

## Draft Cabinet paper: Repeal of section 7AA of the Oranga Tamariki Act 1989

To Hon Karen Chhour, Minister for Children			
Date	5 March 2024	Deadline	20 March 2024
Briefing number	B-0095	Priority	High
Key contact	Phil Grady, Deputy Chief Executive, System Leadership	Contact number	s9(2)(a)
Security	Sensitive		

### Purpose

This briefing provides key information regarding the draft Cabinet paper that seeks to repeal section 7AA of the Oranga Tamariki Act 1989 (the Act), including information on the process of ministerial consultation and lodgement of a Cabinet paper.

### Executive Summary

As agreed in December 2023, we have drafted a Cabinet paper and Regulatory Impact Statement to progress the repeal of Section 7AA of the Oranga Tamariki Act 1989 (section 7AA).

The Regulatory Impact Statement does not align with the Cabinet paper and identifies that the repeal of section 7AA is unlikely to achieve your desired objectives to improve the safety and stability of children.

We anticipate strong reactions to the repeal of section 7AA from Māori, social workers, Oranga Tamariki partners and providers involved in the care and protection system, including Pacific providers, and oversight bodies such as Mana Mokopuna – Children and Young People's Commission.

Following your review of the paper and consultation with your colleagues, this Cabinet Paper should be lodged with the Cabinet Office by 10am on 21 March 2024 in order to be considered by the Social Outcomes Cabinet Committee on 27 March 2024.

### Recommendations

It is recommended that you:

**Note** the attached draft Cabinet Paper proposing to repeal section 7AA of the Oranga Tamariki Act 1989 has been provided for your consideration and consultation with your colleagues.

**Note** the Regulatory Impact Statement concludes that repealing section 7AA is unlikely to meet your desired objectives of improving the safety and stability of children.

**Note** we consider there is likely to be strong reaction from Māori, care and protection partners, and social workers to the repeal of section 7AA.

**Agree** to lodge the attached Cabinet Paper with the Cabinet Office by 10am on Thursday, 21 March.

**YES / NO**

**Sign-off**  
Oranga Tamariki

**Sign-off**  
Minister for Children

s9(2)(a)

Phil Grady  
**Deputy Chief Executive, System Leadership**  
Date signed: 6 Mach 2024

Hon Karen Chhour  
**Minister for Children**  
Date signed:

**Minister comments**

**Satisfaction**

Please select your level of satisfaction with this briefing

- Outstanding     Good     Acceptable     Poor     Unacceptable

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## **Draft Cabinet paper: repeal of section 7AA of the Oranga Tamariki Act 1989**

### **Purpose**

- 1 This briefing provides key information regarding the draft Cabinet paper [Appendix One] that seeks to repeal section 7AA of the Oranga Tamariki Act 1989 (the Act).
- 2 In response to briefing B-0008 dated 15 December 2023, you asked for the attached Cabinet paper to be drafted. The Cabinet paper reflects decisions you made proposing that the coalition agreement between the National Party and the ACT party to repeal section 7AA of the Act be progressed as a Government Priority by the end of 2024 **s9(2)(f)(iv)** - albeit with six months for Select Committee consideration.
- 3 Once you have reviewed the Cabinet paper, and following any changes you may request, your office will undertake consultation with your ministerial colleagues. Following ministerial consultation, your office will lodge the paper with the Cabinet Social Outcomes Committee (SOU).

### **The process for Ministerial consultation and lodgement of the Cabinet paper**

- 4 Once you have considered the Cabinet paper, your office will undertake consultation with your ministerial colleagues. We understand that standard timeframes for ministerial consultation is two weeks, but the Prime Minister's office may be able to advise if there are different circumstances for this paper.
- 5 This paper should be lodged with Cabinet Office by 10am on 21 March 2024, to make the meeting of the Cabinet Social Outcomes Committee on 27 March 2024. Your office may wish to engage with the Prime Minister's Office to ensure that it will be prioritised on the agenda.
- 6 Officials are available to provide any further support you may require, including talking points.

### **There are key aspects of the Cabinet paper that you will need to be aware of**

- 7 The Cabinet paper notes that the preferred option in the Oranga Tamariki Regulatory Impact Statement (RIS) does not align with the views expressed in the Cabinet paper. This information is a required section in Cabinet papers.
- 8 The RIS is required to meet Cabinet's Impact Analysis Requirements. The RIS is a departmental document designed to support and inform the government's decisions on proposals for regulatory change and provides robust analysis of the problem, the options available to address the problem, feedback from any consultation process or stakeholder engagement, and cost and benefits associated with the proposals. A RIS is provided alongside a Cabinet paper for all government regulatory proposals.

**s9(2)(f)(iv)**

- 9 Oranga Tamariki analysed three options in the RIS relating to the repeal of section 7AA. These included retaining the status quo, a full repeal, and a partial repeal of section 7AA. The RIS considers that while practice decisions that were detrimental to safety have occurred in some instances, there is no robust evidence that these were caused by section 7AA.
- 10 Section 7AA is not one of the provisions of the Act that determine which caregiver a child is placed with, meaning that repeal is unlikely to have an impact on the problem we understand you are wanting to address. Provisions to prioritise the well-being and best interests of children and young people are already included in section 4A of the Act, with a child or young person's need for a safe, stable and loving home outlined in section 5 of the Act. The RIS also notes that section 13 emphasises the importance of safety in all care decisions. This analysis results in a recommendation to maintain the status quo.
- 11 The Cabinet paper also includes an analysis of the impacts on the Treaty of Waitangi and a statement on the repeal's consistency with the United Nations Rights of Indigenous Peoples and the Convention on the Rights of the Child. These are a requirement of the Cabinet template, and we want to draw your attention to the statements made to ensure they encompass your views.

**We anticipate the repeal of section 7AA will be strongly contested.**

- 12 We expect strong reactions to the repeal of section 7AA from Māori and our partners involved in care and protection, including Pacific providers, and oversight bodies such as Mana Mokopuna – Children and Young People's Commission.
- 13 There are currently two claims sitting with the Waitangi Tribunal in relation to the repeal of section 7AA of the Act, and the Tribunal has yet to confirm whether they will hear the claims under urgency.
- 14 There may also be a negative reaction to the repeal of section 7AA within the social work profession. This reaction may include a loss to the Oranga Tamariki workforce, and costs associated with recruiting additional social workers.

**Next steps**

- 15 Further information on the Cabinet paper, RIS and lodgement process can be provided, if required.
- 16 Once Cabinet has agreed to the repeal of section 7AA, we will issue drafting instructions to the Parliamentary Counsel Office. We anticipate the Parliamentary Counsel Office will complete drafting in April 2024.
- 17 Once the draft Bill has been finalised, we will provide you with a draft Cabinet paper to take to the Cabinet Legislative Committee seeking approval to introduce the Bill to the House. We expect this may be possible by mid-May 2024, depending on Cabinet priorities.

## Appendices

18 All appendices referenced in this paper are outlined below:

- Appendix One – [Repealing section 7AA of the Oranga Tamariki Act 1989 Draft Cabinet paper]

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