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Office of the Minister for Children
Chair, Cabinet Legislation Committee

Regulatory changes to improve search safety in Oranga Tamariki residences

Proposal

- 1 This paper seeks authorisation to submit the Oranga Tamariki (Residential Care) Amendment Regulations (No 2) 2026 ('the Amendment Regulations') to the Executive Council. The Amendment Regulations support changes to improve search procedures and safety in Oranga Tamariki secure residences introduced through the Responding to Abuse in Care Legislation Amendment Act 2025 ('the Amendment Act').

Executive Summary

- 2 In October 2025, in response to the Royal Commission of Inquiry into Abuse in Care ('Royal Commission'), the Government enacted the Responding to Abuse in Care Legislation Amendment Act. The Amendment Act introduced a suite of legislative changes to improve safety in Oranga Tamariki secure residences. The Amendment Act will come into force on 24 October 2026.
- 3 Among these changes was the introduction of powers that enable searches of all persons entering a residence. These search on entry powers aim to prevent any unauthorised and harmful items from entering youth justice residences, which pose a risk of harm to the safety of residents, staff, and visitors.
- 4 The Act provided for new regulations to be developed to support implementation of searches carried out under these new powers. These were intended to provide more detail in relation to:
 - 4.1 search plans for children and young people in all secure residences;
 - 4.2 searches of anyone entering secure youth justice residences in order to detect unauthorised items.
- 5 This paper proposes amendments to the Oranga Tamariki (Residential Care) Regulations 1996 ('the Regulations') to provide the necessary implementing detail in these areas.
- 6 Once approved, the Amendment Regulations will be submitted to the Executive Council on 10 August 2026. Subject to Cabinet agreement and signature by the Governor-General, the Regulations will be published in the Gazette on 20 August 2026 and enter into force on the same date as the Amendment Act, 24 October 2026.

Policy

The Amendment Act sought to improve the safety of residents, visitors and staff in secure residences

- 7 As part of its report, the Royal Commission identified issues with safety and wellbeing within State-operated secure residences. In response, the Government passed the Amendment Act which introduced new search powers for the safe conduct of searches on children, young people, staff, and visitors, and to prevent harmful items from entering residences. The Amendment Act received Royal Assent in October 2025 and comes into force on 24 October 2026.
- 8 The Amendment Act enables all visitors and staff entering a youth justice residence to be searched by an authorised person. Searches of residents in Oranga Tamariki facilities are subject to plans agreed between the child or young person and staff, which must take individual preferences into account.
- 9 New regulations are now required to provide the implementing detail for these new legislative powers. Cabinet made policy decisions on these, in line with the Amendment Act's regulation-making powers, on 16 February 2026. The attached draft Amendment Regulations reflect those decisions [CAB-26-MIN-0043].

Proposed regulatory changes provide implementing detail for search plans and searches on entry

- 10 The draft Amendment Regulations address two areas as agreed by Cabinet, namely:
 - 10.1 search plans developed jointly by residents and staff to ensure the safe conduct of searches;
 - 10.2 searches on entry carried out by authorised persons.
- 11 In both these areas, the implementing detail seeks to balance young people's legal rights with the physical safety of residents and staff. This balance was a key concern raised during consultation on both the Amendment Act and the Amendment Regulations.
- 12 In respect of **search plans**, the draft Amendment Regulations provide additional detail on how search plans will be developed and reviewed, what information the search plans must take into account, and in what circumstances a search can depart from the agreed plan. Specifically, they will:
 - 12.1 Require that a statement of rights relating to searches be provided and explained in a manner the child or young person can understand, and that access is provided to an advocate (if needed) (new regulation 16A);
 - 12.2 Require that the needs and preferences relating to the child or young person's culture or religion, any mental health needs, and the circumstances for sharing the search plan with family or whānau be taken into account (new regulation 39);
 - 12.3 Necessitate that search plans be reviewed with the child or young person at least every six weeks (or sooner if the plan becomes inappropriate or

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impracticable), or if physical force is used in a search, or if the child or young person's preferences have changed (new regulation 40);

- 12.4 Establish that circumstances constituting a good reason to depart from a search plan include at the reasonable request of the child or young person, or if the plan is due to be updated or amended (new regulation 41);
 - 12.5 Provide that if a child or young person must be searched before a search plan is approved, the search process should prioritise the least intrusive method appropriate to the circumstances (new regulation 42).
- 13 In respect of **searches on entry**, the draft Amendment Regulations provide detail on who can undertake these searches on entry, how unauthorised items found during searches will be dealt with, and how complaints are managed and actions to be taken when a visitor is denied access for refusing to be searched. Specifically, they will:
- 13.1 Require that to be appointed as an 'authorised person' to conduct searches on entry, appropriate training requirements and competencies must be met (including effective communication skills, use of search technologies and techniques, use of conflict management techniques, and limitations on the use of force) (new regulation 44 and 45);
 - 13.2 Describe the treatment of unauthorised items seized from youth justice residents based on existing regulations for searches within residences, including how unauthorised items will be dealt with (e.g. destruction, retained and later returned, or handed to police) (new regulation 45C);
 - 13.3 Provide that unauthorised items seized from visitors can be held by the Chief Executive of Oranga Tamariki until the person leaves the residence, or if the item is unlawful can be destroyed or handed to police (new regulation 45C);
 - 13.4 Provide that existing complaint mechanisms for youth justice residents will extend to searches on entry, and for non-residents require the Chief Executive of Oranga Tamariki to establish a complaints procedure (new regulation 45A);
 - 13.5 Require that additional information be recorded about a search on entry, including information about the seizure of items from non-residents and details about any refusal of entry, and that this be recorded in a search register with appropriate data safeguards (regulation 54 and new 55A);
 - 13.6 Establish additional safeguards for a pat down search of a visitor who cannot consent to a search (such as those under 16 years of age or someone unable to give consent), with specific requirements (including having a second authorised person present) (new regulation 45);
 - 13.7 Require that if a visitor is denied admission as a consequence for refusing to be searched, an alternative arrangement to enable the child or young person to communicate with the person be considered and arranged if practicable (new regulation 10).

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- 14 The recommendations and proposals outlined in this paper are consistent with those considered by the Cabinet Social Outcomes Committee [SOU-26-SUB-0005].

Proposed technical amendment to the Regulations

- 15 I also propose a technical amendment so that the Regulations now refer to section 4A of the Oranga Tamariki Act 1989 (the Act), in place of repealed section 6, to ensure consistency of the Regulations with primary legislation.
- 16 Section 4A requires that the well-being and best interests of the child be given paramount consideration and fulfils a similar function to the repealed section 6. The above amendment resolves a now erroneous reference to a repealed section of the Act.
- 17 Another small technical change is the redrafting, in plain language, of the existing regulation for inspection of mail (now new regulation 43), to ensure consistency in the treatment of unauthorised items, whether they are found during a search or mail inspection.

The revised regulations are supported by operational changes

- 18 Oranga Tamariki is preparing to implement new search plan provisions and searches on entry from the date the Amendment Act enters into force (24 October 2026). This includes changes to operational guidance, information collection, forms, policies and procedures, training and new search infrastructure.
- 19 Oranga Tamariki received additional funding through Budget 2025 to invest in new body imaging scanners and to support the hiring of additional security guards for searches on entry to secure youth justice residences [SOU-24-MIN-0146, 20 November 2024 refers]. Work continues on procuring these body imaging scanners.

Timing and 28-day rule

- 20 The Amendment Act comes into force on 24 October 2026 and new regulations need to be in place to ensure the Act can be implemented at that time. Therefore, I propose that the Amendment Regulations come into force at the same time as the Amendment Act provisions (24 October 2026), but no earlier than 28 days after they have been notified in the New Zealand Gazette.
- 21 To give effect to that timing, subject to the agreement of the Cabinet Legislation Committee, I propose the Amendment Regulations are provided to Cabinet and Executive Council on 10 August 2026. Following Cabinet agreement and signature by the Governor-General, I recommend that the Amendment Regulations be published in the New Zealand Gazette on 20 August 2026.

Compliance

- 22 The proposed Amendment Regulations comply with each of the following:
- 22.1 the principles of the Treaty of Waitangi;
- 22.2 the principles and guidelines set out in the Privacy Act 2020;

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- 22.3 relevant international standards and obligations;
- 22.4 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.
- 23 The proposals may engage rights under the New Zealand Bill of Rights Act 1990 ('NZBORA') as they regulate searches of persons and the seizure of items. These constitute search and seizure powers for the purpose of section 21 of NZBORA.
- 24 However, I consider that the safeguards contained in the proposed Amendment Regulations will minimise the risk of potential breaches of an individual's rights. This includes training requirements for authorised persons, requirements to record information about searches, and complaints mechanisms for residents and non-residents.

Regulations Review Committee

- 25 I do not believe that there are grounds for the Regulations Review Committee to draw these Amendment Regulations to the attention of the House of Representatives as a Standing Order requirement.

Certification by Parliamentary Counsel

- 26 The Parliamentary Counsel Office ('PCO') has certified the Amendment Regulations as being in order for submission to Cabinet.

Impact Analysis and Consistency Assessment

- 27 Two Regulatory Impact Statements, one on search plans and one on searches on entry, were prepared and submitted at the time that Cabinet approval was sought of the policy relating to the Regulations [SOU-26-MIN-0005] [CAB-26-MIN-0043].
- 28 Oranga Tamariki has completed a Consistency Accountability Statement and Summary of Underpinning Analysis (attached) in line with Regulatory Standards Act 2025 requirements. This assessment identified no inconsistencies with the principles of responsible regulation.

Publicity

- 29 The proposed Amendment Regulations will be notified in the New Zealand Gazette. Stakeholders have been notified of the changes being proposed by these Amendment Regulations. Oranga Tamariki will continue to update stakeholders as officials work to ensure the agency is ready to implement the new search processes and procedures on 24 October 2026.

Proactive release

- 30 I intend to proactively release this Cabinet paper, consistent with the Official Information Act 1982, within 30 business days of decisions being confirmed by Cabinet. I also propose to release, subject to necessary redactions, other briefings and papers provided to progress policy decisions that have not been released.

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Consultation

- 31 The following agencies were consulted in the preparation of this paper: Ministry of Justice, Department of Corrections, New Zealand Police, Te Puni Kōkiri, Ministry for Pacific Peoples, Whaikaha – Ministry of Disabled People, Ministry of Social Development, and the Ministry for Regulation. The Department of the Prime Minister and Cabinet was also informed.
- 32 The proposals were informed by public submissions on the Amendment Act and tested over a five-week period of targeted consultation in August and September 2025. This involved internal and external stakeholders, including Aotearoa New Zealand Association of Social Workers, Mana Mokopuna – Children's Commissioner, and VOYCE Whakarongo Mai.
- 33 Oranga Tamariki also consulted key stakeholders during the policy development process in late 2025. Stakeholders were generally supportive of the proposals and feedback was considered and incorporated where appropriate.

Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 note that on 16 February 2026 Cabinet agreed to amend the Oranga Tamariki (Residential Care) Regulations 1996 to improve search safety and implement legislative changes in Oranga Tamariki secure residences [CAB-26-MIN-0043];
- 2 note that the Oranga Tamariki (Residential Care) Amendment Regulations (No 2) 2026 will give effect to the decision referred to in recommendation one above;
- 3 authorise the submission to the Executive Council of the Oranga Tamariki (Residential Care) Amendment Regulations (No 2) 2026;
- 4 note that the Oranga Tamariki (Residential Care) Amendment Regulations (No 2) 2026 will come into force on 24 October 2026.

Authorised for lodgement

Hon Karen Chhour

Minister for Children