

## DEPARTMENT OF CHILD, YOUTH AND WHANAU SERVICES BILL

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### EXPLANATORY NOTE

#### *General Policy Statement*

This Bill is required to facilitate the creation of a Department of Child, Youth and Whanau Services on 1 October 1999. The new department will take over the direct delivery and purchase of service functions of the Children, Young Persons and Their Families Agency, a unit of the Department of Social Welfare. Responsibility for policy and purchase advice in respect of services delivered by the new department will stay with the Department of Social Welfare.

#### *Principal Objectives*

The Department of Child, Youth and Whanau Services will have as its goal the objective of the “Strengthening Families” strategy to improve outcomes for children and young people from “at risk” and “high risk” families”.

The department will adopt strategies that aim to:

- Focus on families as the best means of improving outcomes for children and young people:
- Purchase or provide targeted services to “at risk” and “high risk” families aimed at preventing their problems becoming entrenched:
- Ensure appropriate services are provided to assist “high risk” families to exit cycles of disadvantage:
- Deliver interventions to improve outcomes for children and young people:
- Improve co-ordination and planning of intervention and support/preventative services:
- Actively collaborate with other social services agencies, including the Ministers of Health and Education, and with Maori and community providers to provide a seamless delivery of services to “at risk” children, young people, and their families:
- Continue to provide care and protection services under the Children, Young Persons, and Their Families Act 1989:
- Continue to provide youth justice services under that Act that address the objects of holding young offenders accountable and preventing re-offending, and to take account of the interests of victims:

- Improve departmental responsiveness to Maori communities.  
The benefits of establishing a new department are seen as:
- A more distinct policy/delivery split:
- An improved balance between preventive and remedial services:
- The application of a “Strengthening Families” framework:
- Improved collaboration with other social sectors, with non-Government sector providers, Maori, and local communities:
- An increased focus on securing operational efficiencies.

#### *Summary of Key Measures*

*Part 1* of the Bill (*clauses 2 to 5*) relates to preliminary provisions and the transfer of employees from the Department of Social Welfare to the new department. Employees will transfer subject to their existing employment contracts, which may be varied on a “no less favourable” basis if there is any change to their duties or locations. Continuity of employment is protected. Transfers do not give rise to redundancy or severance payments.

*Part 2* of the Bill (*clauses 6 to 13*) relates to the transfer of obligations, functions, and other matters.

- The Crown is protected from claims arising from transfers of contracts and leases to the new department, and proceedings commenced in respect of the Department of Social Welfare are continued in respect of the new department.
- The new department may continue to use brands, logos, marks, forms, and documents used by the Children, Young Persons and Their Families Agency of the Department of Social Welfare, and appointments of persons on Care and Protection Resource Panels and grievance panels are continued.
- References relating to that agency (or its predecessors) and functions transferred to the new department in regulations, orders, agreements, and other specified documents are to be read as references to the new department.
- A specific power is given to transfer specified responsibilities for the administration of a contract or lease or any specified benefit or specified burden of a contract or lease where the contract or lease also relates to other units not involved in the transfer of responsibility of the Department of Social Welfare or another department.
- Enactments as specified in the *Schedule* are amended, and consequential amendments are made.

#### *Clause by Clause Analysis*

*Clause 1* relates to the Short Title and commencement. The Bill comes into force on 1 October 1999.

## PART 1

### PRELIMINARY PROVISIONS AND TRANSFER OF EMPLOYEES

*Clause 2* defines certain terms used in the Bill. The terms defined are “chief executive”, “contract”, “designated party”, “designated successor”, “designated unit”, “premises”, “responsible department”, “responsible Minister”, “specified right of appeal”, “specified right of review”, and “transferred employee”. The terms “chief executive”, “responsible department”, and “responsible Minister” refer, respectively, to the chief executive of the new department, the new department, and the Minister responsible for the new department. The other terms are used in connection with the transfer of various types of legal proceedings.

*Clause 3* relates to the application of employment contracts of employees of the Department of Social Welfare who transfer to the new department. The transferred employees remain on their existing terms and conditions subject to any variation by agreement to reflect changes to duties or location. Such variations must be on a “no less favourable” basis.

*Clause 4* provides that, for the purposes of any provisions of an employment contract relating to continuity of service, an employee’s transfer from the Department of Social Welfare to the new department is insufficient by itself to break his or her employment.

*Clause 5* makes it clear that an employee who transfers to the new department is not entitled to receive any compensation for redundancy or severance payment merely because of the transfer.

## PART 2

### TRANSFER OF OBLIGATIONS AND FUNCTIONS, AND OTHER MATTERS

*Clause 6* provides that the transfer under the Bill of the administration, or the benefit or burden, of any contract (either in whole or in part) to the new department, or the occupation of any premises by the new department in place of the Department of Social Welfare, does not give rise to any claim against the Crown.

*Clause 7* provides for the continuation of existing proceedings involving the Minister responsible for the administration of the Children, Young Persons, and Their Families Act 1989, the Director-General of Social Welfare, and any Social Worker employed in the Department of Social Welfare. The clause also enables the bringing of proceedings against the chief executive of the new department or a Social Worker employed in the new department, that would, if the transfer of responsibilities had not occurred, have been brought against the Director-General of Social Welfare or a Social Worker employed in the Department of Social Welfare.

*Clause 8* provides for the continued use of brands, logos, marks, forms, or other documents in use by the Children, Young Persons and Their Families Agency, the Children, Young Persons and Their Families Service, or the New Zealand Community Funding Agency.

*Clause 9* preserves certain appointments made under the Children, Young Persons, and Their Families Act 1989, or the Children, Young Persons, and Their Families (Residential Care) Regulations 1996.

*Clause 10* provides for certain references to the Director-General of Social Welfare or the chief executive of the Department of Social Welfare to be read as a reference to the chief executive of the new department. References to the Children, Young Persons and Their Families Agency, the Children, Young Persons and Their Families Service, and the New Zealand Community Funding Agency are to be read as a reference to the new department. References to the Department of Social Welfare or to any Social Worker employed in that department are to be read, respectively, as a reference to the new department or a Social Worker in that department.

*Clause 11* enables the Director-General of Social Welfare, in certain circumstances, to transfer to the new department specified responsibilities for the administration of a contract or lease or any specified benefit or specified burden of a contract or lease.

*Hon Roger Sowry*

**DEPARTMENT OF CHILD, YOUTH AND WHANAU SERVICES**

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A BILL INTITULED

**An Act—**

- 5           **(a) To provide for the transfer of staff and resources from the Department of Social Welfare to the new Department of Child, Youth and Whanau Services; and**
- 10           **(b) To facilitate the transfer of the administration of the Children, Young Persons, and Their Families Act 1989 and functions under certain other enactments; and**
- (c) To amend related enactments and to provide for related matters**

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

**1. Short Title and commencement**—(1) This Act may be cited as the Department of Child, Youth and Whanau Services Act 1999.

(2) This Act comes into force on **1 October 1999**.

PART 1

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PRELIMINARY PROVISIONS AND TRANSFER OF EMPLOYEES

**2. Interpretation**—In this Act, unless the context otherwise requires,—

“Chief executive” means, subject to any enactment, the chief executive of the department that is, with the authority of the Prime Minister, for the time being responsible for the administration of the Children, Young Persons, and Their Families Act 1989: 10

“Contract” includes a licence:

“Designated party” means any of the following: 15

(a) A Minister of the Crown, in his or her capacity as the Minister responsible for the administration of the Children, Young Persons, and Their Families Act 1989:

(b) The Director-General of Social Welfare, in his or her capacity as a person with functions under, or connected with the administration of,— 20

(i) The Adoption Act 1955; or

(ii) The Guardianship Act 1968; or

(iii) The Disabled Persons Community Welfare Act 1975; or 25

(iv) The Adult Adoption Information Act 1985; or

(v) The Protection of Personal and Property Rights Act 1988; or 30

(vi) The Children, Young Persons, and Their Families Act 1989; or

(vii) The Adoption (Intercountry) Act 1997:

(c) A Social Worker employed by the Department of Social Welfare, in his or her capacity as a person with functions connected with— 35

(i) The Adoption Act 1955; or

(ii) The Guardianship Act 1968; or

(iii) The Adult Adoption Information Act 1985; or 40

(iv) The Protection of Personal and Property Rights Act 1988; or

(v) The Children, Young Persons, and Their Families Act 1989:

“Designated successor” means,—

5 (a) In relation to a person specified in **paragraph (a)** of the definition of the term “designated party”, the responsible Minister:

(b) In relation to the person specified in **paragraph (b)** of the definition of the term “designated party”, the chief executive of the responsible department:

10 (c) In relation to a person specified in **paragraph (c)** of the definition of the term “designated party”, an appropriate Social Worker employed by the responsible department:

15 “Designated unit” means any of the following units of the Department of Social Welfare:

(a) The Children, Young Persons and Their Families Agency:

20 (b) The Children, Young Persons and Their Families Service (formerly called the New Zealand Children and Young Persons Service):

(c) The New Zealand Community Funding Agency:

“Premises” includes land:

25 “Responsible department” means the department that is, with the authority of the Prime Minister, for the time being responsible for the administration of the Children, Young Persons, and Their Families Act 1989:

30 “Responsible Minister” means, subject to any enactment, the Minister who is, with the authority of the Prime Minister, for the time being responsible for the administration of the Children, Young Persons, and Their Families Act 1989:

“Specified right of appeal” means any of the following:

35 (a) A right of appeal under section 12 or section 13A or section 20 of the Adoption Act 1955; or

(b) A right of appeal under section 31 or section 31B of the Guardianship Act 1968; or

40 (c) A right of appeal under section 341 or section 342 or section 347 of the Children, Young Persons, and Their Families Act 1989; or

(d) A right of appeal under section 20 of the Adoption (Intercountry) Act 1997:

“Specified right of review” means a right of review under section 21 of the Disabled Persons Community Welfare Act 1975:

“Transferred employee” means any employee of the Department of Social Welfare who transfers (in circumstances to which section 61A of the State Sector Act 1988 applies) to the responsible department. 5

**3. Application of employment contracts**—(1) This section and sections 4 and 5 apply to any transferred employee. 10

(2) Unless a transferred employee’s employment contract otherwise provides and subject to subsection (3), the transferred employee’s employment contract continues to apply to that employee, on and from the date the employee transfers to the responsible department, on the same terms and conditions (including the period of the contract)— 15

(a) As if it were a contract that had been made in respect of the responsible department; and

(b) As if it were binding on both that employee and on the chief executive of the responsible department, and on any other party to that contract. 20

(3) If there is a change to an employee’s duties or location arising out of his or her transfer to the responsible department, the conditions of employment of that employee may be varied by agreement to reflect that change but the conditions of employment (as so varied) must be no less favourable than those that the employee was entitled to receive under the employment contract applying to the employee at the date of the transfer. 25

(4) Subsections (2) and (3) continue to apply to the conditions of employment of each transferred employee to whom this section applies until such time as any of the conditions of employment that apply under the employment contract applying to that employee at the date of the transfer are subsequently varied (otherwise than for the purpose referred to in subsection (3)). 30 35

(5) The conditions of employment of each such transferred employee are, on and from the date of any subsequent variation to which subsection (4) applies, to be determined in accordance with the employment contract applying to that employee in the responsible department. 40

(6) Nothing in subsection (2) or subsection (3) continues to apply to any transferred employee who receives any subsequent

appointment, whether within the responsible department or any other department.

5       **4. Employment to be continuous**—For the purposes of any provisions of a transferred employee’s employment contract relating to continuity of service, that employee’s transfer from the Department of Social Welfare to the responsible department is insufficient by itself to break his or her employment.

10       **5. Transfer not sufficient to entitle employee to redundancy or severance payment**—No transferred employee is entitled to receive any compensation for redundancy or any severance payment because—

- 15       (a) The position held by that employee in the Department of Social Welfare has ceased to exist; or  
      (b) He or she has ceased by virtue of his or her transfer to be an employee of the Department of Social Welfare.

## PART 2

### TRANSFER OF OBLIGATIONS AND FUNCTIONS, AND OTHER MATTERS

20       **6. Transfers of contracts or leases, not to give rise to claims**—(1) No person has any claim against the Crown for breach of any contract merely because the administration of the contract or the benefit or burden of the contract is transferred (in whole or in part) to the responsible department, whether or not the person has agreed to the transfer.

25       (2) **Subsection (1)** applies whether or not the transfer involves the responsible department and its employees gaining access to any information, data, programme, intellectual property right, know-how, chattel, equipment, transmission device, or facility of the claimant or any other person.

30       (3) No person has any claim against the Crown for breach of any lease of any premises which are to be occupied or administered (in whole or in part) by the responsible department merely because of that occupation or  
35       administration of the premises by the responsible department, whether or not the person has agreed to the occupation or administration of the premises.

40       **7. Continuation of existing proceedings**—(1) If, before the commencement of this Act, a designated party or designated unit has initiated or become a party to any



proceedings (including proceedings involving the exercise by any person of a specified right of appeal or specified right of review, in respect of the Department of Social Welfare), the proceedings may be continued, completed, and enforced by or against the designated successor. 5

(2) If, before the commencement of this Act, any person was entitled, or claimed to be entitled, to issue any proceedings, apply for or exercise any right of review, or to exercise any right of appeal, referred to in **subsection (1)**,—

- (a) That person may, after the commencement of this Act, commence the proceedings, review, or appeal as if the designated successor were the appropriate person in respect of whom the proceedings, review, or appeal relates; and 10
- (b) The provisions of **subsection (1)** apply to any such proceedings, review, or appeal commenced under **paragraph (a)** as if they had been commenced prior to the commencement of this Act; and 15
- (c) No such proceedings, review, or appeal may be commenced in respect of any person other than the designated successor. 20

**8. Savings relating to brands, logos, marks, etc**—All names, brands, stamps, logos, emblems, marks, forms, and other representations or documents that were, immediately before the date of commencement of this Act, in use by the Department of Social Welfare for the purposes of 1 or more of the designated units— 25

- (a) Continue to have effect in relation to anything done before that date; and
- (b) May continue to be used, and are to have effect, for the purposes of the functions, duties, and powers of the responsible Minister, the responsible department, or the chief executive of the responsible department under the Children, Young Persons, and Their Families Act 1989 or other appropriate enactment. 30 35

**9. Saving of certain appointments**—Nothing in this Act affects the appointment of any person as—

- (a) A member of a Care and Protection Resource Panel under section 428 of the Children, Young Persons, and Their Families Act 1989; or 40

- (b) A member of a grievance panel under regulation 29 of the Children, Young Persons, and Their Families (Residential Care) Regulations 1996.

5 **10. References to functions being transferred to responsible department**—(1) Unless the context otherwise requires, in any regulation, rule, order, agreement, deed, instrument, application, notice, direction, contract, lease, or other document in force at the commencement of this Act, the references specified in **subsections (2) to (4)** must be read in the  
10 manner indicated in those subsections.

(2) Every reference to the Director-General of Social Welfare (or the chief executive of the Department of Social Welfare), when used in relation to 1 or more of the designated units, is a reference to the chief executive of the responsible department.

15 (3) Every reference to the Director-General of Social Welfare (or the chief executive of the Department of Social Welfare), when used in relation to his or her functions, duties, or powers under the Children, Young Persons, and Their Families Act 1989, is a reference to the chief executive of the responsible  
20 department.

(4) Every reference to any designated unit, where the unit is referred to in its own right and the reference does not apply to other units of the Department of Social Welfare, is a reference to the responsible department.

25 (5) Unless the context otherwise requires, when used in relation to the following enactments, every reference to the Department of Social Welfare is a reference to the responsible department:

(a) The Adoption Act 1955:

30 (b) The Guardianship Act 1968:

(c) The Adult Adoption Information Act 1985:

(d) The Children, Young Persons, and Their Families Act 1989:

(e) The Adoption (Intercountry) Act 1997.

35 (6) Unless the context otherwise requires, every reference to a Social Worker employed in the Department of Social Welfare, when used in relation to any enactment, is a reference to a Social Worker employed by the responsible department.

40 **11. Transfer of contracts and leases**—(1) The Director-General of Social Welfare may transfer to the chief executive specified responsibilities for the administration of a contract or

lease or any specified benefit, or specified burden, of a contract or lease if—

- (a) The Director-General, or the Department of Social Welfare, or the Crown acting by or through the Director-General or the department, is a party to the contract or lease; and 5
- (b) The contract or lease is in force at the commencement of this Act; and
- (c) The contract or lease relates—
  - (i) To the functions of the unit of the Department of Social Welfare called the Children, Young Persons and Their Families Agency; and 10
  - (ii) To the functions of any other unit of the Department of Social Welfare, or to the functions of another department, or to both. 15
- (2) A transfer may be made under **subsection (1)** only if—
  - (a) The chief executive agrees to the transfer; and
  - (b) A notice in writing of the transfer is delivered to the chief executive, and to every other party to the contract or lease. 20
- (3) A transfer made under **subsection (1)** is binding on every party to the contract or lease.

**12. Amendments to other enactments**—The enactments specified in the **Schedule** are amended in the manner indicated in that schedule. 25

**13. Consequential repeals**—The following enactments are consequentially repealed:

- (a) Sections 23 (4)(a) and 27 (3)(a) of the Department of Social Welfare Act 1971;
- (b) Sections 35 (1)(a) to (c) and 36 (1)(a) and (4)(a) of the Social Welfare (Transitional Provisions) Act 1990. 30

SCHEDULE  
ENACTMENTS AMENDED  
PART 1  
AMENDMENTS TO ACTS

Section 12

Title of Act	Amendment
<p>1955, No. 93—The Adoption Act 1955 (R.S. Vol. 1, p. 35)</p>	<p>By inserting in section 2, after the definition of the term “adoption order”, the following definition:  “‘Chief executive’ means the chief executive of the Department.”.</p> <p>By inserting in section 2, after the definition of the term “Court”, the following definition:  “‘Department’ means the department for the time being responsible for the administration of the Children, Young Persons, and Their Families Act 1989.”.</p> <p>By repealing the definition of the term “Director-General” in section 2.</p> <p>By omitting from the definition of the term “Social Worker” in section 2 the words “of Social Welfare” wherever they appear.</p> <p>By omitting from the definition of the term “Social Worker” in section 2, and also from sections 7, 8, 9, and 26, the words “Director-General” wherever they appear, and substituting in each case the words “chief executive”.</p>
<p>1964, No. 136—The Social Security Act 1964 (R.S. Vol. 32, p. 625)</p>	<p>By omitting from section 47 the words “Director-General of Social Welfare” wherever they appear, and substituting in each case the words “chief executive of the Department of Social Welfare”.</p> <p>By omitting from section 47 (7) the words “Director-General”, and substituting the words “chief executive of that department”.</p>
<p>1968, No. 63—The Guardianship Act 1968 (R.S. Vol. 38, p. 613)</p>	<p>By inserting in section 2 (1), after the definition of the term “certified copy”, the following definition:  “‘Chief executive’ means the chief executive of the Department.”.</p> <p>By inserting in section 2 (1), after the definition of the term “Court”, the following definition:</p>

SCHEDULE—*continued*

ENACTMENTS AMENDED—*continued*

PART 1—*continued*

AMENDMENTS TO ACTS—*continued*

Title of Act	Amendment
1968, No. 63—The Guardianship Act 1968 (R.S. Vol. 38, p. 613)— <i>continued</i>	<p>“‘Department’ means the department for the time being responsible for the administration of the Children, Young Persons, and Their Families Act 1989:”.</p> <p>By repealing the definition of the term “Director-General” in section 2 (1).</p> <p>By omitting from the definition of the term “Social Worker” in section 2 the words “of Social Welfare”.</p> <p>By omitting from sections 10B, 10C, 25, and 29 the words “Director-General” wherever they appear, and substituting in each case the words “chief executive”.</p>
1974, No. 66—The Local Government Act 1974 (R.S. Vol. 25, p. 1)	<p>By omitting from the proviso to section 331 (2) the words “Director-General of Social Welfare”, and substituting the words “Director of Land Transport Safety”.</p>
1975, No. 9—The Ombudsmen Act 1975 (R.S. Vol. 35, p. 469)	<p>By inserting in Part 1 of the First Schedule, after the item relating to the Crown Law Office, the following item:</p> <p style="padding-left: 40px;">“The Department of Child, Youth and Whanau Services”.</p>
1975, No. 122—The Disabled Persons Community Welfare Act 1975 (R.S. Vol. 26, p. 143)	<p>By repealing the definition of the term “department” in section 2.</p> <p>By repealing the definition of the term “Director-General” in section 2, and substituting the following definition:</p> <p style="padding-left: 40px;">“‘Director-General’,—</p> <p style="padding-left: 80px;">“(a) In, or in relation to, Parts II and 2A, means the Director-General of Health:</p> <p style="padding-left: 80px;">“(b) In, or in relation to, Parts III and IV, means the chief executive of the Department for the time being responsible for the administration of the Social Security Act 1964:</p>

SCHEDULE—*continued*

ENACTMENTS AMENDED—*continued*

PART 1—*continued*

AMENDMENTS TO ACTS—*continued*

Title of Act	Amendment
1975, No. 122—The Disabled Persons Community Welfare Act 1975 (R.S. Vol. 26, p. 143)— <i>continued</i>	<p>“(c) Otherwise, as appropriate, means that Director-General, or that chief executive, or both:”.</p> <p>By repealing the definition of the term “Minister” in section 2, and substituting the following definition:</p> <p>“ ‘Minister’, in relation to any provisions of this Act, means, subject to any enactment, the Minister who is, with the authority of the Prime Minister, for the time being responsible for the administration of those provisions:”.</p> <p>By omitting from section 2 the word “purchaser” wherever it appears, and substituting in each case the word “funder”.</p> <p>By repealing the definition of the term “purchase agreement” in section 2.</p> <p>By inserting, after the definition of the term “review officer” in section 2, the following definition:</p> <p>“ ‘Service agreement’ has the meaning given to it by section 22 of the Health and Disability Services Act 1993:”.</p> <p>By repealing section 3, and substituting the following section:</p> <p>“3. <b>Administration</b>—(1) This Act is administered as follows:</p> <p>“(a) Parts II and 2A are administered in the Ministry of Health:</p> <p>“(b) The rest of this Act is administered in the Department for the time being responsible for the administration of the Social Security Act 1964.</p>

SCHEDULE—*continued*

ENACTMENTS AMENDED—*continued*

PART 1—*continued*

AMENDMENTS TO ACTS—*continued*

Title of Act	Amendment
<p>1975, No. 122—The Disabled Persons Community Welfare Act 1975 (R.S. Vol. 26, p. 143)—<i>continued</i></p>	<p>“(2) The Director-General, under the general direction and control of the Minister—</p> <p>“(a) Carries out the administration of provisions of this Act; and</p> <p>“(b) Exercises all the powers conferred on the Director-General by this Act.”</p> <p>By repealing section 22 (1) (a).</p> <p>By omitting from section 22 (3) the words “Director of Social Welfare for the district in which the institution is situated”, and substituting the words “Director-General”.</p> <p>By omitting from sections 25A, 25C, and 25D the words “purchase agreement” wherever they appear, and substituting in each case the words “service agreement”.</p>
<p>1980, No. 94—The Family Proceedings Act 1980 (R.S. Vol. 28, p. 545)</p>	<p>By omitting from paragraph (a) of the definition of the term “Social Worker” in section 2 the words “Department of Social Welfare”, and substituting the words “department for the time being responsible for the administration of the Children, Young Persons, and Their Families Act 1989”.</p>
<p>1985, No. 120—The Criminal Justice Act 1985</p>	<p>By repealing paragraph (b) of the proviso to section 142 (4), and substituting the following paragraph:</p> <p>“(b) The court may remand the person in the custody of the chief executive of the department for the time being responsible for the administration of the Children, Young Persons, and Their Families Act 1989, if,—</p>

SCHEDULE—*continued*

ENACTMENTS AMENDED—*continued*

PART 1—*continued*

AMENDMENTS TO ACTS—*continued*

Title of Act	Amendment
1985, No. 120—The Criminal Justice Act 1985— <i>continued</i>	<p>“(i) In its opinion, it is desirable to do so by reason of special circumstances; and</p> <p>“(ii) It is satisfied that the chief executive is able and willing to keep the person in custody in accordance with this section.”</p> <p>By omitting from section 142 (5), (5A), (5B), and (5C), and also from section 142A (1), the words “Director-General of Social Welfare” wherever they appear, and substituting in each case the words “chief executive of the department for the time being responsible for the administration of the Children, Young Persons, and Their Families Act 1989”.</p>
1985, No. 127—The Adult Adoption Information Act 1985	<p>By inserting in section 2, after the definition of the term “birth parent”, the following definition:</p> <p>“‘Chief executive’ means the chief executive of the Department.”.</p> <p>By repealing the definition of the term “Department” in section 2, and substituting the following definition:</p> <p>“‘Department’ means the department for the time being responsible for the administration of the Children, Young Persons, and Their Families Act 1989.”.</p> <p>By repealing the definition of the term “Director-General” in section 2.</p> <p>By omitting from the definition of the term “Social Worker” in section 2 the words “of Social Welfare”.</p> <p>By omitting from sections 5, 8, 9, 11, 12, and 12A the words “Director-General” wherever they appear, and substituting in each case the words “chief executive”.</p>



SCHEDULE—*continued*

ENACTMENTS AMENDED—*continued*

PART 1—*continued*

AMENDMENTS TO ACTS—*continued*

Title of Act	Amendment
1987, No. 74—The Immigration Act 1987 (R.S. Vol. 33, p. 163)	By omitting from sections 58, 60, 70, 128, and 128B the words “Director-General of Social Welfare” wherever they appear, and substituting in each case the words “chief executive of the department for the time being responsible for the administration of the Children, Young Persons, and Their Families Act 1989”.
1988, No. 4—The Protection of Personal and Property Rights Act 1988	By omitting from the definition of the term “Social Worker” in section 2 the words “Department of Social Welfare”, and substituting the words “department for the time being responsible for the administration of the Children, Young Persons, and Their Families Act 1989”.
1989, No. 24—The Children, Young Persons, and Their Families Act 1989	<p>By inserting, after the definition of the term “Care and Protection Resource Panel”, the following definition:</p> <p style="padding-left: 40px;">“ ‘Chief executive’ means, subject to any enactment, the person holding office as the chief executive of the department:”.</p> <p>By repealing the definition of the term “Department” in section 2 (1), and substituting the following definition:</p> <p style="padding-left: 40px;">“ ‘Department’ means the department that is, with the authority of the Prime Minister, for the time being responsible for the administration of this Act:”.</p> <p>By repealing the definition of the term “Minister” in section 2 (1), and substituting the following definition:</p> <p style="padding-left: 40px;">“ ‘Minister’ means, subject to any enactment, the Minister who is, with the authority of the Prime Minister, for the time being responsible for the administration of this Act:”.</p> <p>By repealing the definition of the term “psychiatric hospital” in section 2 (1), and substituting the following definition:</p>

SCHEDULE—*continued*

ENACTMENTS AMENDED—*continued*

PART 1—*continued*

AMENDMENTS TO ACTS—*continued*

Title of Act	Amendment
1989, No. 24—The Children, Young Persons, and Their Families Act 1989— <i>continued</i>	<p>“ ‘Psychiatric hospital’ means a hospital within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992:”.</p> <p>By omitting from paragraph (c) (ii) of the definition of the term “residence” in section 2 (1) the words “or a licensed institution under the Mental Health Act 1969”.</p> <p>By repealing paragraph (c) (iii) of the definition of the term “residence”.</p> <p>By repealing the definition of the term “social welfare district” or “district” in section 2 (1).</p> <p>By omitting from the definition of the term “Social Worker” in section 2 (1) the words “of Social Welfare”.</p> <p>By omitting from sections 2, 7, 34, 39, 40, 42, 43, 44, 45, 47, 48, 53, 57, 70, 78, 79, 81, 82, 84, 86, 91, 93, 94, 98, 100, 101, 103, 104, 105, 110, 111, 112, 113, 119, 121, 126, 128, 129, 132, 139, 140, 147, 152, 154, 178, 186, 191, 205, 234, 235, 236, 238, 239, 242, 251, 252, 258, 268, 269, 283, 285, 286, 298, 304, 305, 306, 307, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 335, 343, 350, 358, 361, 362, 363, 364, 365, 366, 367, 369, 370, 371, 372, 376, 377, 378, 384, 387, 388, 389, 390, 391, 394, 396, 397, 398, 399, 400, 401, 403, 404, 405, 406, 407, 408, 409, 423, 425, 427, 428, 429, 431, 446, and 447 the words “Director-General” wherever they appear, and substituting in each case the words “chief executive”.</p> <p>By omitting from section 14 (2) (c) (iii) the words “Hospital Board”, and substituting</p>

SCHEDULE—*continued*

ENACTMENTS AMENDED—*continued*

PART 1—*continued*

AMENDMENTS TO ACTS—*continued*

Title of Act	Amendment
<p>1989, No. 24—The Children, Young Persons, and Their Families Act 1989—<i>continued</i></p>	<p>the words “hospital and health service within the meaning of the Health and Disability Services Act 1993”.</p> <p>By repealing subparagraph (v) of section 14 (2) (c), and substituting the following subparagraph:</p> <p style="padding-left: 2em;">“(v) A psychiatric hospital.”</p> <p>By omitting from sections 104 (2) (a), 343, 350, 360 (1), and 395 the words “Director of Social Welfare for the District” wherever they appear, and substituting in each case the words “principal manager of the Department for the area”.</p> <p>By omitting from section 152 (1) (c) the words “Director of the Social Welfare District”, and substituting the words “principal manager of the Department for the area”.</p> <p>By omitting from section 266 (1) the word “District”.</p> <p>By omitting from section 356 (2) the words “Director of Social Welfare of the district”, and substituting the words “principal manager of the Department for the area”.</p> <p>By omitting from section 360 (2), (3), and (4) the words “the Director” wherever they appear, and substituting in each case the words “that principal manager”.</p> <p>By omitting from sections 373 (1) (i), 378 (1) (e), and 381 (1) the word “Director” wherever it appears, and substituting in each case the word “manager”.</p> <p>By repealing sections 457 to 467.</p> <p>By repealing sections 468 and 469.</p>
<p>1989, No. 80—The Education Act 1989 (R.S. Vol. 34, p. 17)</p>	<p>By repealing section 18A, and substituting the following section: “18A. <b>Recommendation that student should attend</b></p>

SCHEDULE—*continued*

ENACTMENTS AMENDED—*continued*

PART 1—*continued*

AMENDMENTS TO ACTS—*continued*

Title of Act	Amendment
1989, No. 80—The Education Act 1989 (R.S. Vol. 34, p. 17)— <i>continued</i>	<p><b>particular school</b>—(1) The Secretary may, on the recommendation of the chief executive of the department for the time being responsible for the administration of the Children, Young Persons, and Their Families Act 1989, direct the Board of a state school to enrol at the school any person under 18; and in that case the Board must do so.</p> <p>“(2) No direction may be given under <b>subsection (1)</b> unless the Secretary has taken all reasonable steps to consult,—</p> <p>“(a) The person’s parents; and</p> <p>“(b) The Board of the school concerned; and</p> <p>“(c) The chief executive of the department for the time being responsible for the administration of the Children, Young Persons, and Their Families Act 1989, and any other person or organisation that, in the Secretary’s opinion, may be interested in, or able to advise on or help with, the person’s education or welfare.</p> <p>“(3) A direction under subsection (1) of this section overrides section 11M of this Act and section 5 of the Education Amendment Act 1991.”</p> <p>By omitting from section 22 (3), and also from paragraph (c) of the definition of the term “special institution” in section 92 (1), the words “Director-General of Social Welfare”, and substituting in each case the words “chief executive of the department for the time being responsible for the administration of the Children, Young Persons, and Their Families Act 1989”.</p>

SCHEDULE—*continued*

ENACTMENTS AMENDED—*continued*

PART 1—*continued*

AMENDMENTS TO ACTS—*continued*

Title of Act	Amendment
<p>1989, No. 80—The Education Act 1989 (R.S. Vol. 34, p. 17)—<i>continued</i></p>	<p>By repealing section 22A, and substituting the following section:</p> <p>“22A. <b>Secretary may exempt from enrolment persons placed in residence or programme under Children, Young Persons, and Their Families Act 1989</b>—(1) On an application from the chief executive of the department for the time being responsible for the administration of the Children, Young Persons, and Their Families Act 1989, the Secretary may, by a certificate given to the chief executive of that department, exempt a person from the requirements of section 20 if satisfied that the requirements set out in subsection (2) have been met.</p> <p>“(2) The requirements referred to in subsection (1) are that the person—</p> <p>“(a) Has been placed—</p> <p style="padding-left: 2em;">“(i) In a residence established under section 364 of the Children, Young Persons, and Their Families Act 1989; or</p> <p style="padding-left: 2em;">“(ii) In a residential programme instituted by, and operated under contract with, the chief executive of that department where the person would otherwise be in a residence established under section 364 of that Act; and</p> <p>“(b) Will receive education services appropriate to the person’s needs.</p> <p>“(3) The Secretary may at any time revoke a certificate granted under subsection (1)—</p> <p>“(a) On notification by the chief executive of the department for the</p>

SCHEDULE—*continued*

ENACTMENTS AMENDED—*continued*

PART 1—*continued*

AMENDMENTS TO ACTS—*continued*

Title of Act	Amendment
1989, No. 80—The Education Act 1989 (R.S. Vol. 34, p. 17)— <i>continued</i>	<p>time being responsible for the administration of the Children, Young Persons, and Their Families Act 1989 that the person exempted has been released from a residence other than for a temporary period; or</p> <p>“(b) If the Secretary is no longer satisfied that the person exempted meets the requirements of <b>subsection (2)</b>; or</p> <p>“(c) At the request of the chief executive of that department and if satisfied that an exemption from section 20 is no longer required.</p> <p>“(4) A certificate under <b>subsection (1)</b> continues in force until revoked under this section.”</p>
1991, No. 142—The Child Support Act 1991	By omitting from section 8 (3) (a) the words “Director-General of Social Welfare”, and substituting the words “chief executive of the department for the time being responsible for the administration of the Children, Young Persons, and Their Families Act 1989”.
1995, No. 16—The Births, Deaths, and Marriages Registration Act 1995	By omitting from section 21 (2) (d) the words “Director-General of Social Welfare”, and substituting the words “chief executive of the department for the time being responsible for the administration of the Children, Young Persons, and Their Families Act 1989”.
1995, No. 55—The Criminal Investigations (Blood Samples) Act 1995	By omitting from section 46 (1) the words “Director-General of Social Welfare”, and substituting the words “chief executive of the department for the time being responsible for the administration of the Children, Young Persons, and Their Families Act 1989”.

SCHEDULE—*continued*

ENACTMENTS AMENDED—*continued*

PART 1—*continued*

AMENDMENTS TO ACTS—*continued*

Title of Act	Amendment
1997, No. 109—The Adoption (Intercountry) Act 1997	<p>By inserting in section 2, before the definition of the term “Contracting State”, the following definition:</p> <p style="padding-left: 40px;">“ ‘Chief executive’ means the chief executive of the Department.”.</p> <p>By inserting in section 2, after the definition of the term “Convention”, the following definition:</p> <p style="padding-left: 40px;">“ ‘Department’ means the department for the time being responsible for the administration of the Children, Young Persons, and Their Families Act 1989.”.</p> <p>By repealing the definition of the term “Director-General” in section 2.</p> <p>By omitting from sections 5, 7, 15, 16, 17, 18, 19, 20, 21, 22, and 23 the words “Director-General” wherever they appear, and substituting in each case the words “chief executive”.</p> <p>By omitting from section 22 the words “Department of Social Welfare” wherever they appear, and substituting in each case the word “department”.</p>

PART 2  
AMENDMENTS TO REGULATIONS

Title of Regulation	Amendment
The Protection of Personal and Property Rights Rules 1988 (S.R. 1988/213)	By omitting from forms PPPR.7, PPPR.10, and PPPR.12 in the First Schedule the words "within the meaning of the Department of Social Welfare Act 1971", and substituting in each case the words "employed by the department for the time being responsible for the administration of the Children, Young Persons, and Their Families Act 1989".
The Children, Young Persons, and Their Families Rules 1989 (S.R. 1989/295)	By omitting from rule 39 (a) the words "Director of Social Welfare for the district", and substituting the words "principal manager of the Department for the area".