take into consideration a child's or young person's preferred gender identity, any trauma they have previously experienced, and any other matter that may negatively affect how they experience a search. In the case of disabled children and young people, the plans will need to take account of their specific disability needs.

The Bill amends section 370(1) of the Oranga Tamariki Act 1989, which prescribes the time limit for secure care, to ensure that there is no ambiguity. Secure care is where a child or young person can be confined in a locked room for their and others' safety when prescribed criteria are met. Currently, court approval is required to keep a child in secure care for longer than a continuous period of more than 72 hours, or on more than 3 consecutive days (whether continuous or not). The existence of 2 time frames has caused confusion. The Bill removes references to a continuous period of more than 72 hours. This is the potentially longer measure of the 2 time frames, and less aligned with well-being.

#### **Amendments to Children's Act 2014**

Part 3 of the Children's Act 2014 (the **Act**) relates to the safety checking of children's workers. It provides for a workforce restriction that makes it unlawful for a specified organisation to engage a person convicted of a specified offence as a core worker unless the person has an exemption.

Specified organisations are State services and local authorities, and organisations and individuals funded by State services or local authorities, that provide regulated services. Core workers are children's workers who, in the course of their work, have primary responsibility for a child or are the only children's worker present. Specified offences are offences under New Zealand law identified in Schedule 2 of the Act.

The workforce restriction currently does not apply to people with convictions from overseas jurisdictions for offences equivalent to specified offences. In addition, it currently does not apply to people who have been convicted for offences involving minors under the Prostitution Reform Act 2003. These are gaps in the protections afforded to children and young people under the Act that the Bill closes. It amends the Children's Act 2014 to—

- extend the workforce restriction to people with convictions from overseas jurisdictions for offences equivalent to specified offences. It also provides affected people with the opportunity to seek review and appeal of decisions made about whether offences for which they have overseas convictions are equivalent to specified offences:

- add the following offences under the Prostitution Reform Act 2003 to the list of specified offences in Schedule 2 of the Act:
  - section 20, which relates to causing, assisting, facilitating, or encouraging a person under 18 years of age to provide commercial sexual services to any person; and
  - section 21, which relates to receiving a payment if a person knows, or ought reasonably to know, that it is derived, directly or indirectly, from commercial sexual services provided by a person under 18 years of age; and
  - section 22, which relates to entering into a contract or arrangement under which a person under 18 years of age provides commercial sexual services.

### **Amendments to Crimes Act 1961**

The Crimes Act 1961 sets out the duty to provide children and vulnerable adults with the necessities of life and protect them from injury. It also provides for offences relating to the failure to protect a child or vulnerable adult and against their ill-treatment. For the purposes of these obligations and offences, it defines a vulnerable adult as a person unable, by reason of detention, age, sickness, mental impairment, or any other cause, to withdraw himself or herself from the care or charge of another person.

The words “any other cause” in the definition can be read to include disabled people who are unable to withdraw themselves from the care or charge of their carer. The Bill amends the Crimes Act 1961 to include disability and avoid doubt.

### **Amendments to Public Records Act 2005**

The Bill amends the Public Records Act 2005 (the **Act**) to clarify and enhance the role of Archives New Zealand in responding to non-compliance with the Act and to improve the creation of and access to records. The amendments—

- remove the limitation on Archives New Zealand conducting audits no sooner than 5 years after a previous audit;
- enable the Chief Archivist to—
  - require the preparation and carrying out of an action plan in response to problems with recordkeeping practices identified in audits or inspections; and
  - issue a performance notice to a recordkeeping agency to remedy an issue by a particular point in time, in response to an issue identified through an audit or inspection;
- enable inspections of the systems and processes involved in the creation of records, in addition to systems where they are stored or maintained;
- clarify the meaning of independent so that it is clear that either Archives NZ or external auditors can conduct independent audits.

The amendments aim to strengthen and clarify the Public Records Act 2005 to support recordkeeping agencies in reaching compliance. They will enable the current practice associated with action plans to have a clear legislative foundation. This should provide enhanced incentives for compliance and improvements to recordkeeping practice.

### Departmental disclosure statement

Oranga Tamariki—Ministry for Children, the Ministry of Education, the Ministry of Justice, and the Department of Internal Affairs are 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=97>

### Regulatory impact statement

A regulatory impact statement is not required for *Parts 1, 2, or 4* or *Schedule 1* of this Bill.

Oranga Tamariki—Ministry for Children produced a regulatory impact statement on 17 September 2024 to help inform the main policy decisions taken by the Government relating to the contents of *Part 3* and *Schedules 2 and 3* 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 as follows:

- *Part 1* (amendments to Children’s Act 2014) and *Part 3* (amendments to Oranga Tamariki Act 1989), except *clauses 16, 21, and 31*, come into force on a date or dates set by Order in Council and no later than 12 months after the date of Royal assent:
- the rest of the Bill comes into force on the day after Royal assent.

The reason for the delayed commencement of the amendments to the Children’s Act 2014 in *Part 1* is to ensure that the necessary operational changes, including a review process, are in place before commencement of *Part 1*.

The reason for the delayed commencement of the amendments to the Oranga Tamariki Act 1989 in *Part 3* (except *clauses 16, 21, and 31*) is to ensure that the necessary

operational changes are in place before commencement to support the new scanner search provisions set out in *Part 3*.

## Part 1 Amendments to Children’s Act 2014

*Clause 3* provides that *Part 1* amends the Children’s Act 2014 (the **principal Act**).

*Clause 4* replaces section 28(1) to (3), which currently restrict a specified organisation from employing or engaging, or continuing to employ or engage, as a core worker, a person who—

- has been convicted of a specified offence listed in Schedule 2; and
- does not hold an exemption granted under section 35.

*New section 28(1) to (3)* expands the current restriction in the principal Act by providing that a specified organisation must not employ or engage, or continue to employ or engage, as a core worker, a person who—

- has been convicted of an offence under the law of another jurisdiction that, if committed in New Zealand, would be a specified offence; and
- does not hold an exemption granted under section 35.

*Clause 5* inserts *new sections 28A to 28D*, which relate to a determination by a specified organisation that *new section 28(1)(a)(ii)* applies to a person who is seeking to be employed or engaged, or is currently employed or engaged, by the specified organisation as a core worker (a **determination**).

*New sections 28A and 28B* provide that the person who is affected by the determination may apply to the chief executive of any key agency for a review of the determination, and set out the process for making an application.

*New section 28C* provides that the chief executive must confirm or reverse the determination and the chief executive’s decision is binding on all specified organisations in relation to applicant.

*New section 28D* provides for an appeal to the High Court if the chief executive confirms the determination.

*Clause 6* inserts *new section 33(1)(da)*, which provides for regulations to be made prescribing the process for a review of a determination that *new section 28(1)(a)(ii)* applies to a person.

*Clause 7* replaces section 35(1), which currently allows the chief executive of a key agency to grant an exemption to a person who has been convicted of a specified offence so that the person can become a core worker. *New section 35(1)* provides that the chief executive may also grant an exemption to a person who has been convicted of an offence under the law of another jurisdiction that, if committed in New Zealand, would be a specified offence.

*Clause 8* updates section 36(1)(b), which relates to applications for exemptions under section 35, to reflect *new section 35(1)*.

*Clause 9* and *Schedule 1* insert *new Part 2* into Schedule 1AA of the principal Act. *New Part 2* clarifies that current section 28(3) continues to apply to a specified organisation for 6 months after the commencement of *Part 1* and that *new section 28(3)* applies to a specified organisation on and after the date that is 6 months after the commencement of *Part 1*. The reason for the additional 6 months delay in the application of *new section 28(3)* is to allow time for existing core workers affected by the amendment to seek reviews and exemptions.

*Clause 10* amends Schedule 2, which identifies offences against other legislation that prevent a person who has been convicted of the offence and who does not hold an exemption granted under section 35 from becoming a core worker. The amendments insert 3 offences against the Prostitution Reform Act 2003 to the list of specified offences.

## Part 2

### Amendment to Crimes Act 1961

*Clause 11* provides that *Part 2* amends the Crimes Act 1961 (the **principal Act**).

*Clause 12* amends the definition of vulnerable adult in section 2(1) to include a reference to disability to ensure that disabled people are covered by the following duties and offences in the principal Act:

- section 151 (duty to provide necessities and protect from injury):
- section 195 (ill-treatment or neglect of child or vulnerable adult):
- section 195A (failure to protect child or vulnerable adult).

## Part 3

### Amendments to Oranga Tamariki Act 1989

*Clause 13* provides that *Part 3* amends the Oranga Tamariki Act 1989 (the **principal Act**).

*Clauses 14 and 15* replace the definition of youth justice residence in section 2(1) and repeal 365(4) (which contains a separate definition of that term) so that the new definition youth justice residence set out in section 2(1) applies throughout the principal Act.

*Clause 16* amends section 370(1), which provides that a child or young person must not be kept in secure care for a continuous period of more than 72 hours, or on more than 3 consecutive days (whether continuously or not), unless approved by a court under section 376. The amendment removes the reference to “for a continuous period of more than 72 hours or” to ensure there is no ambiguity about the requirement.

*Clause 17* amends section 384A, which defines terms used in sections 384B to 384K relating to searches carried out at residences established by the chief executive of Oranga Tamariki (the **chief executive**) under section 364 of the principal Act. The amendments—

- extend the application of definitions set out in section 384 so that the defined terms (as applicable) cover the specific provisions relating to searches on entry to a youth justice residence set out in *new sections 384KA to 384KN*:
- replace the definition of harmful item with a new definition that differentiates between harmful items for the purposes of searches carried out on entry to a youth justice residence and searches carried out at other secure care residences:
- replace the definition of scanner search to differentiate between scanner searches carried out on entry to a youth justice residence and scanner searches carried out at other secure care residences:
- insert new definitions of approved search plan, authorised person, drug, electronic communication device, imaging technology search, and youth justice resident.

*Clause 18* inserts *new sections 384AA to 384AC*.

*New section 384AA* requires a search plan to be approved for each child or young person placed in a residence that reflects the child's or young person's particular needs and preferences as to how they should be searched and by whom.

*New section 384AB* requires a person conducting a search of child or young person at a residence to comply with the child's or young person's approved search plan unless in the circumstances the chief executive considers that it is not reasonably practicable to do so or there is another good reason not to do so.

*New section 384AC* sets out provisions that apply to the search of a child or young person before a search plan has been approved for them under *new section 384AA*.

*Clause 19* amends section 384C, which authorises the search of a child or young person in a residence to detect unauthorised items. The amendments insert—

- *new section 384C(1A) to (1C)*, which clarify further matters relating to the authority to carry out a scanner search of a child or young person in a residence; and
- *new section 384C(5)* to clarify that nothing in section 384C applies to a search carried out on entry to a youth justice residence.

*Clause 20* amends section 384D, which authorises the use of dogs for searching a child or young person in a residence. The amendment inserts *new section 384D(4)* to clarify that nothing in section 384D applies to a search carried out on entry to a youth justice residence.

*Clause 21* repeals section 384E, which authorises a member of staff of a residence to conduct a strip search of a child or young person for the purposes of a detecting harmful item.

*Clause 22* amends section 384F, which requires a member of staff who is to conduct an inspection of mail or the search of a child or young person in a residence to explain to the purpose of the inspection or search to the child or young person. The amendment inserts *new section 384F(3)* to clarify that nothing in section 384F applies to a search carried out on entry to a youth justice residence.



*Clause 23* amends section 384G, which sets out restrictions on searches carried out on a child or young person in a residence. The amendments—

- remove the requirements currently set out in section 384G(2) for a pat down search to be carried out by a member of staff who is of the same sex as the child or young person being searched; and
- repeal section 384G(3), which requires a pat down search not to be carried out in the view of a person who is not of the same sex as the child or young person being searched or another child or young person in the residence; and
- insert *new section 384G(6) to (8)*, which set out new requirements relating to imaging technology searches; and
- insert *new section 384G(9)*, which clarifies that nothing in section 384G applies to a search carried out on entry to a youth justice residence.

*Clause 24* amends section 384H, which authorises the use of force in a carrying out a search of a child or young person in a residence. The amendment inserts *new section 384H(3)* to clarify that nothing in section 384H applies to a search carried out on entry to a youth justice residence.

*Clause 25* amends section 384I, which requires the manager of a residence to ensure that a record is made in the daily log kept in accordance with regulations (the **daily log**) of the details of inspections and searches of a child or young person in a residence, including the details of any physical force used for the purposes of carrying out a search. The amendment inserts *new section 384I(2)* to clarify that nothing in section 384I applies to a search carried out on entry to a youth justice residence.

*Clause 26* amends section 384J, which enables a child or young person in a residence who has had their mail inspected under section 384B or who has been strip searched under section 384E to make a complaint about that inspection or search in accordance with regulations. The amendment inserts *new section 384J(2)* to clarify that nothing in section 384J applies to a search carried out on entry to a youth justice residence.

*Clause 27* amends section 384K, which provides the power to seize articles and other items found on an inspection of the mail of, or the search of, a child or young person in a residence. The amendment inserts *new section 384K(5)* to clarify that nothing in section 384K applies to a search carried out on entry to a youth justice residence.

*Clause 28* inserts *new sections 384KA to 384KN* (and a new cross-heading), which set out specific provisions that apply to searches carried out on entry to a youth justice residence.

*New section 384KA* provides that an authorised person may conduct a scanner search of a youth justice resident each time the resident enters the youth justice residence for the purpose of detecting unauthorised items. *New section 384KA(3)* allows the authorised person to conduct a pat down search of the youth justice resident if the authorised person has reasonable grounds to believe that the resident has any unauthorised item in their possession.

*New section 384KB* provides that an authorised person may use physical force in carrying out a search under *new section 384KA*, but no more than the minimum amount of force that is reasonably necessary in the circumstances.

*New section 384KC* authorises the search of other persons who wish to enter a youth justice residence, including authorised persons and visitors, for the purpose of detecting unauthorised items.

*New section 384KD* sets out the consequences of a person refusing to undergo a search under *new section 384KC*.

*New section 384KE* requires an authorised person conducting a search of a youth justice resident under *new section 384KA* or the search of any other person under *new section 384KC* to advise the person being searched of certain matters before conducting the search and invite them to hand over any unauthorised items.

*New section 384KF* sets out restrictions on different types of searches that may be conducted on persons entering a youth justice residence.

*New section 384KG* authorises vehicles to be searched before they are brought within the secure perimeter of a youth justice residence.

*New section 384KH* requires an authorised person conducting the search of a vehicle under *new section 384KG* to advise the person to whom a direction is given under that section of certain matters before conducting the search and to invite the person to hand over any unauthorised items.

*New section 384KI* authorises, and sets out particular requirements relating to, the use of dogs for searching persons on entry to a youth justice residence.

*New section 384KJ* contains further provisions relating to the search of property when carrying out a search on entry to a youth justice residence.

*New section 384KK* requires the manager of a youth justice residence to ensure that a record is made in the daily log of the details of any pat down search of a youth justice resident and of the use of any physical force for the purpose of carrying out a search of the youth justice resident, including the circumstances giving rise to the use of force.

*New section 384KL* requires the manager of a youth justice residence to ensure that a record is kept in accordance with the regulations of every pat down search of a person conducted under *new section 384KC(4)*, including the grounds for conducting the pat down search.

*New section 384KM* provides that a youth justice resident who has been searched under *new section 384KA* or any person who has been searched under *new section 384KC* or any person whose vehicle has been searched under *new section 384KG* may make a complaint about that search in accordance with the regulations made under section 447.

*New section 384KN* gives an authorised person conducting a search under any of *new section 384KA*, *384KC*, or *384KG* the power to seize and break open any unauthorised item found during the search.

*Clause 29* amends section 447, which provides for regulations to be made under the principal Act. The amendments insert *new section 447(1)(caaa) to (caac)*, which authorise regulations to be made—

- declaring any article or thing to be a harmful item for the purposes of the definition of that term in section 384A:
- prescribing, for the purposes of *new sections 384AA to 384AC*, the minimum information that must be contained in an approved search plan for a child or young person in a residence, the process or procedures for carrying out a search of a child or young person in a residence, and the circumstances that constitute or do not constitute a good reason to depart from the search plan approved for a child or young person in a residence:
- regulating searches carried out on entry to a youth justice residence under *new sections 384KA to 384KN*.

*Clause 30* and *Schedule 2* insert *new Part 6 (new clauses 25 to 28)* into Schedule 1AA of the principal Act. *New Part 6* sets out transitional provisions relating to—

- the placement of child or young person in secure care for a period specified in section 370 that began before *clause 16* comes into force and that ends after *clause 16* comes into force:
- complaints made under section 384J in relation to a strip search carried out under section 384E before the repeal of section 384E by *clause 21*:
- how personal effects or articles seized during the strip search of a child or young person that was carried out before the repeal of section 384E are to be dealt with.

*Clause 31* and *Schedule 3* consequentially amend the principal Act and the Oranga Tamariki (Residential Care) Regulations 1996 to remove references to strip searches due to the repeal of section 384E.

## **Part 4**

### **Amendments to Public Records Act 2005**

*Clause 32* provides that *Part 4* amends the Public Records Act 2005.

*Clause 33* replaces section 29(2)(a), which permits the Chief Archivist to view the systems used by a public office or a local authority for maintaining its public records or local authority records and local authority archives (as the case may be). *New section 29(2)(a)* clarifies that the Chief Archivist can also view the systems and processes used by the public office or local authority for creating and maintaining the records or archives.

*Clause 34* amends section 33, which requires a public office's recordkeeping practices to be independently audited at intervals of not less than 5 years and not more than 10 years after a previous audit. The amendments adjust the frequency of audits to be as directed by the Chief Archivist and enable audits to be carried out by an employee of the department or another person engaged by the Chief Archivist.

*Clause 35* inserts *new sections 35A and 35B*, which relate to recordkeeping practices of public offices.

*New section 35A* provides that the Chief Archivist may require a public office to prepare an action plan relating to any of its recordkeeping practices.

*New section 35B* provides that the Chief Archivist may issue a performance notice to a public office to carry out a specified action relating to any of its recordkeeping practices by a specified date.

*Hon Erica Stanford*

## **Responding to Abuse in Care Legislation Amendment Bill**

Government Bill

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

- 1 Title**  
This Act is the Responding to Abuse in Care Legislation Amendment Act **2024**.
- 2 Commencement** 5
  - (1) **Part 1** and **Part 3** (except **sections 16, 21, and 31**) come into force on a date or dates set by Order in Council.
  - (2) Any part of **Part 1** or **Part 3** (except **sections 16, 21, and 31**) that has not come into force 12 months after Royal assent comes into force then.
  - (3) The rest of this Act comes into force on the day after Royal assent. 10
  - (4) An Order in Council made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

## Part 1

### Amendments to Children’s Act 2014

#### 3 Principal Act

This Part amends the Children’s Act 2014.

#### 4 Section 28 amended (Core worker convicted of specified offence not to be employed or engaged) 5

(1) Replace section 28(1) to (3) with:

(1) This section applies to a person who—

(a) has been convicted of—

(i) a specified offence; or 10

(ii) an offence under the law of another jurisdiction that, if committed in New Zealand, would be a specified offence; and

(b) does not hold an exemption granted under section 35 in respect of the offence.

(2) A specified organisation must not employ or engage a person to whom this section applies as a core worker. 15

(3) A specified organisation must not continue to employ or engage a person to whom this section applies as a core worker, regardless of when that worker commenced employment or was engaged, except as provided in this section.

(2) In section 28(4), replace “On and after the date referred to in subsection (3), if” with “If”. 20

(3) In section 28(7), replace “subsection (1)” with “this section”.

#### 5 New sections 28A to 28D inserted

After section 28, insert:

##### 28A Review of determination that **section 28(1)(a)(ii)** applies to person 25

(1) This section applies to a person—

(a) whom a specified organisation has, for the purposes of **section 28(2) or (3)**, determined is a person to whom **section 28(1)(a)(ii)** applies; and

(b) who does not hold an exemption granted under section 35 in respect of the offence. 30

(2) The person may apply to the chief executive of any key agency for a review of the specified organisation’s determination that **section 28(1)(a)(ii)** applies to the person (a **determination**).



**28B Application for review**

- (1) An application for a review under **section 28A** must be in writing and set out the following information:
- (a) the person’s full name and contact details:
  - (b) in respect of each offence of which the person has been convicted in another jurisdiction,—
    - (i) a description of the offence; and
    - (ii) the jurisdiction in which the conviction was entered; and
    - (iii) the date on which the person was convicted of the offence (if known); and
    - (iv) an official record of the conviction from the other jurisdiction (if available); and
    - (v) any other information prescribed by regulations made under section 33; and
    - (vi) any other relevant information the applicant wishes to place before the chief executive to whom the application is made.
- (2) A chief executive who receives an application may, with the agreement of the chief executive of a different key agency, refer the application to that other chief executive for decision.
- (3) Before making a decision on an application, the chief executive must confirm whether the applicant has previously applied for a review under this section of any other determination made by a specified organisation and, if so, the outcome of that application.

**28C Decision on review**

- (1) After reviewing an application received under **section 28B**, the chief executive must—
  - (a) confirm the determination; or
  - (b) reverse the determination.
- (2) As soon as is reasonably practicable after making a decision on the application, the chief executive must give the applicant written notice of their decision.
- (3) Subject to the outcome of any appeal made under **section 28D**, the chief executive’s decision is binding on all specified organisations in relation to the applicant.

**28D Appeal against decision to confirm determination**

- (1) This section applies if the chief executive confirms a determination under **section 28C(1)(a)**.
- (2) The applicant may appeal to the High Court against the decision to confirm the determination.

- 6 Section 33 amended (Other regulations)**
- After regulation 33(1)(d), insert:
- (da) prescribing the process, not inconsistent with this Part, for applying for a review of a determination referred to in **section 28A(2)**:
- 7 Section 35 amended (Exemption for certain individuals)** 5
- Replace section 35(1) with:
- (1) The chief executive of a key agency may grant an exemption under this section to a person who has been convicted of—
- (a) a specified offence; or
- (b) an offence under the law of another jurisdiction that, if committed in New Zealand, would be a specified offence. 10
- 8 Section 36 amended (Application for exemption)**
- In section 36(1)(b), replace “specified offence” with “offence referred to in **section 35(1)**”.
- 9 Schedule 1AA amended** 15
- In Schedule 1AA,—
- (a) insert the Part set out in **Schedule 1** of this Act as the last Part; and
- (b) make all necessary consequential amendments.
- 10 Schedule 2 amended**
- (1) In Schedule 2, after clause 1, insert: 20
- 1A An offence against any of the following sections of the Prostitution Reform Act 2003 is a specified offence for the purpose of Part 3:
- (a) section 20 (assisting person under 18 years in providing commercial sexual services):
- (b) section 21 (receiving earnings from commercial sexual services provided by person under 18 years): 25
- (c) section 22 (contracting for commercial sexual services from, or being client of, person under 18 years).
- (2) In Schedule 2, replace clause 2 with:
- 2 An offence that is equivalent to an offence against any section referred to in clause 1 or **1A**, but that was committed against a provision of the Crimes Act 1961 or the Prostitution Reform Act 2003 (as the case may be) that has been repealed, is a specified offence. 30
- (3) In Schedule 2, clauses 3, 4, and 4A, replace “clause 1 or 2” with “clause 1, **1A**, or 2”. 35

## Part 2 Amendment to Crimes Act 1961

### 11 Principal Act

This Part amends the Crimes Act 1961.

### 12 Section 2 amended (Interpretation)

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In section 2(1), definition of **vulnerable adult**, after “sickness,” insert “disability.”.

## Part 3 Amendments to Oranga Tamariki Act 1989

### 13 Principal Act

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This Part amends the Oranga Tamariki Act 1989.

### 14 Section 2 amended (Interpretation)

In section 2(1), replace the definition of **youth justice residence** with:

**youth justice residence** means a residence established and maintained under section 364 for the purposes of, or that includes the purposes of, any 1 or more of the following:

15

- (a) remand of a person under this Act or any other legislation:
- (b) provision of custody under section 235 and orders made under section 283:
- (c) the detention of children or young persons in a residence under section 34A of the Corrections Act 2004.

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### 15 Section 365 amended (Chief executive may place children and young persons in residences)

(1) In section 365(3), delete “(as defined in subsection (4))”.

(2) Repeal section 365(4).

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### 16 Section 370 amended (Time limits on detention in secure care)

In section 370(1), delete “for a continuous period of more than 72 hours, or”.

### 17 Section 384A amended (Interpretation)

(1) In section 384A, replace “sections 384B to 384K” with “this section and **sections 384AA to 384KN**”.

30

(2) In section 384A, replace the definition of **harmful item** with:

**harmful item,—**

- (a) in relation to a search carried out at a residence other than a youth justice residence, means any article, drug, or substance that a member of staff has reasonable cause to believe is likely, while a child or young person is in the residence, to harm or to be used to harm that child or young person or any other person: 5
- (b) in relation to a search carried out at a youth justice residence, means any of the following:
- (i) anything that could, while in the possession of a youth justice resident, be harmful to the youth justice resident or any other person: 10
  - (ii) any drug, alcohol, or other intoxicating substance:
  - (iii) tobacco:
  - (iv) any equipment used for smoking tobacco or any other substance:
  - (v) any vaping product or smokeless tobacco product within the meaning of section 2 of the Smokefree Environments and Regulated Products Act 1990: 15
  - (vi) any electronic communication device:
  - (vii) any thing that could be used for the purpose of facilitating a youth justice resident absconding from the youth justice residence:
  - (viii) any thing that may not lawfully be retained in the youth justice resident's possession: 20
  - (ix) any offensive weapon within the meaning of section 202A of the Crimes Act 1961:
  - (x) any disabling substance within the meaning of section 202A of the Crimes Act 1961: 25
  - (xi) any article or thing declared to be a harmful item by regulations made under section 447

- (3) In section 384A, replace the definition of **scanner search** with:

**scanner search,—**

- (a) in the case of a search of a child or young person placed in a residence other than a youth justice residence, means a search of the person— 30
- (i) using an electronic device passed over the clothed body of the person being searched; and
  - (ii) that does not include any touching (except any accidental touching) of the person being searched: 35
- (b) in the case of a search of a youth justice resident or any other person carried out at a youth justice residence, means the search of the person and the person's clothing or possessions using an electronic device (whether

- or not the device uses imaging technology) designed to identify the presence of unauthorised items that are concealed—
- (i) in the person’s body:
  - (ii) beneath or within the person’s clothing or possessions
- (4) In section 384A, insert in their appropriate alphabetical order: 5
- approved search plan**, in relation to a child or young person in a residence, means a search plan approved for the child or young person under **section 384AA**
- authorised person**, in relation to a search carried out on entry to a youth justice residence, means— 10
- (a) a member of staff whose work involves searching persons or vehicles entering the youth justice residence; or
  - (b) a person—
    - (i) whose work involves searching persons or vehicles entering the youth justice residence; and 15
    - (ii) who carries out that work under a contract for services with the chief executive
- drug** means—
- (a) a controlled drug within the meaning of the Misuse of Drugs Act 1975:
  - (b) a prescription medicine or restricted medicine within the meaning of the Medicines Act 1981: 20
  - (c) a psychoactive substance within the meaning of section 9 of the Psychoactive Substances Act 2013
- electronic communication device**—
- (a) means an electronic communication device (other than a device used to assist with a disability) that is capable of any or all of the following actions: 25
    - (i) transmitting sound:
    - (ii) computing information:
    - (iii) functioning as a telephone: 30
    - (iv) communicating in any other way using any technology (including telecommunication, radiocommunication, Internet, and broadcasting technology); and
  - (b) includes any part of an electronic communication device (for example, a SIM card), regardless of whether the part— 35
    - (i) is capable of any of the actions specified in **paragraph (a)**; and
    - (ii) is detachable and may be used in other electronic communication devices; and

- (c) includes any device that enables or facilitates the functioning of an electronic communication device (for example, a recharger or charging device); but
- (d) does not include—
  - (i) any telephone facility provided for the use of a youth justice resident; and 5
  - (ii) any telephone facility or telephone system (whether inside or outside a residence) that a youth justice resident is permitted to use by a person while under the person’s control or supervision
- imaging technology search—** 10
  - (a) means a scanner search that produces an image of the body or part of the body (whether external or internal) of the person being searched; and
  - (b) includes (without limitation) a search using a body scanner
- youth justice resident** means a child or young person who has been placed in a youth justice residence under this Act or any other legislation 15

**18 New sections 384AA to 384AC inserted**

After section 384A, insert:

**384AA Approved search plan for child or young person placed in residence**

- (1) The chief executive must approve a search plan developed for each child or young person placed in a residence that reflects the child’s or young person’s particular needs and preferences relating to how any search of the child or young person should be conducted and by whom. 20
- (2) Without limiting **subsection (1)**, the search plan must take into account—
  - (a) the child’s or young person’s preferred gender identity; and
  - (b) any disability that the child or young person has; and 25
  - (c) any trauma that the child or young person has previously experienced; and
  - (d) any other matter that may negatively affect the way in which the child or young person experiences a search; and
  - (e) the need to uphold the mana and dignity of the child or young person to the greatest extent possible; and 30
  - (f) the interests of members of staff or authorised persons conducting the search.
- (3) When developing a search plan for a child or young person, the person developing the plan must— 35
  - (a) consult the child or young person and encourage the child or young person to express their preferences as to how any search should be conducted; and

- (b) record the child's or young person's preferences (if any) in the search plan unless the chief executive considers on reasonable grounds that there is good reason not to do so.
- (4) If any preferences that the child or young person has expressed under **subsection (3)(a)** are not recorded in the search plan, the person developing the search plan must record in the search plan the reasons for not including those preferences. 5
- (5) The chief executive must approve the search plan developed for a child or young person in a residence under this section,—
  - (a) before the child or young person is placed in the residence; or 10
  - (b) if it is not possible to comply with **paragraph (a)**, as soon as is reasonably practicable after the child or young person has been placed in the residence.

**384AB Duty to comply with search plan when carrying out search**

- (1) A person carrying out a search of a child or young person placed in a residence must conduct the search in accordance with the approved search plan, unless in the circumstances the chief executive considers that—
  - (a) it is not reasonably practicable to do so; or
  - (b) there is another good reason not to do so. 15
- (2) If any search carried out on the child or young person does not comply with the approved search plan, the manager must record the circumstances and the reason for non-compliance in the daily log kept in accordance with regulations made under section 447. 20
- (3) **Subsection (1)** applies subject to **section 384AC**.

**384AC Duties if child or young person required to be searched before search plan approved** 25

- (1) This section applies if a child or young person is—
  - (a) placed in a residence; and
  - (b) required to be searched before a search plan has been approved for the child or young person. 30
- (2) The chief executive must ensure that—
  - (a) before any search of the child or young person is conducted, the child or young person is consulted about their particular needs and preferences (if any) as to how the search should be conducted and by whom; and
  - (b) the search of the child or young person is conducted in accordance with the child's or young person's preferences, unless in the circumstances the chief executive considers that— 35
    - (i) it is not reasonably practicable to do so; or

- (ii) there is another good reason not to do so; and
- (c) the search of the child or young person upholds the mana and dignity of the child or young person to the greatest extent possible.
- (3) If any search carried out on the child or young person does not comply with their preferences as to how a search should be conducted and by whom, the manager must record the circumstances and the reason for non-compliance in the daily log kept in accordance with regulations made under section 447. 5
- 19 Section 384C amended (Child or young person may be searched to detect unauthorised items)**
- (1) After section 384C(1), insert: 10
- (1A) A scanner search conducted in a youth justice residence under **subsection (1)(a)** may include an imaging technology search.
- (1B) Authority conferred by **subsection (1)(a)** to conduct a scanner search includes the authority to search— 15
- (a) any item carried by, or in the possession of, the person:
- (b) any outer clothing removed for the purposes of the search:
- (c) any head covering, gloves, footwear (including socks or stockings), belts, jewellery, or other accessories removed for the purposes of the search.
- (1C) For the purpose of facilitating a scanner search of a child or young person under **subsection (1)(a)**, a member of staff may require the child or young person being searched to— 20
- (a) remove any item of outer clothing (including, without limitation, any jacket, jumper, or sweatshirt) that needs to be removed in order to carry out the search, except where the person being searched has no other clothing, or only underclothing, under that outer clothing: 25
- (b) remove any head covering, gloves, footwear (including socks or stockings), belts, jewellery, or other accessories:
- (c) comply with any other procedure that needs to be undertaken to carry out the search. 30
- (2) After section 384C(4), insert:
- (5) This section does not apply to a search carried out on entry to a youth justice residence (for which **section 384KA** provides).
- 20 Section 384D amended (Use of dogs for searching)**
- After section 384D(3), insert: 35
- (4) This section does not apply to a search carried out on entry to a youth justice residence (for which **section 384KI** provides).



- 21 Section 384E repealed (Child or young person may be strip searched)**  
Repeal section 384E.
- 22 Section 384F amended (Explanation of purpose and consequences of inspections and searches)**  
After section 384F(2), insert: 5
- (3) This section does not apply to a search carried out on entry to a youth justice residence (for which **section 384KE** provides).
- 23 Section 384G amended (Restrictions on searches)**
- (1) In section 384G(2), replace “must be carried out by a member of staff who is of the same sex as the child or young person being searched” with “must not be carried out in view of another child or young person in the residence”. 10
- (2) Repeal section 384G(3).
- (3) After section 384G(5), insert:
- Imaging technology searches*
- (6) An image produced as a result of an imaging technology search must,— 15
- (a) so far as practicable, avoid showing a clear image of the body beneath clothing; and
- (b) obscure the genitals or make them not easily distinguishable if they are included in the image.
- (7) An image produced as a result of an imaging technology search must be disposed of within 24 hours. 20
- (8) Despite anything to the contrary in any other legislation, a person who conducts an imaging technology search must not, without reasonable excuse, photograph or copy the image or provide the image to another person.
- Disapplication* 25
- (9) This section does not apply to a search carried out on entry to a youth justice residence (for which **section 384KF** provides).
- 24 Section 384H amended (Use of force in carrying out search)**  
After section 384H(2), insert:
- (3) This section does not apply to a search carried out on entry to a youth justice residence (for which **section 384KB** provides). 30
- 25 Section 384I amended (Recording of inspections and searches)**  
In section 384I, insert as **subsection (2)**:
- (2) This section does not apply to a search carried out on entry to a youth justice residence (for which **section 384KK** provides). 35

- 26 Section 384J amended (Child or young person may make complaint)**  
In section 384J, insert as **subsection (2)**:  
(2) This section does not apply to a search carried out on entry to a youth justice residence (for which **section 384KM** provides).
- 27 Section 384K amended (Power to seize articles, etc, found on inspection or search)** 5  
After section 384K(4), insert:  
(5) This section does not apply to a search carried out on entry to a youth justice residence (for which **section 384KN** provides).
- 28 New sections 384KA to 384KN and cross-heading inserted** 10  
After section 384K, insert:  
*Specific provisions for searches on entry to youth justice residence*  
**384KA Searches of youth justice resident**  
(1) An authorised person may, for the purpose of detecting any unauthorised item, conduct a scanner search of a youth justice resident each time the resident enters the youth justice residence. 15  
(2) A scanner search conducted under **subsection (1)** may include an imaging technology search.  
(3) If, after conducting a scanner search, the authorised person has reasonable grounds to believe that the youth justice resident has any unauthorised item in their possession, the authorised person may conduct a pat down search of the youth justice resident. 20
- 384KB Use of force in carrying out search of youth justice resident**  
(1) An authorised person may use physical force in carrying out a search authorised by **section 384KA**. 25  
(2) A person who uses force for the purpose referred to in **subsection (1)** must use no more than the minimum amount of force that is reasonably necessary in the circumstances.
- 384KC Search of other persons entering youth justice residence**  
(1) This section applies to a person other than a youth justice resident who wishes to enter a youth justice residence, including (without limitation)— 30  
(a) an authorised person;  
(b) a visitor.  
(2) A person to whom this section applies may, before being admitted to the youth justice residence, be required to undergo a scanner search conducted by an 35

authorised person for the purpose of detecting any unauthorised item each time the person wishes to enter the residence.

- (3) A scanner search conducted under **subsection (2)** may include an imaging technology search.
- (4) **Subsections (4) and (5)** apply if an authorised person has reasonable grounds to suspect that a person to whom this section applies has any unauthorised item in their possession. 5
- (5) The authorised person may, with the person’s consent, conduct a pat down search of the person.
- (6) However, before conducting a pat down search under **subsection (4)**, the authorised person must give the person the opportunity to hand over any unauthorised item. 10
- (7) To avoid doubt, the search of an authorised person under this section must be conducted by another authorised person. 15  
Compare: 2004 No 50 s 99(1)–(3)

**384KD Consequences of refusing search under section 384KC**

- (1) A person who refuses to submit to a scanner search or a pat down search under **section 384KC** before being admitted to a youth justice residence may be refused admission to the residence.
- (2) A person may be refused admission to a youth justice residence if the person refuses to remove an item of outer clothing for the purpose of a scanner search or a pat down search. 20  
Compare: 2004 No 50 s 99

**384KE Duty to advise before conducting search on entry to youth justice residence** 25

Before conducting a search of a youth justice resident under **section 384KA** or any other person under **section 384KC**, an authorised person must—

- (a) advise the person to be searched—
  - (i) that the person and the person’s property (if any) may be searched to detect unauthorised items; and 30
  - (ii) what items are unauthorised items; and
  - (iii) about the consequences of finding an unauthorised item; and
  - (iv) in the case of a person other than a youth justice resident, that the person may refuse or withdraw consent to a search at any time, but that the refusal or withdrawal of consent may result in the person being refused entry into the residence; and 35
- (b) invite the person to be searched to hand over any unauthorised items before the search is conducted.

**384KF Restrictions on searches on entry to youth justice residence**

*Scanner and pat down searches*

- (1) For the purpose of facilitating a scanner search of a youth justice resident under **section 384KA(1)** or any other person under **section 384KC(2)**, an authorised person may require the youth justice resident or other person being searched to— 5
- (a) remove any item of outer clothing (including, without limitation, any jacket, jumper, or sweatshirt) that needs to be removed in order to carry out the search, except where the person being searched has no other clothing, or only underclothing, under that outer clothing: 10
- (b) remove any head covering, gloves, footwear (including socks or stockings), belts, jewellery, or other accessories:
- (c) comply with any other procedure that needs to be undertaken to carry out the search.
- (2) A pat down search of a youth justice resident must not be carried out in view of any other youth justice resident. 15
- (3) A pat down search must not be conducted unless one of the following persons is also present:
- (a) in the case of a search of a youth justice resident,—
- (i) a parent or guardian (other than the chief executive) of the child or young person or a person who would otherwise have the care of the child or young person: 20
- (ii) another authorised person:
- (iii) a constable:
- (b) in the case of a search of any other person, a person prescribed in regulations made under section 447. 25
- (4) An authorised person who carries out a scanner search or a pat down search must conduct the search with decency and sensitivity and in a manner that affords to the person being searched the greatest degree of privacy and dignity consistent with the purpose of the search. 30

*Imaging technology searches*

- (5) An image produced as a result of an imaging technology search must,—
- (a) so far as practicable, avoid showing a clear image of the body beneath clothing; and
- (b) obscure the genitals or make them not easily distinguishable if they are included in the image. 35
- (6) An image produced as a result of an imaging technology search must be disposed of within 24 hours.

- (7) Despite anything to the contrary in any other legislation, a person who conducts an imaging technology search must not, without reasonable excuse, photograph or copy the image or provide the image to another person.

*Internal examinations*

- (8) Nothing in **section 384KA** or **384KC** authorises or permits the internal examination of any body orifice of any person by an authorised person. 5

Compare: 2004 No 50 ss 92C(1), (2), (3), 93

**384KG Search of vehicles entering youth justice residence**

- (1) Before a vehicle is brought within the secure perimeter of a youth justice residence, the vehicle may be searched by an authorised person for the purposes of detecting any unauthorised item. 10

- (2) For the purposes of **subsection (1)**, an authorised person who is wearing any badge or article that identifies them as a person who may conduct a search of the vehicle may, by direction given to the driver or other person in the vehicle, do 1 or more of the following: 15

- (a) direct, if necessary, that the vehicle be stopped;
- (b) direct that the vehicle be kept stopped until the search is completed;
- (c) require that the authorised person be given access to any part of the vehicle;
- (d) require any or all of the passengers (including the driver) to get out of the vehicle. 20

- (3) If a person to whom a direction is given under **subsection (2)** refuses consent for the vehicle to be searched, the vehicle may be denied entry inside the secure perimeter of the youth justice residence.

Compare: 2004 No 50 s 101 25

**384KH Duty to advise before conducting search of vehicle**

Before conducting a search of a vehicle under **section 384KG**, the authorised person must—

- (a) advise the driver or other person in the vehicle—
  - (i) that the driver or other person and the vehicle may be searched to detect unauthorised items; and 30
  - (ii) what items are unauthorised items; and
  - (iii) about the consequences of finding an unauthorised item; and
  - (iv) that the driver or other person may refuse or withdraw consent to a search at any time, but that the refusal or withdrawal of consent may result in the vehicle being denied entry inside the secure perimeter of the youth justice residence; and 35

- (b) invite the driver or other person to hand over any unauthorised items before a search of the vehicle is conducted.

**384KI Use of dogs for searching on entry to youth justice residence**

- (1) In exercising a power of search conferred by **section 384KA, 384KC, or 384KG**, an authorised person may have with them, and use for the purposes of searching, any dog trained for that purpose. 5
- (2) A dog must not be used unless it is under the control of another person (being a Police employee, a Customs officer, a member of the Armed Forces, an employee of the Department of Corrections, or another suitably qualified person engaged by the chief executive) who may accompany the authorised person for the purposes of the search. 10
- (3) An authorised person who uses a dog for the purposes of a search under **section 384KA, 384KC, or 384KG** must conduct the search with decency and sensitivity and in a manner that—
  - (a) affords to the person being searched the greatest degree of dignity consistent with the purpose of the search; and 15
  - (b) prevents the dog coming into physical contact with the person during the search.

**384KJ Search of property**

- (1) Authority conferred by **section 384KA or 384KC** to conduct a scanner search includes the authority to search—
  - (a) any item carried by, or in the possession of, the person:
  - (b) any outer clothing removed for the purposes of the search:
  - (c) any head covering, gloves, footwear (including socks or stockings), belts, jewellery, or other accessories removed for the purposes of the search. 25
- (2) Authority conferred by **section 384KA or 384KC** to conduct a pat down search of a person includes the authority to search—
  - (a) any item carried by, or in the possession of, the person:
  - (b) any outer clothing removed, raised, lowered, or opened for the purposes of the search: 30
  - (c) any head covering, gloves, or footwear (including socks or stockings) removed for the purposes of the search.
- (3) Authority conferred by **section 384KG** to conduct a search of a vehicle includes the authority to search any item in that vehicle. 35
- (4) Authority conferred by this section to search any item includes the authority to use any force that is reasonable in the circumstances for the purpose of breaking open that item.

- (5) Authority conferred by this section to search any item or vehicle includes the authority to use an aid or aids such as a chemical substance or imaging equipment or some other mechanical, electrical, or electronic device, or other similar aid.

Compare: 2004 No 50 s 96

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**384KK Recording searches of youth justice residents**

The manager must ensure that a record is made in the daily log kept in accordance with regulations made under section 447 of—

- (a) details of any pat down search carried out on a youth justice resident under **section 384KA(3)**, including the grounds on which the pat down search was conducted; and
- (b) the details of any physical force used for the purpose of carrying out a search on a youth justice resident and of the circumstances giving rise to the use of force.

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**384KL Recording pat down searches of other persons entering youth justice residence**

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The manager must ensure that a record is made in accordance with the regulations made under section 447 of every pat down search carried out under **section 384KC(4)** on any other person entering a youth justice residence, including the grounds for conducting the pat down search.

20

**384KM Person may make complaint about search on entry to youth justice residence**

A youth justice resident who has been searched under **section 384KA** or a person who has been searched under **section 384KC** or whose vehicle has been searched under **section 384KG** may make a complaint about that search in accordance with regulations made under section 447.

25

**384KN Power to seize articles, etc, found on search**

- (1) Any unauthorised item found during a search conducted under **section 384KA, 384KC, or 384KG** may be seized in accordance with regulations made under section 447 by the authorised person conducting the search.
- (2) Any unauthorised item seized must be dealt with in accordance with regulations made under section 447.
- (3) If an unauthorised item is seized from a youth justice resident, the manager must ensure that a record is made in the daily log of—
- (a) the details of the seizure of the item; and
- (b) the action taken in respect of the item seized.

30

35

**29 Section 447 amended (Regulations)**

After section 447(1)(c), insert:

- (caaa) declaring any article or thing to be a harmful item for the purposes of this Act:
- (caab) regulating the development and implementation of search plans for the purposes of **sections 384AA to 384AC**, including (without limitation) prescribing— 5
- (i) the information that must be contained in a search plan approved for a child or young person in a residence:
  - (ii) processes or procedures for carrying out a search of a child or young person in a residence:
  - (iii) the circumstances that constitute or do not constitute a good reason to depart from a search plan approved for a child or young person in a residence: 10
- (caac) regulating searches conducted on entry to a youth justice residence under **sections 384KA to 384KN**, including (without limitation),— 15
- (i) prescribing conditions for being appointed as an authorised person:
  - (ii) prescribing persons who can or cannot be present during a pat down search of a person:
  - (iii) regulating imaging technology searches: 20
  - (iv) providing for the seizure, disposal, safe keeping, or return of any unauthorised items found during a search:
  - (v) prescribing requirements for the disposal of any seized unauthorised item found during a search:
  - (vi) prescribing conditions on the disposal of any seized article, drug, or substance: 25
  - (vii) prescribing procedures by which a person may make a complaint in relation to a search, and how the complaint is to be dealt with:
  - (viii) prescribing recordkeeping requirements relating to searches conducted on entry to a youth justice residence: 30

### 30 Schedule 1AA amended

In Schedule 1AA,—

- (a) insert the Part set out in **Schedule 2** of this Act as the last Part; and
- (b) make all necessary consequential amendments. 35



*Consequential amendments*

- 31 Consequential amendments relating to repeal of strip searches**
- (1) Amend the principal Act as set out in **Part 1 of Schedule 3**.
  - (2) Amend the Oranga Tamariki (Residential Care) Regulations 1996 as set out in **Part 2 of Schedule 3**. 5

**Part 4**  
**Amendments to Public Records Act 2005**

- 32 Principal Act**  
This Part amends the Public Records Act 2005.
- 33 Section 29 amended (Inspection powers)** 10  
Replace section 29(2)(a) with:
- (a) permits the Chief Archivist to view the systems and processes of a public office or a local authority for maintaining its public records or local authority records and local authority archives (as the case may be), including its systems, processes, and conditions for— 15
    - (i) creating and maintaining the records or archives; and
    - (ii) storing the records or archives; but
- 34 Section 33 amended (Independent audits of public offices)**
- (1) In section 33(3), replace “of not less than 5 years” with “as directed by the Chief Archivist”. 20
  - (2) After section 33(3), insert:
  - (4) An audit under this section may be carried out by an employee of the department or another person engaged by the Chief Archivist.
- 35 New sections 35A and 35B inserted** 25  
After section 35, insert:
- 35A Action plans**
- (1) The Chief Archivist may, by written notice to a public office, require the public office to prepare and carry out an action plan relating to any of its recordkeeping practices.
  - (2) A notice given under **subsection (1)** must specify— 30
    - (a) the recordkeeping practice (or practices) that the action plan must address; and
    - (b) the outcomes sought; and
    - (c) the time within which a draft action plan must be prepared.

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- (3) A public office that receives a notice under **subsection (1)** must comply with it by preparing a draft action plan within the time specified in the notice and submitting it to the Chief Archivist for approval.
- (4) When the Chief Archivist has approved an action plan, the public office must—
- (a) implement it in accordance with its terms, unless or until the Chief Archivist directs otherwise; and
  - (b) make the plan available on an internet site maintained by or on behalf of the public office.

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Compare: 2020 No 38 s 174

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**35B Performance notice**

- (1) The Chief Archivist may, by written notice to a public office, issue a performance notice requiring the public office to carry out a specified action relating to its recordkeeping practices by a specified date.
- (2) The Chief Archivist may also require, in the notice, that the public office provide the Chief Archivist with a report or reports (for example, a progress report and a final report) on the action taken—
- (a) at a specified time (or times); or
  - (b) at specified intervals; or
  - (c) both.
- (3) A public office that receives a notice under **subsection (1)** must—
- (a) take the action by the date specified in the notice; and
  - (b) provide a report (or reports) to the Chief Archivist at the time, or intervals, specified in the notice.

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Compare: 2020 No 38 s 177

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**Schedule 1**  
**New Part 2 inserted into Schedule 1AA of Children’s Act 2014**

s 9

**Part 2**  
**Provisions relating to Responding to Abuse in Care Legislation  
Amendment Act 2024**

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**3 Interpretation**

In this Part,—

**amendment Act** means the Responding to Abuse in Care Legislation Amend-  
ment Act **2024**

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**commencement** means the date on which **Part 1** of the amendment Act comes  
into force.

**4 Application of section 28(3)**

A specified organisation must not continue to employ or engage a person as a  
core worker under **section 28(3)** if,—

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- (a) until the date that is 6 months after commencement, section 28(1) as it  
read immediately before commencement applies to the person:
- (b) on and after the date that is 6 months after commencement, **section  
28(1)** as replaced by the amendment Act applies to the person.

**Schedule 2**  
**New Part 6 inserted into Schedule 1AA of Oranga Tamariki Act**  
**1989**

s 30

<b>Part 6</b>	5
<b>Provisions relating to Responding to Abuse in Care Legislation Amendment Act 2024</b>	
<b>25 Interpretation</b>	
In this Part, <b>amendment Act</b> means the Responding to Abuse in Care Legislation Amendment Act <b>2024</b> .	10
<b>26 Child or young person placed in secure care for period ending after commencement date</b>	
(1) This clause applies in relation to the placement of a child or young person in a residence in secure care under section 367 for a period specified in section 370 that—	15
(a) began before the commencement date; and	
(b) ends after the commencement date.	
(2) Despite <b>section 16</b> of the amendment Act, section 370 (as it read immediately before the commencement date) continues to apply in relation to the child's or young person's placement in secure care.	20
(3) In this clause, <b>commencement date</b> means the date on which <b>section 16</b> of the amendment Act comes into force.	
<b>27 Existing complaints relating to strip searches</b>	
(1) This clause applies in relation to a complaint under section 384J made by a child or young person who has been strip searched under section 384E that—	25
(a) was made before the commencement date; but	
(b) was not resolved before the commencement date.	
(2) On and after the commencement date, the complaint must continue to be dealt with in accordance with the grievance procedure operative for the residence under regulation 15 of the Oranga Tamariki (Residential Care) Regulations 1996 as if the amendment Act had not been enacted.	30
(3) In this clause, <b>commencement date</b> means the date on which <b>section 21</b> of the amendment Act come into force.	

- 28 Personal effects or other article seized during strip search of child or young person conducted before commencement**
- (1) This clause applies to any personal effect or other article belonging to, or in the possession of, any child or young person in a residence—
- (a) that was seized by a member of staff during the strip search of the child or young person under section 384E that was conducted before the commencement date; and 5
  - (b) is located at the residence at which the strip search was conducted on or after the commencement date.
- (2) The personal effect or article must continue to be dealt with in accordance with regulation 45 of the Oranga Tamariki (Residential Care) Regulations 1996 as if the amendment Act had not been enacted. 10
- (3) In this clause, **commencement date** means the date on which **section 21** of the amendment Act comes into force.

**Schedule 3**  
**Consequential amendments relating to repeal of section 384E of**  
**Oranga Tamariki Act 1989**

s 31

**Part 1** 5  
**Amendments to Oranga Tamariki Act 1989**

**Section 384A**

Repeal the definition of **strip search**.

**Section 384F**

In section 384F(1), delete “or section 384E”. 10

In section 384F(1)(a)(ii), replace “residence; or” with “residence; and”.

Repeal section 384F(1)(a)(iii).

**Section 384G**

In section 384G(1), delete “or section 384E”.

In section 384G(2), (3), (4), and (5), delete “or a strip search”. 15

**Section 384H**

In section 384H(1), delete “or section 384E”

**Section 384I**

In section 384I(a), replace “any of sections 384B, 384C, and 384E,” with “sections 384B and 384C,”. 20

In section 384I(b), delete “or section 384E”.

**Section 384J**

In section 384J, delete “or section 384E”.

**Section 384K**

Repeal section 384K(2)(c). 25

**Section 447**

In section 447(ca), delete “and 384E”.

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**Part 2**  
**Amendments to Oranga Tamariki (Residential Care) Regulations  
1996**

**Regulation 7**

In regulation 7(1), replace “Subject to section 384E of the Act, no” with “No”. 5

**Regulation 22**

In regulation 22(1)(e), delete “or section 384E”.

**Regulation 45**

In regulation 45(1), replace “sections 384C or 384E” with “section 384C”.