



ANALYSIS

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1994, No. 121

**An Act to amend the Children, Young Persons, and
Their Families Act 1989**

[9 December 1994]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Children, Young Persons, and Their Families Amendment Act 1994, and shall be read together with and deemed part of the Children, Young Persons, and Their Families Act 1989 (hereinafter referred to as the principal Act).

(2) Except as provided by section 4 (2) of this Act, this Act shall come into force on the 30th day after the date on which it receives the Royal assent.

2. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended by inserting, after the definition of the term “child”, the following definition:

“‘Child abuse’ means the harming (whether physically, emotionally, or sexually), ill-treatment, abuse, neglect, or deprivation of any child or young person.”

(2) Section 2 (1) of the principal Act is hereby amended by inserting, after the definition of the term “Community Service”, the following definition:

“‘Convene’, in relation to a family group conference, means to take the appropriate steps under sections 20 and 25 of this Act (in the case of a family group conference authorised or required under Part II of this Act) or under sections 247 and 253 of this Act (in the case of a conference authorised or required under Part IV of this Act) in order to cause the conference

to meet; and 'reconvene' has a corresponding meaning:".

(3) Section 2 (1) of the principal Act is hereby amended by repealing the definition of the term "Cultural Authority", and substituting the following definition:

" 'Cultural Social Service' means any incorporated body approved by the Director-General as a Cultural Social Service pursuant to section 396 (2) of this Act:".

(4) Section 2 (1) of the principal Act is hereby amended by inserting in paragraph (b) of the definition of the term "family group conference", after the expression "section 281", the expression "or section 281B".

(5) Section 2 (1) of the principal Act is hereby amended by repealing the definition of the term "Iwi Authority", and substituting the following definition:

" 'Iwi Social Service' means any incorporated body approved by the Director-General as an Iwi Social Service pursuant to section 396 (1) of this Act:".

(6) Section 2 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsections:

"(2) Where any proceedings are being considered or have been taken in respect of any offence allegedly committed by a person when that person was a child or young person, the age of that person at the date of the alleged offence shall be that person's age for the purpose of—

"(a) Whether there is jurisdiction to take any proceedings in respect of that alleged offence, and, subject to paragraph (d) of this subsection, which Court has jurisdiction in respect of proceedings that may be taken; and

"(b) The proceedings taken,—
but nothing in this subsection shall—

"(c) Require or authorise any family group conference in respect of the alleged offence before or at any stage of the proceedings if, at the time the conference would otherwise be required, that person has attained the age of 18 years; or

"(d) Require any proceedings to be taken in a Youth Court if, at the time the information is laid, that person has attained the age of 18 years; or

"(e) Derogate from the provisions of section 4 of the Criminal Justice Act 1985 (which shall apply in respect of

proceedings under Part IV of this Act as if the proving of a charge was a conviction).

“(3) Where any information is laid in a District Court pursuant to subsection (2) (d) of this section, section 322 of this Act shall apply, with all necessary modifications, to the proceedings.

“(4) Where any proceedings have been taken under Part II of this Act in respect of any alleged incident, the age of any child or young person at the date of the alleged incident shall be that person’s age for the purpose of the proceedings.”

3. Welfare and interests of child or young person paramount—The principal Act is hereby amended by repealing section 6, and substituting the following section:

“6. In all matters relating to the administration or application of this Act (other than Parts IV and V and sections 351 to 360), the welfare and interests of the child or young person shall be the first and paramount consideration, having regard to the principles set out in sections 5 and 13 of this Act.”

4. Duties of Director-General—(1) Section 7 (2) of the principal Act is hereby amended by inserting, after paragraph (b), the following paragraph:

“(ba) In relation to child abuse,—

“(i) Promote, by education and publicity, among members of the public (including children and young persons) and members of professional and occupational groups, awareness of child abuse, the unacceptability of child abuse, the ways in which child abuse may be prevented, the need to report cases of child abuse, and the ways in which child abuse may be reported; and

“(ii) Develop and implement protocols for agencies (both governmental and non-governmental) and professional and occupational groups in relation to the reporting of child abuse, and monitor the effectiveness of such protocols:”.

(2) This section shall come into force on the 1st day of July 1995.

5. Protection of person reporting ill-treatment or neglect of child or young person—Section 16 of the principal Act is hereby amended by inserting, after the word

“supply”, the words “, or the manner of the disclosure or supply,”.

6. Investigation of report of ill-treatment or neglect of child or young person—Section 17 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Where any Social Worker or member of the Police receives a report pursuant to section 15 of this Act relating to a child or young person, that Social Worker or member of the Police shall, as soon as practicable after receiving the report, undertake or arrange for the undertaking of such investigation as may be necessary or desirable into the matters contained in the report and shall, as soon as practicable after the investigation has commenced, consult with a Care and Protection Resource Panel in relation to the investigation.”

7. Referral of care or protection cases to Care and Protection Co-ordinator by other persons or by Court—

(1) Section 19 (1) of the principal Act is hereby amended by inserting, after the word “protection”, the words “on one or more of the grounds specified in section 14 (1) of this Act”.

(2) Section 19 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) Every referral pursuant to subsection (1) of this section shall be accompanied by—

“(a) A statement of the reasons for believing that the child or young person to whom the referral relates is in need of care or protection; and

“(b) Particulars sufficient to identify any person, body, or organisation that might be contacted to substantiate that belief; and

“(c) A statement indicating whether or not the referral is being made with the consent or knowledge of—

“(i) The parents or guardians or other persons having the care of the child or young person to whom the referral relates; or

“(ii) The family, whanau, or family group of that child or young person; and

“(d) Any recommendation as to the course of action the Care and Protection Co-ordinator might take in respect of the referral.”

(3) Section 19 of the principal Act is hereby amended by adding, as subsection (4), the following subsection:

“(4) Every Care and Protection Co-ordinator to whom a case is referred pursuant to subsection (1) of this section by a Court shall,—

“(a) Within 28 days after receiving that referral, furnish to the Court a written report stating—

“(i) What action (if any) has been taken with respect to the case as a result of the referral; and

“(ii) If any such action has been taken, whether that action has resolved the matter, and, if so, how that matter has been resolved; and

“(iii) What further action (if any) is proposed with respect to the case, and, if any such action is proposed, when that action is likely to be completed; and

“(b) Subject to paragraph (c) of this subsection, where the report furnished pursuant to paragraph (a) of this subsection indicates that further action is proposed with respect to the case, within 28 days of the furnishing of that report, furnish to the Court a written report stating—

“(i) What progress (if any) has been made with respect to that action; and

“(ii) When that action is likely to be completed; and

“(c) Where the report furnished pursuant to paragraph (a) of this subsection indicates that further action is proposed with respect to the case, on the completion of that action, furnish to the Court a written report stating whether that action has resolved that matter, and, if so, how that matter has been resolved.”

8. Unaccompanied children and young persons—
Section 48 (3) of the principal Act is hereby amended by omitting the expression “16”, and substituting the expression “17”.

9. No application to be made unless family group conference has been held—(1) Section 70 (2) of the principal Act is hereby amended by repealing paragraph (b), and substituting the following paragraphs:

“(b) The applicant believes that the interests of the child or young person in respect of whom the application is made require that an interim restraining order be

granted as a matter of urgency, and an application for such an order is made at the same time as the application; or

“(ba) An application for a custody order under section 78 of this Act is made at the same time as the application, and the applicant believes,—

“(i) Where the application is made on the ground specified in section 14 (1) (e) of this Act,—

“(A) That it is not possible to make suitable alternative arrangements for the custody of the child in respect of whom the application is made pending the determination of the application; or

“(B) That it is in the public interest that the child be held in custody pending the determination of the application:

“(ii) In any other case, that the interests of the child or young person in respect of whom the application is made require that such a custody order be granted as a matter of urgency; or”.

(2) Section 70 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsection:

“(3) Where, pursuant to any of paragraphs (a) to (ba) of subsection (2) of this section, an application for a declaration under section 67 of this Act is made without a family group conference having been held, the Registrar shall forthwith refer the application to,—

“(a) In the case of an application made on the ground specified in section 14 (1) (e) of this Act, a Youth Justice Co-ordinator; or

“(b) In any other case, a Care and Protection Co-ordinator—
for the purposes of convening a family group conference.”

10. New heading and section substituted—The principal Act is hereby amended by repealing section 78 and the heading above that section, and substituting the following heading and section:

“Custody of Child or Young Person Pending Determination of Proceedings

“78. Custody of child or young person pending determination of proceedings—(1) In any proceedings in a Court under Part II of this Act in relation to a child or young

person, the Court may, on the application of any party to the proceedings, or a barrister or solicitor representing the child or young person, or of its own motion, make an order relating to the custody of the child or young person pending the determination of the proceedings.

“(2) Without limiting the generality of subsection (1) of this section, the Court may make an order under that subsection in relation to a child or young person in the following cases:

“(a) Where the child or young person has been placed in the custody of the Director-General pursuant to section 39 or section 40 or section 42 of this Act and is brought before the Court pursuant to section 45 of this Act:

“(b) Where the Court is satisfied that the child or young person is in need of care or protection for the period of the order:

“(c) In the case of an application for a declaration under section 67 of this Act on the ground specified in section 14 (1) (e) of this Act, where—

“(i) It is not possible to make suitable alternative arrangements for the custody of the child pending the determination of the application; or

“(ii) It is in the public interest that the child be held in custody pending the determination of the application:

“(d) Where the Court has made a declaration under section 67 of this Act and has adjourned the proceedings pending their disposition:

“(e) Where an application for a variation or discharge of any order (or the variation or discharge of any condition of any order) is made to the Court under section 125 of this Act, at any time before such application is finally disposed of:

“(f) Where a report is furnished to the Court pursuant to section 135 of this Act, at any time before the Court has completed its consideration of the report and accompanying revised plan under section 137 of this Act.

“(3) An order under subsection (1) of this section may be made on such terms and conditions as the Court thinks fit.”

11. New sections substituted—The principal Act is hereby amended by repealing sections 81 and 82, and substituting the following sections:

“81. Placement of child or young person under order made under section 78—(1) Where, pursuant to an order made under section 78 of this Act, a child or young person is placed in the custody of any person (being the Director-General or an Iwi Social Service or a Cultural Social Service or the Director of a Child and Family Support Service), that order is sufficient authority for that person to place the child or young person—

“(a) With a member of the child’s or young person’s family, whanau, or family group:

“(b) Where the child or young person is placed in the custody of the Director-General, in a residence.

“(2) Subject to subsection (1) of this section, the person in whose custody a child or young person is so placed may, from time to time, during the currency of the order, change the placement of the child or young person.

Cf. 1974, No. 72, s. 43 (8)

“82. Child or young person may be returned to person who previously had care—(1) This section applies where a child or young person is placed in the custody of the Director-General, an Iwi Social Service, a Cultural Social Service, or the Director of a Child and Family Support Service pursuant to an order made under section 78 of this Act.

“(2) Subject to subsection (5) of this section, where this section applies, the person in whose custody the child or young person is placed may, at any time before the order expires or is discharged, if that person considers it appropriate to do so, return the child or young person to the custody of the parent or guardian or other person who had the care of the child or young person immediately before the order was made.

“(3) The person so returning the child or young person may impose such conditions relating to the supervision of the child or young person as that person thinks fit.

“(4) Subject to subsection (5) of this section, where,—

“(a) Pursuant to subsection (2) of this section, a child or young person is returned to the custody of another person; and

“(b) At any time before the order made under section 78 of this Act expires or is discharged, the person so returning the child or young person considers that it is no longer desirable in the interests of the child or young person that he or she be in the custody of that other person,—

the person may direct that other person to return the child or young person to the custody of that person.

“(5) No person shall—

“(a) Return a child or young person to the custody of any other person pursuant to subsection (2) of this section; or

“(b) Issue a direction under subsection (4) of this section in relation to a child or young person—
without first consulting with the barrister or solicitor representing that child or young person.

“(6) Where a person gives a direction under subsection (4) of this section,—

“(a) Any Social Worker acting under the specific or general authority of that person may—

“(i) Remove the child or young person to whom the direction relates, using such force as is reasonably necessary for the purpose; and

“(ii) Place the child or young person with such person, or (where the person giving the direction is the Director-General) in such residence, as the person giving the direction thinks fit:

“(b) Subsections (2) and (3) of section 105 of this Act shall apply, so far as applicable and with all necessary modifications, in relation to the removal of the child or young person pursuant to the direction.”

12. New sections substituted—The principal Act is hereby amended by repealing section 86, and substituting the following sections:

“**86. Services orders**—(1) Where the Court makes a declaration under section 67 of this Act in relation to a child or young person, it may—

“(a) Make an order directing the Director-General or any other person or organisation named in the order to provide such services and assistance as may be specified in the order for such period and on such terms and conditions as may be specified to a parent or guardian or other person having the care of the child or young person:

“(b) Make an order directing the Director-General or any other person or organisation named in the order to provide such services and assistance as may be specified in the order for such period and on such

terms and conditions as may be specified to the child or young person.

“(2) The Court shall not make an order under subsection (1) of this section unless the Director-General (where the order is to be directed to the Director-General) or the person or organisation that would be required to provide services and assistance pursuant to the order (in any other case)—

“(a) Is given notice of the Court’s intention to consider making the order; and

“(b) Is given an opportunity to appear and be heard by the Court before the order is made; and

“(c) Subject to subsection (3) of this section, consents to the making of the order.

“(3) An order directing the Director-General to provide services and assistance may be made under this section without the consent of the Director-General, but only if the Court, after having regard to any reasons advanced on behalf of the Director-General as to why the order should not be made, is satisfied—

“(a) That requiring the Director-General to provide those services and assistance is not clearly impracticable; and

“(b) That the child or young person in respect of whom the Court proposes to make an order under this section is in the care of a person or organisation clearly consistently with the principles set out in sections 5, 6, and 13 of this Act.

“86A. **Interim services orders**—Where an application is made to the Court for a declaration under section 67 of this Act in relation to a child or young person, the Court may, on application by the applicant, or a barrister or solicitor representing the child or young person, or of its own motion, make such an order as it is empowered to make under section 86 of this Act pending the determination of the application.”

13. Support orders—The principal Act is hereby amended by repealing section 91, and substituting the following section:

“91. (1) Where the Court makes a declaration under section 67 of this Act in relation to a child or young person, it may make an order directing the Director-General or any other person or organisation named in the order to provide support to that child or young person for such period (not exceeding 12 months) as is specified in the order.

“(2) The Court shall not make an order under subsection (1) of this section unless the Director-General (where the order is to

be directed to the Director-General) or the person or organisation that would be required to provide support pursuant to the order (in any other case)—

“(a) Is given notice of the Court’s intention to consider making the order; and

“(b) Is given an opportunity to appear and be heard by the Court before the order is made; and

“(c) Subject to subsection (3) of this section, consents to the making of the order.

“(3) An order directing the Director-General to provide support may be made under this section without the consent of the Director-General, but only if the Court, after having regard to any reasons advanced on behalf of the Director-General as to why the order should not be made, is satisfied—

“(a) That requiring the Director-General to provide those services and assistance is not clearly impracticable; and

“(b) That the child or young person in respect of whom the Court proposes to make an order under this section is in the care of a person or organisation clearly consistently with the principles set out in sections 5, 6, and 13 of this Act.”

14. Duty to provide support—The principal Act is hereby amended by repealing section 93, and substituting the following section:

“93. Where an order is made under section 91 or section 92 of this Act in relation to a child or young person, it is the duty of the Director-General (where the order is directed to the Director-General) or the person or organisation directed to provide support pursuant to the order (in any other case)—

“(a) To monitor the standard of care, protection, and control being provided to, or exercised over, that child or young person; and

“(b) To provide, or co-ordinate the provision of, such services and resources (including financial services and resources), whether from the community or otherwise, as will ensure that appropriate care, protection, and control are provided to, or exercised over, that child or young person.”

15. Court may make orders for access and exercise of other rights by parents and other persons—Section 121 (2) (a) of the principal Act is hereby amended by omitting

the words “an application”, and substituting the words “any proceedings”.

16. Application for variation or discharge of orders made under this Part of this Act—(1) Section 125 (1) (a) of the principal Act is hereby amended by omitting the words “an application for a declaration under section 67 of this Act”, and substituting the words “any proceedings”.

(2) Section 125 (1) of the principal Act is hereby amended by repealing paragraph (d), and substituting the following paragraph:

“(d) Any services order or interim services order made under section 86 or section 86A of this Act:”.

17. Persons who may apply for variation or discharge of order—Section 126 of the principal Act is hereby amended by repealing paragraph (k), and substituting the following paragraph:

“(k) In respect of any services order or interim services order made under section 86 or section 86A of this Act, any person or organisation required to provide services or assistance pursuant to the order:”.

18. Court may direct holding of family group conference to consider application—The principal Act is hereby amended by inserting, after section 126, the following section:

“126A. (1) Where an application is made under section 125 of this Act, the Court, at any stage of the proceedings, may direct a Care and Protection Co-ordinator to convene a family group conference for the purpose of considering such matters relating to the child or young person as the Court directs, and may adjourn the hearing of the application until the conference has been held.

“(2) The provisions of sections 20 to 36 of this Act shall apply with all necessary modifications with respect to the convening of a family group conference for the purposes of this section.”

19. Court may vary or discharge order—(1) Section 127 (1) of the principal Act is hereby amended by inserting, after paragraph (c), the following paragraph:

“(ca) Make any order referred to in section 83 (1) or section 84 (1) of this Act in addition to the order (whether or not the Court exercises any other power specified in paragraph (a) or any of paragraphs (d) to (g) of this subsection in relation to the order):”.

(2) Section 127 (2) of the principal Act is hereby amended by inserting, after paragraph (d), the following paragraph:

“(da) Make any order referred to in section 83 (1) or section 84 (1) of this Act in addition to the order (whether or not the Court exercises any other power specified in paragraph (a) or paragraph (b) or any of paragraphs (e) to (i) of this subsection in relation to the order).”

(3) Section 127 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsection:

“(3) Where the Court makes any order under this section, the Court may, where it considers it necessary or desirable to do so, make such order under section 134 of this Act as it thinks fit with respect to any plan or revised plan in force concerning the child or young person.”

20. Court to obtain and consider plan for child or young person before making certain orders—(1) Section 128 (2) (a) of the principal Act is hereby amended by omitting the words “(other than an order that relates solely to the provision of financial support)”.

(2) Section 128 of the principal Act is hereby amended by adding the following subsection:

“(4) Notwithstanding anything in subsection (1) of this section, where—

“(a) The Court proposes to make an order in respect of a child or young person; and

“(b) But for this subsection, the Court would be required, pursuant to subsection (1) of this section, to obtain a plan in respect of the order; and

“(c) The making of the order would be in accordance with a decision, recommendation, or plan made or formulated by a family group conference; and

“(d) That conference has already formulated, in respect of the child or young person, a plan that complies with the requirements of section 130 of this Act; and

“(e) Either—

“(i) That plan was prepared in consultation with the Director-General or a Social Worker; or

“(ii) The Director-General consents to that plan being treated as a plan obtained by the Court pursuant to subsection (1) of this section,—

the Court may treat that plan as a plan obtained by the Court pursuant to subsection (1) of this section, and that subsection and the other provisions of this Act that relate to plans obtained pursuant to that subsection shall apply accordingly as if the plan had been prepared by the Director-General.”

21. Court to direct who is to prepare plan—Section 129 of the principal Act is hereby amended by inserting, after subsection (1), the following subsections:

“(1A) Where—

“(a) A person is directed, pursuant to subsection (1) of this section, to prepare a plan; and

“(b) That person is not a Social Worker; and

“(c) That plan has any implications for the Director-General,—

the plan shall be of no effect unless it has been prepared in consultation with the Director-General or his or her representative, and contains an express statement to the effect.

“(1B) For the purposes of subsection (1A) of this section, a plan has implications for the Director-General if it proposes that—

“(a) The Director-General be required to provide services or assistance pursuant to a services order under section 86 of this Act; or

“(b) The Director-General be required to provide support pursuant to a support order under section 91 of this Act; or

“(c) A child or young person be placed in the custody or care of the Director-General; or

“(d) The Director-General be appointed as the sole guardian, or as an additional guardian, of a child or young person; or

“(e) A child or young person receive counselling or other services under this Act, where that counselling or those services would be provided at the Department’s expense; or

“(f) Either—

“(i) A child or young person be placed in the custody or care of any person or organisation; or

“(ii) Any person or organisation be appointed as the sole guardian, or as an additional guardian, of a child or young person,—

and that the Director-General provide financial assistance to that person or organisation; or

“(g) Any order (whether a services order under section 86 of this Act or a support order under section 91 of this Act, or any other order) be made in relation to any person or organisation, and that the Director-General provide financial assistance to that person or organisation for the purpose of assisting that person or organisation to give effect to the order.”

22. Court to set date for review of plan—(1) Section 134 of the principal Act is hereby amended by adding the following subsections:

“(4) On fixing a date pursuant to subsection (1) of this section, the Court may also direct who is to review the plan pursuant to section 135 of this Act. If the Court does not make such a direction, the person who prepared the plan shall be deemed to have been directed pursuant to this subsection to review the plan.

“(5) The Court may at any time, on the application of any party to the proceedings, or a barrister or solicitor representing the child or young person, or of its own motion, amend any direction made or deemed to have been made under subsection (4) of this section, or revoke any such direction and substitute another direction.”

(2) In respect of every plan prepared pursuant to section 128 of this Act before the date of the commencement of this section and that has not been reviewed in accordance with section 135 of this Act before that date, the person who prepared that plan shall be deemed to have been directed pursuant to section 134 of this Act (as amended by subsection (1) of this section) to review that plan.

23. Review of plan—(1) Section 135 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Subject to section 127 (3) of this Act, the person who is directed, pursuant to section 134 of this Act, to review a plan prepared under section 128 of this Act in respect of a child or young person shall, not later than the date fixed pursuant to section 134 of this Act for the review of that plan, review that plan and furnish to the Court a report setting out the results of that review, together with a revised plan in respect of that child or young person.”

(2) Section 135 of the principal Act is hereby amended by adding the following subsections:

“(4) On the request of the person required to review a plan under subsection (1) of this section, a Care and Protection Co-ordinator may convene a family group conference for the purpose of reviewing the plan.

“(5) The provisions of sections 20 to 36 of this Act shall apply with all necessary modifications with respect to the convening of a family group conference for the purposes of subsection (4) of this section.”

24. Court to set date for further review of plan—Section 138 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) Section 134 of the principal Act shall apply, with all necessary modifications, with respect to—

“(a) The fixing of a date for the review of a revised plan; and

“(b) The person who is to review a revised plan.”

25. Agreements for extended care of severely disabled children and young persons—(1) Section 141 (1) of the principal Act is hereby amended by omitting the words “institutional care”, and substituting the words “the care of an organisation or body approved under section 396 of this Act to provide care for such a child or young person”.

(2) Section 141 of the principal Act is hereby amended by repealing subsection (4), and substituting the following subsections:

“(4) No agreement may be made under subsection (2) of this section providing for the placement of any child or young person in the care of any person (in this subsection referred to as the proposed caregiver) unless a person or organisation authorised pursuant to subsection (5) of this section (not being a person employed by the proposed caregiver) certifies,—

“(a) That the proposed caregiver has appropriate facilities and adequate staffing to care for the child or young person; or

“(b) Where, pursuant to section 362 of this Act, the proposed caregiver intends to place the child or young person in the charge of some other person or organisation, that the proposed caregiver has appropriate facilities and adequate staffing to supervise the placement and to ensure that adequate and appropriate care is provided to the child or young person.

“(5) The Director-General of Health may from time to time, on application made to the Director-General, authorise any

suitable person or organisation to issue certificates for the purposes of subsection (4) of this section.

“(6) The Director-General of Health may grant an authority under subsection (5) of this section subject to such conditions as the Director-General of Health thinks fit, and may at any time revoke any such authority, or revoke, vary, or add to any condition imposed under this subsection.

“(7) The Director-General of Health may from time to time, pursuant to section 41 of the State Sector Act 1988, delegate to any regional health authority or any Crown health enterprise (within the meaning of the Health and Disability Services Act 1993) the powers conferred on the Director-General of Health by subsections (5) and (6) of this section, and for that purpose and for that purpose only, sections 41 and 42 of the State Sector Act 1988 shall apply as if every regional health authority and every Crown health enterprise were employees of the Ministry of Health.”

26. Agreements with controlling authorities of homes registered under Disabled Persons Community Welfare Act 1975—(1) Section 142 (2) of the principal Act is hereby amended by omitting the words “the controlling authority of a home registered under the Disabled Persons Community Welfare Act 1975”, and substituting the words “a controlling authority”.

(2) Section 142 (3) of the principal Act is hereby amended by omitting the word “person” where it appears for the second time, and substituting the words “controlling authority”.

(3) Section 142 of the principal Act is hereby amended by adding the following subsections:

“(4) Where, pursuant to an agreement made under subsection (2) of this section, a child or young person is placed in the care of a controlling authority, that controlling authority may place the child or young person in the charge of any person whom the controlling authority considers suitable to provide for that child’s or young person’s care, control, and upbringing.

“(5) Section 363 of this Act shall, with all necessary modifications, apply in respect of any placement made pursuant to subsection (4) of this section as if it were a placement made pursuant to section 362 of this Act.

“(6) In this section, the term ‘controlling authority’ means a controlling authority of a home registered under the Disabled Persons Community Welfare Act 1975.”

27. Further provisions relating to medical, psychiatric, and psychological examinations—Section 179 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsection:

“(3) Every psychological examination carried out under subsection (1) or subsection (2) of section 178 of this Act shall be carried out by—

“(a) A registered medical practitioner holding a psychiatric appointment or being registered on the register of specialists in the speciality of psychological medicine or psychiatry; or

“(b) A registered psychologist; or

“(c) A person appointed by the Court for the purpose, being a person whom the Court is satisfied—

“(i) Is entitled to practice as a psychologist, or in the speciality of psychological medicine or psychiatry, in that person’s country of permanent residence; and

“(ii) Has qualifications that, in the view of the appropriate registering body in New Zealand, are at least equivalent to those required of a person referred to in paragraph (a) or paragraph (b) of this subsection.”

28. Report by Social Worker—Section 186 of the principal Act is hereby amended by adding the following subsection:

“(5) In this section, the term ‘Social Worker’ includes a person employed in the speciality of social work by the Director of a Child and Family Support Service, or by an Iwi Social Service or a Cultural Social Service, who consents to make a report under this section.”

29. Adjournments—Section 201 (3) (a) of the principal Act is hereby amended by omitting the words “an application”, and substituting the words “any proceedings”.

30. Child or young person to be informed of rights before questioned by enforcement officer—(1) Section 215 (1) of the principal Act is hereby amended by omitting the words “in relation to the commission or possible commission of an offence by that child or young person”, and substituting the words “whom there are reasonable grounds to suspect of having committed an offence, or before asking any child or

young person any question intended to obtain an admission of an offence”.

(2) Section 215 of the principal Act is hereby amended by adding the following subsection:

“(3) Without limiting subsection (1) of this section, where, during the course of questioning a child or young person, an enforcement officer forms the view that there are reasonable grounds to suspect the child or young person of having committed an offence, the enforcement officer shall, before continuing the questioning, give the explanation required by that subsection.”

31. Rights to be explained to child or young person on request—(1) The principal Act is hereby amended by inserting, after section 215, the following section:

“215A. Subject to sections 233 and 244 of this Act, where—

“(a) Any enforcement officer is questioning any child or young person in relation to that child’s or young person’s involvement in the commission of any offence or suspected offence; and

“(b) That child or young person makes any enquiry of that enforcement officer, being an enquiry that relates (in whole or in part), or that may reasonably be taken as relating (in whole or in part), to any of the matters set out in any of paragraphs (a) to (f) of section 215 (1) of this Act,—

that enforcement officer shall explain to that child or young person such of those matters as, in the circumstances of the particular case, are appropriate to the enquiry that was made.”

(2) Section 218 of the principal Act is hereby consequentially amended by inserting, after the expression “section 215”, the expression “or section 215A”.

(3) Section 219 of the principal Act is hereby consequentially amended by inserting, after the expression “section 215”, the expression “or section 215A”.

(4) Section 220 of the principal Act is hereby consequentially amended by inserting, after the expression “section 215”, the expression “or section 215A”.

32. Persons who may be nominated for the purposes of section 221 (2) (b) or (c)—Section 222 of the principal Act is hereby amended by adding the following subsection:

“(4) It is the duty of any person nominated pursuant to subsection (1) of this section—

- “(a) To take reasonable steps to ensure that the child or young person understands the matters explained to the child or young person under section 221 (2) (a) of this Act; and
- “(b) To support the child or young person—
 - “(i) Before and during any questioning; and
 - “(ii) If the child or young person agrees to make or give any statement, during the making or giving of the statement.”

33. Persons who may be nominated for the purposes of section 229 (1) (a)—Section 231 of the principal Act is hereby amended by adding the following subsection:

“(4) It is the duty of any person nominated pursuant to subsection (1) of this section—

- “(a) To take reasonable steps to ensure that the child or young person understands the matters explained to the child or young person under section 221 (2) (a) of this Act; and
- “(b) To support the child or young person—
 - “(i) Before and during any questioning; and
 - “(ii) If the child or young person agrees to make or give any statement, during the making or giving of the statement.”

34. Family group conference not required in certain cases—The principal Act is hereby amended by repealing section 248, and substituting the following section:

“248. (1) Nothing in section 245 (1) (c) or section 246 (b) or section 247 (b) or (d) or (e) or section 281 of this Act requires a family group conference to be held in respect of any offence alleged or proved to have been committed by a young person if—

- “(a) The offence is alleged or proved to have been committed on a date that is earlier than the date on which—
 - “(i) The young person was convicted and sentenced in the High Court or a District Court; or
 - “(ii) A Youth Court made an order under section 283 of this Act in respect of that young person— for any other offence (not being an offence the maximum penalty for which is less than the maximum penalty that may be imposed in respect of the first-mentioned offence); or

“(b) The young person is subject to a full-time custodial sentence or a community-based sentence (as those terms are defined in section 2 (1) of the Criminal Justice Act 1985), or to any order made under any of paragraphs (k) to (o) of section 283 of this Act,— and, subject to subsection (5) of this section, in either case, a Youth Justice Co-ordinator is of the view that the holding of a family group conference would serve no useful purpose, and the family or whanau or family group of the young person agree with that view.

“(2) Where—

“(a) A family group conference has been convened pursuant to section 247 of this Act in relation to any offence alleged or proved to have been committed by a child or young person; and

“(b) Before the family group conference has made any decision, recommendation, or plan pursuant to section 260 of this Act in relation to that offence, that child or young person is alleged or proven to have committed any other offence (being an offence in respect of which a family group conference would be required to be held pursuant to section 247 of this Act),—

the family group conference may make in respect of the latter offence any decision, recommendation, or plan that it is empowered to make under section 260 of this Act, and it shall not be necessary to convene a separate family group conference in relation to that latter offence.

“(3) Nothing in section 245 (1) (c) or section 246 (b) or section 247 (b) or (d) or (e) or section 281 of this Act requires a family group conference to be held in respect of any offence alleged or proved to have been committed by a young person if—

“(a) The requirement to convene a conference under any of those sections arose within 6 weeks of the completion of a previous family group conference—

“(i) That was convened under this Part of this Act in respect of any other offence; and

“(ii) That had the opportunity to consider how that offence should be dealt with; and

“(b) Subject to subsections (4) and (5) of this section, a Youth Justice Co-ordinator—

“(i) Is of the view that the holding of a family group conference would serve no useful purpose; and

“(ii) Is satisfied that—

“(A) The family, whanau, or family group of the young person; and

“(B) Each of the persons who would be entitled to attend a family group conference under any of paragraphs (d) to (n) of section 251 of this Act—

agree with that view.

“(4) Before forming a view as to whether or not a family group conference would serve a useful purpose under subsection (3) of this section, the Youth Justice Co-ordinator shall—

“(a) Consult with—

“(i) The family, whanau, or family group of the young person concerned; and

“(ii) The persons who would be entitled to attend the family group conference pursuant to any of paragraphs (d) to (n) of section 251 of this Act; and

“(b) Have regard to—

“(i) The response of the young person to any decisions, recommendations, or plans made or formulated by the previous family group conference; and

“(ii) The seriousness and extent of the offending alleged or proved to have been committed by the young person and that gives rise to the requirement to hold a family group conference.

“(5) Before forming a view as to whether or not a family group conference would serve a useful purpose under subsection (1) or subsection (3) of this section, the Youth Justice Co-ordinator shall consider whether a family group conference is necessary for the purpose of considering whether the young person should be required to make reparation for any offence.”

35. Time limits for convening of family group conferences—Section 249 of the principal Act is hereby amended by repealing subsection (6), and substituting the following subsection:

“(6) Unless there are special reasons why a longer period is required,—

“(a) Every family group conference to which subsection (3) or subsection (4) of this section applies shall be completed within 7 days after it is convened:

“(b) Every other family group conference shall be completed within one month after it is convened.”

36. Consultation on convening of family group conference—The principal Act is hereby amended by repealing section 250, and substituting the following section:

“250. (1) Every Youth Justice Co-ordinator shall, before convening a family group conference pursuant to this Part of this Act in respect of a child or young person, make all reasonable endeavours to consult with the child’s or young person’s family, whanau, or family group in relation to—

“(a) The date on which, and the time and place at which, the conference is to be held; and

“(b) The persons who should attend the conference; and

“(c) The procedure to be adopted at the conference,—
and, subject to subsection (2) of this section and to sections 249 and 251 of this Act, shall, so far as it is practicable and consistent with the principles of this Act, give effect to the wishes of the child’s or young person’s family, whanau, or family group in relation to those matters.

“(2) The Youth Justice Co-ordinator shall also make all reasonable endeavours to consult with—

“(a) Any victim of the offence or alleged offence to which the conference relates; and

“(b) Either,—

“(i) In the case of a conference required to be convened under section 18 (3) of this Act, the applicant or intended applicant for a declaration under section 67 of this Act in relation to the child to whom the conference relates; or

“(ii) In the case of any other proceedings or proposed proceedings for the offence or alleged offence to which the conference relates, the informant or intended informant in those proceedings—

in relation to the date on which, and the time and place at which, the conference is to be held, and, in convening the conference, shall take into account, in relation to those matters, the views of the person or persons consulted.”

37. Persons entitled to attend family group conference—Section 251 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsections:

“(2) Where, pursuant to subsection (1) (f) of this section, any victim of an offence or alleged offence attends a family group conference in person and not by a representative, that person may be accompanied by any reasonable number of persons (being members of his or her family, whanau, or family group or any other persons) who attend the conference for the purpose of providing support to that victim.

“(3) A person who attends a family group conference pursuant to subsection (2) of this section shall not be a member of the conference.

“(4) No person who attends a family group conference pursuant to any of paragraphs (c) to (n) (other than paragraph (k)) of subsection (1) of this section or pursuant to subsection (2) of this section is entitled to be present during any discussions or deliberations held among the members of the family, whanau, or family group of the child or young person in respect of whom the conference is held, unless those members request that person to attend.”

38. New sections inserted—The principal Act is hereby amended by inserting, after section 281, the following sections:

“281A. Court to consider whether family group conference should be held—Where, in respect of any offence, the holding of a family group conference has been waived pursuant to section 248 of this Act, the Court shall,—

“(a) Before hearing the information for that offence; or

“(b) Before making any order or exercising any power in any proceedings relating to or arising out of that offence, in any case where subsection (1) or subsection (2) of section 281 of this Act would otherwise require a family group conference to have been held in relation to the matter,—

as the case may be, consider whether or not a family group conference should nevertheless be held in relation to the matter.

“281B. Court may direct holding of family group conference at any time—(1) If, at any stage of the hearing of any proceedings under this Part of this Act, it appears to the Court that it is necessary or desirable for a family group conference to be held in relation to any matter relating to the young person to whom the proceedings relate, the Court may direct a Youth Justice Co-ordinator to convene a family group conference for the purpose of considering such matters relating

to the young person as the Court directs, and may adjourn the proceedings until the conference has been held.

“(2) The provisions of sections 250 to 269 of this Act shall apply with all necessary modifications with respect to the convening of a family group conference for the purposes of this section.”

39. Effect of order imposing fine or requiring payment of compensation or restitution or forfeiture of property—Section 293 (b) of the principal Act is hereby amended by inserting, after the word “imprisonment”, the words “or corrective training”.

40. Application of District Courts Act 1947 and Summary Proceedings Act 1957—Section 321 of the principal Act is hereby amended by adding, as subsection (5), the following subsection:

“(5) For the avoidance of doubt, it is hereby declared that, in any case where a child or young person first appears before a Youth Court following his or her arrest, the following powers may be exercised in relation to the child or young person by a Justice:

“(a) The powers conferred by section 238 (1) of this Act:

“(b) Where the child or young person is legally represented in the proceedings, the powers conferred by section 246 (b) of this Act.”

41. Grounds for placement in secure care—The principal Act is hereby amended by repealing section 368, and substituting the following section:

“368. (1) A child or young person may be placed in secure care in a residence if, and only if, such placement is necessary—

“(a) To prevent the child or young person absconding from the residence where any 2 of the conditions specified in subsection (2) of this section apply; or

“(b) To prevent the child or young person from behaving in a manner likely to cause physical harm to that child or young person or to any other person.

“(2) The conditions referred to in subsection (1) (a) of this section are—

“(a) The child or young person has, on one or more occasions within the preceding 6 months, absconded from a residence or from Police custody:

“(b) There is a real likelihood that the child or young person will abscond from the residence:

“(c) The physical, mental, or emotional wellbeing of the child or young person is likely to be harmed if the child or young person absconds from the residence.”

42. Court may authorise continued detention in secure care—(1) Section 376 (4) of the principal Act is hereby amended by inserting, immediately before the words “An approval”, the words “Subject to subsection (5) of this section,”.

(2) Section 376 of the principal Act is hereby amended by adding the following subsection:

“(5) Notwithstanding subsection (4) of this section, where an application under section 371 of this Act relates to a child or young person who is remanded, by the High Court or a District Court, in the custody of the Director-General pursuant to subsection (4) or subsection (5A) of section 142 of the Criminal Justice Act 1985, the Court may grant an approval under subsection (1) of this section for such period (being more than 14 days but not more than 28 days) as the Court shall specify, in any case where the Court is satisfied that, because of the length of time for which the child or young person is likely to be detained in the Director-General’s custody, the public interest so requires. Any approval so granted shall be valid for the specified period commencing on the day on which it is granted.”

43. Renewal of approval for continued detention in secure care—Section 377 of the principal Act is hereby amended by repealing subsection (5), and substituting the following subsection:

“(5) Subsections (4) and (5) of section 376 of this Act shall apply with all necessary modifications with respect to the duration of the validity of a renewal granted under subsection (1) of this section as if that renewal were an approval granted under subsection (1) of that section.”

44. Lapse of authority for detention in secure care—The principal Act is hereby amended by inserting, after section 383, the following section:

“383A. Any authority conferred by or under any of sections 367 to 383 of this Act for the detention of a child or young person in secure care in a residence shall, unless it sooner

expires, continue only for so long as the authority to detain that child or young person in that residence continues.”

45. New heading and section substituted—(1) The principal Act is hereby amended by repealing section 396 and the heading above that section, and substituting the following heading and section:

“Iwi Social Services, Cultural Social Services, and Child and Family Support Services

“396. Approval of Iwi Social Services, Cultural Social Services, and Child and Family Support Services—(1) The Director-General may, from time to time, on application made to the Director-General, approve any incorporated body (being a body established by an iwi) as an Iwi Social Service for the purposes of this Act.

“(2) The Director-General may, from time to time, on application made to the Director-General, approve any incorporated body (being a body established by one or more cultural groups (not being iwi) within New Zealand) as a Cultural Social Service for the purposes of this Act.

“(3) The Director-General may, from time to time, on application made to the Director-General, approve any organisation or body (including a children’s home), whether incorporated or unincorporated, as a Child and Family Support Service for the purposes of this Act.

“(4) The Director-General may grant an approval under this section subject to such conditions as the Director-General thinks fit.”

(2) Every approval granted under the former section 396 of the principal Act (as repealed by subsection (1) of this section) as an Iwi Authority or a Cultural Authority or a Child and Family Support Service and in force immediately before the commencement of this section shall be deemed to be an approval granted under section 396 of the principal Act (as substituted by subsection (1) of this section),—

(a) In the case of an Iwi Authority, as an Iwi Social Service:

(b) In the case of a Cultural Authority, as a Cultural Social Service:

(c) In the case of a Child and Family Support Service, as a Child and Family Support Service—

on the same conditions (if any) as applied to that approval under the former section 396 of the principal Act (as so

repealed) immediately before the commencement of this section.

46. Amendments consequential on section 45—The principal Act is hereby consequentially amended in the manner indicated in the Schedule to this Act.

47. Amendment to Summary Proceedings Act 1957—
(1) Section 88 of the Summary Proceedings Act 1957 (as substituted by section 14 of the Summary Proceedings Amendment Act 1987 and amended by section 14 of the Summary Proceedings Amendment Act 1993) is hereby amended by inserting in subsection (3), immediately before the words “The District Court Judge”, the words “Subject to subsection (3AA) of this section,”.

(2) Section 88 of the Summary Proceedings Act 1957 (as so substituted and amended) is hereby amended by inserting, after subsection (3), the following subsection:

“(3AA) Notwithstanding anything in subsection (3) of this section, where—

“(a) The fine was imposed in respect of a traffic offence (as defined in section 2 (1) of the Children, Young Persons, and Their Families Act 1989) not punishable by imprisonment; and

“(b) At the date of the commission of the offence, the defendant was a young person within the meaning of that Act,—

neither a period of imprisonment nor a sentence of corrective training shall be imposed under subsection (3) of this section on the defendant in respect of the fine.”

(3) Without limiting section 4 of the Criminal Justice Act 1985 or section 25 (g) of the New Zealand Bill of Rights Act 1990, section 88 of the Summary Proceedings Act 1957 (as amended by this section) shall apply—

(a) In respect of the enforcement of any fine (as defined in section 79 of that Act) where default in the payment of the fine is made on or after the commencement of this section:

(b) Where default in the payment of any fine (as so defined) is made before the date of the commencement of this section and no action has been taken under section 88 of that Act before that date.

(4) Section 88 of the Summary Proceedings Act 1957 shall apply as if this section had not been passed in any case where

action in respect of any fine (as so defined) has commenced under that section before the date of the commencement of this section but has not been completed before that date; except that where any enforcement action under Part III of that Act in respect of the fine is completed and further enforcement action under that Part is to be taken, the further enforcement action shall be taken under that Part as amended by this section.

48. Amendment to Coroners Act 1988—Section 4 (1) of the Coroners Act 1988 is hereby amended by omitting from subparagraph (i) of paragraph (f) (as substituted by section 449 of the principal Act) the words “Iwi Authority or a Cultural Authority”, and substituting the words “Iwi Social Service or a Cultural Social Service”.

49. Amendment to Child Support Act 1991—Section 8 (3) of the Child Support Act 1991 is hereby amended by repealing paragraph (b), and substituting the following paragraph:

“(b) A body or organisation approved under section 396 of that Act.”

Section 46

SCHEDULE

AMENDMENTS TO PRINCIPAL ACT CONSEQUENTIAL ON AMENDMENTS MADE BY SECTION 45

Provision of Principal Act	Amendment
Section 32 (1) ..	By repealing paragraph (e), and substituting the following paragraph: “(e) Where there is an appropriate Iwi Social Service or Cultural Social Service with respect to the child or young person, that Social Service; and”.
Section 79 (1) ..	By repealing paragraphs (b) and (c), and substituting the following paragraphs: “(b) An Iwi Social Service: “(c) A Cultural Social Service:”.
Section 101 (1) ..	By repealing paragraphs (b) and (c), and substituting the following paragraphs: “(b) An Iwi Social Service: “(c) A Cultural Social Service:”.
Section 103	By omitting the words “Iwi Authority or a Cultural Authority”, and substituting the words “Iwi Social Service or a Cultural Social Service”.
Section 104 (2) ..	By repealing paragraph (b), and substituting the following paragraph: “(b) Where the order places the child or young person in the custody of an Iwi Social Service or a Cultural Social Service, with such person as the Convener of the Social Service directs:”.
Section 106	By repealing this section, and substituting the following section: “106. Living arrangements where child or young person placed in custody of Iwi Social Service, etc.— (1) Where the Court makes an order under section 101 of this Act placing a child or young person in the custody of an Iwi Social Service or a Cultural Social Service or the Director of a Child and Family Support Service, the Convener of the Social Service or the Director of that Support Service, as the case may require,— “(a) May from time to time direct that the child or young person be removed from the person with whom or the residence in which that child or young

SCHEDULE—*continued*AMENDMENTS TO PRINCIPAL ACT CONSEQUENTIAL ON AMENDMENTS MADE
BY SECTION 45—*continued*

Provision of Principal Act	Amendment
Section 106— <i>continued</i>	<p>person was placed pursuant to section 104 of this Act and placed with some other person or in some other residence; and</p> <p>“(b) May request any Social Worker or any member of the Police to assist in carrying out any direction given under paragraph (a) of this subsection, and any Social Worker or member of the Police so assisting may use such force as is reasonably necessary for that purpose.</p> <p>“(2) For the purposes of assisting in the carrying out of any direction given under subsection (1) (a) of this section, any Social Worker or member of the Police may exercise the powers conferred by section 105 (2) of this Act, and the provisions of subsections (2) and (3) of section 105 of this Act shall apply accordingly with all necessary modifications.”</p>
Section 110 (1) ..	<p>By repealing paragraphs (b) and (c), and substituting the following paragraphs:</p> <p>“(b) An Iwi Social Service:</p> <p>“(c) A Cultural Social Service:”.</p>
Section 113	<p>By omitting the words “Iwi Authority or a Cultural Authority”, and substituting the words “Iwi Social Service or a Cultural Social Service”.</p>
Section 119	<p>By repealing paragraph (a), and substituting the following paragraph:</p> <p>“(a) Where an Iwi Social Service or a Cultural Social Service was the sole guardian of the child or young person immediately before that person’s appointment, in that Iwi Social Service or Cultural Social Service as if that Social Service had been appointed the sole</p>

SCHEDULE—continued

AMENDMENTS TO PRINCIPAL ACT CONSEQUENTIAL ON AMENDMENTS MADE
BY SECTION 45—continued

Provision of Principal Act	Amendment
Section 119—continued	guardian of the child or young person.”.
Section 126	By repealing paragraph (i), and substituting the following paragraph: “(i) Any Iwi Social Service or Cultural Social Service.”.
Section 139	By repealing this section, and substituting the following section: <p>“139. Agreements for temporary care of children and young persons by Director-General, Iwi Social Services, etc.—(1) Subject to this section, any parent or guardian or other person having the care of a child or young person who is temporarily unable or unwilling to care for the child or young person may,—</p> <p>“(a) With the agreement of the Director-General, place the child or young person in the care of the Director-General for a period not exceeding 28 days; or</p> <p>“(b) With the agreement of an Iwi Social Service or a Cultural Social Service, place the child or young person in the care of that Social Service for a period not exceeding 28 days; or</p> <p>“(c) With the agreement of the Director of a Child and Family Support Service, place the child or young person in the care of the Director for a period not exceeding 28 days.</p> <p>“(2) If the parent or guardian or other person having the care of the child or young person is, or will be, unable to resume the care of the child or young person at the end of the period during which the child or young person is in the care of any person pursuant to subsection (1) of this section, the period may, with the agreement of that person,</p>

SCHEDULE—*continued*

AMENDMENTS TO PRINCIPAL ACT CONSEQUENTIAL ON AMENDMENTS MADE
BY SECTION 45—*continued*

Provision of Principal Act	Amendment
Section 139— <i>continued</i>	be extended for one further period of up to 28 days.”
Section 140	<p>By repealing this section, and substituting the following section:</p> <p>“140. Agreements for extended care of children and young persons by Director-General, Iwi Social Service, etc.—(1) Subject to this section and to sections 143 to 145 and section 147 of this Act, where every person who is a parent or guardian or person having the care of a child or young person agrees to do so, those persons may,—</p> <p>“(a) With the agreement of the Director-General, place the child or young person in the care of the Director-General for a period of more than 28 days; or</p> <p>“(b) With the agreement of an Iwi Social Service or a Cultural Social Service, place the child or young person in the care of that Social Service for a period of more than 28 days; or</p> <p>“(c) With the agreement of the Director of a Child and Family Support Service, place the child or young person in the care of the Director for a period of more than 28 days.</p> <p>“(2) No agreement may be made under subsection (1) of this section providing for the placement of any child or young person in the care of any person for any period that exceeds,—</p> <p>“(a) In the case of a child who is under 7 years of age, 6 months:</p> <p>“(b) In the case of any other child or any young person, 12 months.”</p>
Section 141 (2)	By repealing paragraph (a), and substituting the following paragraph:

SCHEDULE—*continued*AMENDMENTS TO PRINCIPAL ACT CONSEQUENTIAL ON AMENDMENTS MADE
BY SECTION 45—*continued*

Provision of Principal Act	Amendment
Section 141 (2)— <i>continued</i>	“(a) With the agreement of an Iwi Social Service or a Cultural Social Service, place the child or young person in the care of that Social Service; or”.
Section 147	By omitting the words “Iwi Authority or a Cultural Authority” in both places where they appear, and substituting in each case the words “Iwi Social Service or a Cultural Social Service”.
Section 152 (1)	By repealing paragraph (d), and substituting the following paragraph: “(d) If the child or young person is in the custody or under the guardianship of an Iwi Social Service or a Cultural Social Service, that Social Service:”.
Section 166 (1)	By repealing paragraph (g), and substituting the following paragraph: “(g) Where there is an appropriate Iwi Social Service or Cultural Social Service with respect to the child or young person, a representative of that Social Service:”.
Section 186 (2)	By omitting from paragraphs (a) and (b) the words “Iwi Authority or a Cultural Authority”, and substituting in each case the words “Iwi Social Service or a Cultural Social Service”.
Section 234 (c)	By repealing subparagraph (ii), and substituting the following subparagraph: “(ii) With the agreement of the child or young person, any Iwi Social Service or Cultural Social Service; or”.
Section 238 (1) (d)	By omitting the words “Iwi Authority, or a Cultural Authority”, and substituting the words “Iwi Social Service, or a Cultural Social Service”.
Section 239 (1)	By omitting the words “Iwi Authority or a Cultural Authority”, and substituting the words “Iwi Social Service or a Cultural Social Service”.

SCHEDULE—*continued*AMENDMENTS TO PRINCIPAL ACT CONSEQUENTIAL ON AMENDMENTS MADE
BY SECTION 45—*continued*

Provision of Principal Act	Amendment
Section 251 (1) ..	<p>By repealing paragraph (i), and substituting the following paragraph:</p> <p>“(i) Where an Iwi Social Service or a Cultural Social Service or the Director of a Child and Family Support Service—</p> <p> “(i) Is a guardian of the child or young person; or</p> <p> “(ii) Is entitled to custody of the child or young person pursuant to the Guardianship Act 1968 or under any order or agreement made under Part II of this Act,—</p> <p> a representative of that Social Service or of the Director:”.</p>
Section 265 (1) ..	<p>By repealing paragraph (h), and substituting the following paragraph:</p> <p>“(h) Where there is an appropriate Iwi Social Service or Cultural Social Service with respect to the child or young person, that Social Service.”</p>
Section 361	<p>By omitting from paragraphs (a), (c), (d), (e), (g), and (i) the words “Iwi Authority or a Cultural Authority”, and substituting in each case the words “Iwi Social Service or a Cultural Social Service”.</p>
Section 362	<p>By omitting the words “Iwi Authority or a Cultural Authority”, and substituting the words “Iwi Social Service or a Cultural Social Service.”</p> <p>By omitting the words “that Authority” in both places where they appear, and substituting in each case the words “that Social Service”.</p>
Section 363	<p>By omitting from subsections (2) and (3) the words “Iwi Authority or a Cultural Authority”, and substituting in each case the words “Iwi Social Service or a Cultural Social Service”.</p>

SCHEDULE—*continued*

AMENDMENTS TO PRINCIPAL ACT CONSEQUENTIAL ON AMENDMENTS MADE
BY SECTION 45—*continued*

Provision of Principal Act	Amendment
Section 390	<p>By omitting from subsection (1) the words “Iwi Authority or a Cultural Authority”, and substituting the words “Iwi Social Service or a Cultural Social Service”.</p> <p>By repealing paragraph (b) of subsection (2), and substituting the following paragraph: “(b) If the Director-General or, as the case requires, the Iwi Social Service or the Cultural Social Service or the Director of the Child and Family Support Service so directs, by the young person jointly with a person nominated by the Director-General or, as the case requires, that Social Service or that Director.”</p> <p>By omitting from subsection (3) the words “Iwi Authority or the Cultural Authority”, and substituting the words “Iwi Social Service or the Cultural Social Service”.</p> <p>By omitting from subsection (3) the words “that Authority”, and substituting the words “that Social Service”.</p>
Section 391 (1)	<p>By omitting the words “Iwi Authority or a Cultural Authority”, and substituting the words “Iwi Social Service or a Cultural Social Service”.</p>
Section 394	<p>By repealing this section, and substituting the following section: “394. Limitation on tortious liability of Director-General and other persons having care of child or young person—(1) Subject to subsections (2) and (3) of this section, no liability in tort shall attach to— “(a) The Director-General, or any employee of the Department; or “(b) Any Iwi Social Service or Cultural Social Service or Child and Family Support Service, or any member or employee of any</p>

SCHEDULE—*continued*AMENDMENTS TO PRINCIPAL ACT CONSEQUENTIAL ON AMENDMENTS MADE
BY SECTION 45—*continued*

Provision of Principal Act	Amendment
Section 394— <i>continued</i>	<p data-bbox="645 408 989 462">such Social Service or Support Service; or</p> <p data-bbox="568 480 989 641">“(c) Any person or organisation in whose charge a child or young person is placed pursuant to section 362 of this Act, or any member or employee of any such person or organisation,—</p> <p data-bbox="541 659 989 736">in respect of an act or omission on the part of a child or young person to whom this section applies.</p> <p data-bbox="541 754 989 802">“(2) Nothing in subsection (1) of this section applies if the act or omission—</p> <p data-bbox="568 820 989 1136">“(a) Occurs while the child or young person is acting as the employee or agent of any person, organisation, Social Service, or Support Service referred to in any of paragraphs (a) to (c) of subsection (1) of this section, or of any member or employee of any such person, organisation, Social Service, or Support Service; and</p> <p data-bbox="568 1154 989 1231">“(b) Is within the scope of the child’s or young person’s employment or authority as such.</p> <p data-bbox="541 1249 989 1512">“(3) Nothing in subsection (1) of this section exempts any person or organisation referred to in paragraph (c) of that subsection from any liability in tort for any loss resulting from the use, care, or control of a motor vehicle, if that motor vehicle is in the possession or under the control of a child or young person with the authority of that person or organisation.</p> <p data-bbox="541 1530 989 1603">“(4) In subsection (3) of this section, the term ‘motor vehicle’ has the same meaning as in the Transport Act 1962.”</p>

SCHEDULE—*continued*

AMENDMENTS TO PRINCIPAL ACT CONSEQUENTIAL ON AMENDMENTS MADE
BY SECTION 45—*continued*

Provision of Principal Act	Amendment
Section 395 (a) ..	<p>By omitting the words “Iwi Authority or a Cultural Authority”, and substituting the words “Iwi Social Service or a Cultural Social Service”.</p> <p>By omitting the words “that Authority”, and substituting the words “that Social Service”.</p>
Heading to Part VIII ..	<p>By omitting the heading, and substituting the heading “PROVISIONS RELATING TO IWI SOCIAL SERVICES, CULTURAL SOCIAL SERVICES, CHILD AND FAMILY SUPPORT SERVICES, AND COMMUNITY SERVICES”.</p>
Section 397	<p>By omitting the words “Iwi Authority or a Cultural Authority”, and substituting the words “Iwi Social Service or a Cultural Social Service”.</p> <p>By omitting the words “Iwi Authority or, as the case requires, a Cultural Authority”, and substituting the words “Iwi Social Service or, as the case requires, a Cultural Social Service”.</p>
Section 399	<p>By repealing this section, and substituting the following section:</p> <p>“399. Revocation of approval— (1) Subject to this section, where the Director-General is satisfied, in relation to any Iwi Social Service or Cultural Social Service or Child and Family Support Service, that proper standards of care are not being provided for the children and young persons who are in the custody or under the guardianship of that Social Service or Support Service, the Director-General may exercise either or both of the following powers:</p> <p>“(a) If the Director-General considers that suspension of the approval of the Iwi Social Service or Cultural Social Service or Child and Family Support Service is desirable in the public interest, the Director-General may suspend</p>

SCHEDULE—*continued*

AMENDMENTS TO PRINCIPAL ACT CONSEQUENTIAL ON AMENDMENTS MADE
BY SECTION 45—*continued*

Provision of Principal Act	Amendment
Section 399— <i>continued</i>	<p>the approval of that Social Service or Support Service:</p> <p>“(b) After giving the Social Service or Support Service not less than 60 days’ notice of the date on which the Director-General will consider the matter, the Director-General may revoke the approval of that Social Service or Support Service.</p> <p>“(2) Where, under subsection (1) of this section, the Director-General revokes or suspends the approval of an Iwi Social Service or a Cultural Social Service or a Child and Family Support Service, the Director-General shall—</p> <p>“(a) Give notice of the suspension or revocation to the Iwi Social Service or Cultural Social Service or Child and Family Support Service and the reasons for it; and</p> <p>“(b) Give notice of the suspension or revocation in the <i>Gazette</i>.</p> <p>“(3) Every Iwi Social Service or Cultural Social Service or Child and Family Support Service to whom a notice is given under subsection (1) (b) of this section is entitled to make submissions to the Director-General, and the Director-General shall have regard to those submissions before deciding whether or not to revoke the approval of that Social Service or Support Service.”</p>
Section 400	<p>By repealing this section, and substituting the following section:</p> <p>“400. Assessment of Iwi Social Services, etc.—(1) Any Social Worker or other officer of the Department authorised by the Director-General may, from time to time, carry out an assessment of an Iwi Social Service or a Cultural Social Service or a Child and</p>

SCHEDULE—*continued*

AMENDMENTS TO PRINCIPAL ACT CONSEQUENTIAL ON AMENDMENTS MADE
BY SECTION 45—*continued*

Provision of Principal Act	Amendment
Section 400— <i>continued</i>	<p>Family Support Service for the purpose of assessing—</p> <p>“(a) The operation of that Social Service or Support Service:</p> <p>“(b) The standards of care being provided for the children and young persons who are in the care or custody or under the guardianship of that Social Service or Support Service:</p> <p>“(c) The practices and procedures applying in respect of the Social Service or Support Service.</p> <p>“(2) Every Social Worker or officer of the Department who carries out an assessment of an Iwi Social Service or a Cultural Social Service or a Child and Family Support Service under subsection (1) of this section shall prepare a report on that assessment for the Director-General, and a copy of that report shall be supplied by the Director-General to that Social Service or Support Service.”</p>
Section 401	<p>By repealing this section, and substituting the following section:</p> <p>“401. Powers of persons carrying out assessment of Iwi Social Service, etc.—(1) For the purpose of carrying out an assessment of an Iwi Social Service or a Cultural Social Service or a Child and Family Support Service under section 400 of this Act, a Social Worker or other officer of the Department authorised by the Director-General may—</p> <p>“(a) At any reasonable time enter any premises that are occupied by the Social Service or Support Service and that provide residential accommodation for children or young persons who are in the care or custody or</p>

SCHEDULE—*continued*AMENDMENTS TO PRINCIPAL ACT CONSEQUENTIAL ON AMENDMENTS MADE
BY SECTION 45—*continued*

Provision of Principal Act	Amendment
Section 401— <i>continued</i>	<p>under the guardianship of the Social Service or Support Service and inspect any part of those premises:</p> <p>“(b) Interview—</p> <p> “(i) The Convener of the Social Service or, as the case requires, the Director of the Support Service:</p> <p> “(ii) Any officer or employee of the Social Service or Support Service:</p> <p>“(c) Communicate with any person having the care of any child or young person who is in the care or custody or under the guardianship of that Social Service or Support Service and with that child or young person:</p> <p>“(d) Examine any documents or records that are held by that Social Service or Support Service and that relate to any child or young person who is in the care or custody or under the guardianship of the Social Service or Support Service.</p> <p>“(2) Every Social Worker or officer shall give reasonable notice of that person’s intention to enter any premises pursuant to subsection (1) (a) of this section to the Social Service or Support Service concerned.</p> <p>“(3) Every Social Worker or officer shall, on entering any premises under this section, and when requested at any subsequent time, produce—</p> <p> “(a) Evidence of that person’s authority to enter the premises; and</p> <p> “(b) Evidence of that person’s identity.</p> <p>“(4) Any Social Worker or officer who is carrying out an assessment under</p>

SCHEDULE—*continued*

AMENDMENTS TO PRINCIPAL ACT CONSEQUENTIAL ON AMENDMENTS MADE
BY SECTION 45—*continued*

Provision of Principal Act	Amendment
Section 401— <i>continued</i>	
Section 402	<p>section 400 of this Act may at any time be accompanied by such other person or persons (including a registered medical practitioner) as may be necessary to carry out the assessment.”</p> <p>By repealing this section, and substituting the following section:</p> <p>“402. Convener of Iwi Social Service or Cultural Social Service to have power of decision for purposes of this Act—Where, pursuant to any provision of this Act, a child or young person is placed in the care or custody or under the guardianship of an Iwi Social Service or a Cultural Social Service, the Convener of that Social Service shall have and may exercise or carry out, on behalf of the Social Service, all rights, powers, and duties in respect of the child or young person that are conferred or imposed on the Social Service by virtue of this Act.”</p>

This Act is administered in the Department of Social Welfare.