

Children, Young Persons, and Their Families Amendment Bill (No 3)

Government Bill

As reported from the Social Services Committee

Commentary

Recommendation

The Social Services Committee has examined the Children, Young Persons, and Their Families Amendment Bill (No 3) and recommends that it be passed with the amendments shown.

Introduction

This bill gives effect to the previous Government's response to a report of the Regulations Review Committee on the Children, Young Persons, and Their Families (Residential Care) Regulations 1996 (the regulations). The primary purpose of the bill is to transfer the principles of the powers to search children and young persons in residences run by the Department of Child, Youth and Family Services, and to seize any unauthorised items found during a search, from the regulations into the Children, Young Persons, and Their Families Act 1989 (the Act). The bill also describes the procedures to be used for the inspection of mail and the searching of children and young persons in residences, including pat down and strip searches and the use of dogs for searching.

Background

In August 1997 the Regulations Review Committee reported to the House on the powers of search and seizure contained in the regulations. The committee recommended that the powers of search and seizure should be specified in primary legislation, rather than in regulations, because those powers raise fundamental issues about the rights of children and young persons. The previous Government accepted the committee's recommendation that powers of search and seizure should be included in primary legislation. However, it considered that detailed administrative provisions concerning search and seizure are appropriate for regulations because they relate primarily to the internal management of residences. By introducing the bill, the present Government has shown that it also supports these measures.

Support for transfer of powers from regulations to the Act

We received five submissions on the bill, including those of the Commissioner for Children and the Human Rights Commission. All agree that it is more appropriate for powers of search and seizure to be specified in an Act of Parliament rather than in regulations. Most submitters accept that powers of search and seizure are necessary in some circumstances to prevent children or young persons in residential care from harming themselves or others. However, a majority of submissions express concern that the search powers in the bill go beyond what is necessary or reasonable and have the potential to infringe on the rights of children and young persons.

Commencement date amended

Clause 2 provides that the amendment Act will come into force on 1 December 2000. As that date has already passed, the commencement clause needs to be amended. After the bill is enacted the regulations will need to be amended to bring them into line with the provisions in the Act. To allow time for this, we recommend that the Act should come into force on the ninetieth day after the date on which it receives the Royal assent.

Explanation of the purpose and consequences of inspections and searches

New sections 384C and 384E allow residential staff to carry out a search if there are reasonable grounds for believing that a child or young person possesses a harmful item (in the case of strip searches) or an unauthorised item (in the case of other searches). Under new section 384B, the manager of a residence can authorise the inspection of a child or young person's mail.

We wish to ensure that residents are provided with an explanation of the purpose and consequences of a search or inspection, prior to one being carried out. We therefore recommend that a new section 384EA be inserted into the bill. This proposed section requires that, before conducting a search or inspection under sections 384B, 384C or 384E, the staff member who will conduct the search or inspection must explain:

- the purpose of the particular search or inspection;
- that any item seized will be dealt with in the ways set out in the regulations; and
- that any item seized and subsequently handed to the Police in accordance with the regulations may be used as evidence in criminal proceedings against the child or young person.

Situations involving serious and immediate risk to safety

The Department of Child, Youth and Family Services advised us that, in some circumstances, it might not be possible or safe to provide the explanation. For example, a situation may have escalated to the point where the child or young person is out of control. In these circumstances, even if there was a requirement to give an explanation just prior to a search or inspection, the child or young person may not be in a fit state to understand what is being said. The department already takes active steps to inform children and young persons of their legal rights. The search procedures are explained to residents during the admission process, and this information is permanently displayed on posters in the residences. In addition, children and young persons have access to members of the Grievance Panel who visit residences from time to time.

We accept that it will not always be practicable to explain the search procedures immediately prior to conducting a search or inspection. Therefore, in proposed new section 384EA(2), we recommend that

an explanation need not be given if the member of staff has reasonable grounds for believing that the situation involves a serious and immediate risk to the safety of the child or young person or of any other person.

Use of force in carrying out a search

The purpose of the search provisions is principally to protect children and young persons in residential care from harm. Given this, the use of force to conduct a search would be consistent with the regulation-making powers in the bill as introduced. In our view, the use of physical force to conduct a search is a matter of policy and principle that should be specified in the Act itself, rather than being left to regulations. We consider that physical force should not be used in carrying out a search unless a staff member has reasonable grounds for believing that the use of force is reasonably necessary to avoid or mitigate a serious and immediate risk to the safety of the child or young person or of any other person.

We recommend that a new section 384FA be inserted into the bill. Our recommended amendment specifies that a member of staff who uses force in carrying out a search must use no more than the minimum amount of force that is reasonably necessary in the circumstances. Our proposed new section 384G requires the details of any physical force used for the purpose of carrying out a search, and of the circumstances giving rise to the use of force, to be recorded in the daily log.

The Commissioner for Children was consulted on the wording of a provision dealing with the use of force in carrying out a search. He does not support such a provision, but we determined that, with the safeguards that are in place, the provision is appropriate.

Grounds for searches and inspections to be recorded

Section 384G requires the manager of a residence to ensure that all mail inspections and searches under sections 384C and 384E are recorded in the daily log kept in accordance with the regulations. Under regulation 45(6), a record is made in the daily log of the seizure of any items and any action taken in respect of seized items. Two submissions propose that there should be a specific requirement to record the grounds for a search and the reasons for the seizure of any items to ensure the accountability of residential staff who carry out searches. We recommend that the bill be amended to require the

grounds for carrying out an inspection or search to be recorded in the daily log.

Seized items must be dealt with in accordance with regulations

The bill provides for the principles of the power to seize articles, drugs, or substances from children and young persons in residences to be moved from the regulations into the Act. New section 384I(3) provides that any unauthorised item seized may be dealt with in accordance with the regulations. This is an appropriate use of regulations because procedures for dealing with seized items relate to the internal management of residences.

The Commissioner for Children suggests that the word “may” in new section 384I(3) be replaced with the word “must” to make it a requirement to comply with the procedures in the regulations. We agree and recommend that new section 384I(3) be amended accordingly. There is a slight, but probably not significant, risk that residential staff or the children or young persons themselves may wish to follow a process that is not allowed under the regulations. Under our proposed amendment, deviation from the prescribed procedures for dealing with seized items will not be permitted.

Power to make regulations

Clause 5 proposes to amend the regulation-making power in section 447 of the Act by inserting a new paragraph (ca). The Regulations Review Committee reported to us raising three concerns about the proposed new section, as follows:

- The broad nature of the power conferred by proposed new section 447(ca), which is expressed to be “without limitation” to the matters listed in subparagraphs (i) to (v).
- Uncertainty about the matters intended to be covered by regulations made under subparagraphs (i) and (ii).
- Whether it is appropriate for the matters set out in subparagraphs (i) and (ii) to be prescribed as regulations.

Broad enabling provision

The Regulations Review Committee accepts that procedural and administrative requirements relating to the seizure or disposal of

articles and the complaint procedures are appropriate for regulations made under subparagraphs (iii) to (v) of new section 447(ca). However, given that the provisions in the bill contain the substantive powers of search and seizure presently contained in the regulations, the Regulations Review Committee questions why the broader enabling provision in paragraph (ca) is needed. The committee does not consider it appropriate to have an open-ended regulation-making power, particularly in respect of children. Youth Law/Tino Rangatiranga Taitamariki also considers that the regulation-making powers should be more narrowly defined.

Matters to be covered by regulations

The Regulations Review Committee notes that the bill does not specify what matters will be covered by regulations made under new section 447(ca)(i) and (ii). The committee argues that these provisions appear to allow regulations to extend the search and seizure powers beyond the powers specified in the bill itself.

The Ministry of Social Policy told us it never envisaged regulations being used to widen the types of searches the bill allows to be carried out. The intention is to allow regulations to specify the detailed procedures for the search and seizure powers already provided for in the bill. We consider the bill should clarify that the authority to make regulations is limited to the powers of search and seizure contained in the substantive provisions of the bill. This can be achieved by linking the regulation-making power back to the specific inspections and searches authorised in the Act. We therefore recommend that a new section 447(ca) be inserted authorising regulations to be made regulating searches conducted under sections 384C and 384E and the inspection of incoming and outgoing mail under section 384B.

Visit to the Kingslea Residential Centre

As part of our consideration, we visited the Kingslea Residential Centre (the centre) in Christchurch, one of the residences that will be governed by this proposed legislation. Our visit was in response to the suggestion from submitters that we consult those who will be most affected, namely the residents themselves. We also wanted to discuss the practicalities of searches with the staff who manage the residences. It was a very constructive and helpful visit. We wish to record our gratitude to the staff of the centre for allowing us to visit

and to speak with some of the criminal justice residents and for their frank discussion with us. Several issues arose during our visit.

Provision for less invasive pat down search

Under the current regulations and the provisions of the bill, staff are authorised to perform pat down searches of residents. Staff at the centre told us they would never consider running their hands over certain parts of a resident's body. They suggested that provision be made for what was described as a "technical" pat down search, in which residents would be asked to remove jackets, turn out their pockets and remove their shoes.

We agree with this suggestion. We recommend that the definition of a pat down search in new section 384A be amended by inserting a new subparagraph (va). This proposed subparagraph would require a resident to turn out any pocket or pouch, and display any hem, cuff, lining, or fold, in any outer clothing worn by that person.

Presence of parent or guardian during a search

New section 384F(3)(a) stipulates that a pat down or strip search must not be carried out in view of a person who is not of the same sex as the resident, unless that person is a parent or guardian. Staff at the centre suggested that no one of a different sex should be present, regardless of their relationship to the child or young person. Alternatively, they proposed that the child or young person's permission should be given first.

We consider that residents should give their consent to the presence of a parent or guardian, regardless of whether the parent or guardian is the same sex as the resident. When we raised this suggestion with the Chief Social Worker of the Department of Child, Youth and Family Services, he gave an undertaking to ensure that the provision to seek a resident's consent, outside of the parent or guardian's presence, will be included in the department's best practice guidelines. Therefore, we accept that it is unnecessary for such a provision to be included in the bill.

Provision for searching outside of residences

The provisions of the bill apply only to searches undertaken within residences. Staff at the centre raised the issue of searches between residences, or on the way to court. The practice at the moment is

that, if a search is necessary, residents are escorted back to a residence for the search to take place. However, staff indicated that in some cases it would be preferable to have powers under the Act to undertake searches outside of a residence. Staff at the centre told us the Police have also suggested that an amendment is required.

We agree that this issue needs to be considered, but believe that further policy work needs to be undertaken first. For example, there would need to be a safe and discreet place for searches outside of a residence to be conducted. Without the benefit of additional policy work, we are not prepared to recommend an amendment to extend the power to conduct searches. We suggest that the Government develops this area of policy and seeks an amendment to the Act as soon as possible.

Concerns of residents

We asked criminal justice residents at the centre about things they would like to change in the nature of their care. They had two suggestions.

First, they would like some provision for smoking in residences. Some staff at the centre would support this. Provision for smoking used to be made, whereby staff would light cigarettes at several set times during the day. This changed when it became illegal to procure cigarettes for persons under 17 years of age. As a result, lighters and cigarettes have become extremely valuable within residences and are among the most commonly seized prohibited items.

The Chief Social Worker informed us that before smoking was prohibited in residences there were even more problems and more searches for cigarettes and lighters. A specific legislative exemption would be necessary to allow children and young persons in residential care to smoke. A majority of us are unwilling to suggest amendments that could return to this situation. However, we note that there are no programmes being run to help children and young persons in residential care to give up smoking. We support additional Government funding for initiatives to help residents overcome a smoking addiction.

The second request of the residents is for more opportunities for visits from their families. Staff pointed out that there is almost no funding for families of criminal justice residents to visit their children. Most are from Auckland, and many have low incomes. The issue of funding arises because these young people are criminal

justice residents under the jurisdiction of the Department of Corrections, rather than being the responsibility of the Department of Child, Youth and Family under the Children, Young Persons, and Their Families Act 1989.

We are sympathetic to the residents' concerns. The need for family contact may be better met when a youth justice residence opens in Auckland (it is due for completion in 2003), but we know there will still be residents in Christchurch who are separated from their families.

We ask the Government to address the issue of access to family, and would support funding being made available for low-income families to visit children and young persons who have been placed in residences in other parts of the country.

Appendix

Committee process

The Children, Young Persons, and Their Families Amendment Bill (No 3) was referred to the committee on 25 July 2000. The closing date for submissions was 20 October 2000. We received and considered five submissions from interested groups and individuals. We heard oral submissions from the Commissioner for Children and the Human Rights Commission in Wellington. On 27 November, five committee members travelled to Christchurch to speak to staff and residents at the Kingslea Residential Centre, a residence run by the Department of Child, Youth and Family Services. Hearing evidence on the bill took 50 minutes and consideration took one hour and 40 minutes.

We received advice from the Ministry of Social Policy and the Department of Child, Youth and Family Services. The Regulations Review Committee reported to the committee on the regulation-making powers in the bill.

Committee membership

Taito Phillip Field (Chairperson)
Sue Bradford
Helen Duncan
Liz Gordon
Dr Muriel Newman
Mahara Okeroa (Deputy Chairperson)
Jill Pettis
Katherine Rich
Bob Simcock
Belinda Vernon

Key to symbols used in reprinted bill

As reported from a select committee

Struck out (unanimous)

Subject to this Act,

Text struck out unanimously

New (unanimous)

Subject to this Act,

Text inserted unanimously

(Subject to this Act,)

Words struck out unanimously

Subject to this Act,

Words inserted unanimously

Hon Steve Maharey

Children, Young Persons, and Their Families Amendment Bill (No 3)

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Children, Young Persons, and Their Families Amendment Act **(No 3) 2000**.
- (2) In this Act, the Children, Young Persons, and Their Families Act 1989¹ is called “the principal Act”. 5

¹ 1989 No 24

2 Commencement

This Act comes into force on **(1 December 2000)** the 90th day after the date on which it receives the Royal assent.

3 Purpose

The purpose of this Act is—

- (a) to include in the principal Act the principal powers of search and seizure currently prescribed in the Children, Young Persons, and Their Families (Residential Care) Regulations 1996 (SR 1996/354): 15
- (b) to make it explicit that the regulation-making power in section 447 of the principal Act authorises the making

of regulations setting out procedures for search and seizure:

- (c) to ensure, for the avoidance of doubt, that including matters relating to search and seizure in the principal Act does not invalidate existing regulations dealing with these matters.

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4 **New heading and sections 384A to 384I inserted**

The principal Act is amended by inserting, after section 384, the following heading and sections:

“Searches

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“384A Interpretation

For the purposes of **sections 384B to 384I**,—

“harmful item 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 a residence, to harm or to be used to harm that child or young person or any other person

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“mail includes—

“(a) a facsimile communication:

“(b) electronic mail:

“(c) an envelope or package

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“manager means the person for the time being in charge of a residence

“member of staff means every person employed as a member of staff of a residence; and includes the manager of the residence

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“pat down search means a search of a clothed child or young person in a residence in which the person conducting the search may do the following:

“(a) run or pat his or her hand over the body of the person being searched, whether inside or outside the clothing (other than any underclothing) of that person:

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“(b) insert his or her hand inside any pocket or pouch in the clothing (other than the underclothing) of the person being searched:

“(c) for the purpose of permitting a visual inspection, require the person being searched to do all or any of the following:

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“(i) open his or her mouth:

- “(ii) display the palms of his or her hands:
- “(iii) display the soles of his or her feet:
- “(iv) lift or rub his or her hair:
- “(v) remove, raise, lower, or open any outer clothing (including, without limitation, any coat, jacket, jumper, or cardigan) worn by the person being searched, except where the person has no other clothing, or only underclothing, under that outer clothing: 5

New (unanimous)

- “(va) turn out any pocket or pouch, and display any hem, cuff, lining, or fold, in any outer clothing worn by that person: 10

- “(vi) remove any head covering, gloves, or footwear (including socks or stockings) being worn by that person: 15

- “(d) conduct a visual examination (whether assisted by any instrument or device designed to illuminate or magnify) of the person’s mouth, nose, and ears (not including the insertion of any instrument, device, or thing into such orifice) 20

“**regulations** means regulations made under section 447 relating to search and seizure

“**residence** means a residence established under section 364

“**scanner search** means a search of a child or young person by means of an electronic device passed over the clothed body of the person being searched and that does not include any touching (except any accidental touching) of the person being searched 25

“**strip search** means a search where the person conducting the search may require the child or young person being searched— 30

- “(a) to undress, or to remove any specified items of clothing and underclothing, and be visually examined; and

- “(b) to have his or her clothing searched

“**unauthorised item** means any article, drug, or substance— 35

- “(a) that is a harmful item; or

“(b) that may not be lawfully possessed by any child or young person in the residence.

“384B Inspection of mail

The manager may cause to be inspected, in accordance with the regulations, any mail intended to be sent or received by a child or young person in the residence if the manager believes, on reasonable grounds, that the mail contains— 5

“(a) any unauthorised item; or

“(b) any harmful item or any article, drug, or substance that may not lawfully be possessed by the person for whom the mail was intended; or 10

“(c) any material that would or might facilitate or encourage the commission of an offence by the person for whom the mail was intended; or

“(d) any material that would be likely to be offensive or harmful to the person for whom the mail was intended. 15

“384C Child or young person may be searched to detect unauthorised items

“(1) A member of staff, who believes on reasonable grounds that a child or young person in the residence has in his or her possession any unauthorised item, may carry out any of the following types of searches for the purpose of detecting that item: 20

“(a) a scanner search of the child or young person:

“(b) a pat down search of the child or young person: 25

“(c) a search of any room or sleeping area assigned to the child or young person.

“(2) Nothing in **subsection (1)(c)** limits or affects any power or authority to search or inspect any room or sleeping area in the residence for security purposes. 30

“(3) A member of staff may not carry out a search unless—

“(a) that member of staff requests that the child or young person hand over the unauthorised item that he or she believes on reasonable grounds to be in the child’s or young person’s possession; and 35

“(b) the child or young person refuses or fails to hand the item over.

“(4) Nothing in **subsection (3)** requires that a member of staff make a request if the same request has been made to the child or young person within the previous hour.

“384D **Use of dogs for searching**

- “(1) In exercising a power of search conferred by **sections 384B and 384C**, a member of staff may have with him or her, 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 member of the police, or a customs officer, or a member of the Armed Forces, or an employee of the Department of Corrections), who may accompany the member of staff for the purposes of the search. 10
- “(3) A member of staff who uses a dog for the purposes of searching any child or young person must conduct the search with decency and sensitivity and in a manner that— 15
- “(a) affords to the child or young person being searched the greatest degree of dignity consistent with the purpose of the search; and
- “(b) prevents the dog coming into physical contact with the child or young person during the search. 20

“384E **Child or young person may be strip searched**

- “(1) A member of staff may, if that member of staff believes on reasonable grounds that a child or young person has in his or her possession a harmful item, conduct a strip search of that child or young person for the purposes of detecting the harmful item— 25
- “(a) if that member believes on reasonable grounds that a strip search is necessary in order to detect the item; and
- “(b) if a scanner search or a pat down search of the child or young person has already been carried out for that purpose. 30

Struck out (unanimous)

“(2) Before any child or young person is strip searched under **subsection (1)**, the member of staff who is to conduct the strip search must explain to the child or young person that the sole

Struck out (unanimous)

purpose of the strip search is to ensure the child’s or young person’s own safety and the safety of others.

“(3) A child or young person required to undress or remove any clothing and underclothing under **subsection (1)** may be required to remain undressed or partly undressed only as long as is reasonably necessary for the purposes of the search. 5

New (unanimous)

“384EA Explanation of purpose and consequences of inspections and searches

“(1) Before any mail is inspected under **section 384B** or a search is carried out under **section 384C** or **section 384E**, the member of staff who is to conduct the inspection or search must explain to the child or young person— 10

“(a) that the purpose of the inspection or search is,—
 “(i) in the case of an inspection, to detect any item of the kinds referred to in **section 384B**; or 15

“(ii) in the case of a search carried out under **section 384C**, to ensure the safety of the child or young person by detecting any harmful item, or to detect any article, drug, or substance that may not be lawfully possessed by the child or young person in the residence; or 20

“(iii) in the case of a search carried out under **section 384E**, to ensure the safety of the child or young person and the safety of others by detecting any harmful item; and 25

“(b) that any item seized during the inspection or search will, after consultation with the child or young person, be dealt with in the ways provided for by the regulations; and

“(c) that any item seized during the inspection or search and subsequently handed to a member of the police in accordance with the regulations may be used as evidence in criminal proceedings against the child or young person. 30

New (unanimous)

“(2) The explanation required by **subsection (1)** need not be given if the member of staff has reasonable grounds for believing that the situation involves a serious and immediate risk to the safety of the child or young person or of any other person.

“384F Restrictions on searches

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“(1) A member of staff must consult with the manager or a senior member of staff before carrying out a search under **section 384C or section 384E** unless consultation would, in the circumstances, be impracticable.

“(2) A pat down search or a strip search of a child or young person must be carried out by a member of staff who is of the same sex as the child or young person being searched. 10

“(3) A pat down search or a strip search must not be carried out in view of—

“(a) a person who is not of the same sex as the child or young person, unless the person is 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: 15

“(b) another child or young person in the residence. 20

“(4) A pat down search or a strip search must not be conducted unless 1 of the following persons is also present:

“(a) another member of staff:

“(b) a member of the police:

“(c) 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. 25

“(5) A person who conducts a pat down search or a strip search must conduct the search with decency and sensitivity and in a manner that affords the child or young person being searched the greatest degree of privacy and dignity consistent with the purpose of the search. 30

New (unanimous)

“384FA Use of force in carrying out search

“(1) A member of staff may not use physical force in carrying out a search authorised by **section 384C or section 384E** unless that member of staff has reasonable grounds for believing that the use of force is reasonably necessary to avoid or mitigate a serious and immediate risk to the safety of the child or young person or of any other person.

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“(2) A member of staff 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.

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Struck out (unanimous)

“384G Recording of searches

The manager must ensure that a record is made in the daily log kept in accordance with the regulations of the details of any inspections or searches carried out under **sections 384B, 384C, and 384E.**

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New (unanimous)

“384G Recording of inspections and searches

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

“(a) the details of any inspection or search carried out under any of **sections 384B, 384C, and 384E**, including the grounds on which the inspection or search was carried out; and

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“(b) in the case of a search carried out under **section 384C or section 384E**, the details of any physical force used for the purpose of carrying out the search, and of the circumstances giving rise to the use of force.

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“384H Child or young person may make complaint

A child or young person who has had his or her mail inspected under **section 384B** or has been searched under **section 384C or**

section 384E may make a complaint about that inspection or search in accordance with the regulations.

“384I Power to seize articles, etc, found on inspection or search

- “**(1)** Any unauthorised item found during any inspection or search may be seized in accordance with the regulations by the member of staff referred to in **subsection (2)**. 5
- “**(2)** The member of staff of the residence referred to in **subsection (1)** is,—
- “**(a)** in the case of an inspection carried out under **section 384B**, the member of staff conducting the inspection; or 10
- “**(b)** in the case of a search carried out under **section 384C**, the member of staff who is conducting the search; or
- “**(c)** in the case of a search carried out under **section 384E**, the member of staff who is conducting the search. 15
- “**(3)** Any unauthorised item seized (*may*) must be dealt with in accordance with the regulations.
- “**(4)** The manager must ensure that a record is made in the daily log kept in accordance with the regulations of the details of the seizure of any unauthorised item and of the action taken in respect of it.” 20

Struck out (unanimous)

5 Regulations

Section 447 of the principal Act is amended by inserting, after paragraph (c), the following paragraph:

- “**(ca)** regulating searches and examinations of children and young persons placed in a residence established pursuant to section 364, and the inspection of incoming and outgoing mail, including (without limitation)— 25
- “**(i)** prescribing the manner in which searches and inspections may be carried out: 30
- “**(ii)** prescribing the powers that may be exercised when conducting a search or inspection:
- “**(iii)** providing for the seizure, disposal, safe-keeping, or return of any article, drug, or substance found during any search or inspection: 35

Struck out (unanimous)

- “(iv) prescribing conditions on the disposal of any seized article, drug, or substance:
- “(v) prescribing procedures by which a child or young person may lay a complaint in relation to an inspection of mail or a search and how the complaint is to be dealt with:”.

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New (unanimous)**5 Regulations**

Section 447 of the principal Act is amended by inserting, after paragraph (c), the following paragraph:

- “(ca) regulating searches conducted under **sections 384C and 384E** and the inspection of incoming and outgoing mail under **section 384B** including, without limitation,—
 - “(i) prescribing the manner in which the searches and inspections may be carried out:
 - “(ii) prescribing the powers that may be exercised when conducting a search or inspection:
 - “(iii) providing for the seizure, disposal, safe keeping, or return of any article, drug, or substance found during a search or inspection:
 - “(iv) prescribing conditions on the disposal of any seized article, drug, or substance:
 - “(v) prescribing procedures by which a child or young person may lay a complaint in relation to an inspection of mail or a search, and how the complaint is to be dealt with:”.

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6 Saving

- (1) The enactment, by **section 4** of this Act, of **sections 384A to 384I** of the principal Act does not invalidate any of the provisions of the Children, Young Persons, and Their Families (Residential Care) Regulations 1996 (SR 1996/354).

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**Children, Young Persons, and Their
Families Amendment (No 3)**

- (2) The enactment, by **section 5** of this Act, of **paragraph (ca)** of section 447 of the principal Act does not imply that any regulations made under the principal Act before the commencement of this Act are invalid.

Legislative history

1 June 2000	Introduction (Bill 37-1)
25 July 2000	First reading and referral to Social Services Committee
