

# Consistency Accountability Statement: Oranga Tamariki (Residential Care) Amendment Regulations (No 2) 2026

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|------------------------------|-----------------------------------------|
| <b>Agency responsible</b>    | Oranga Tamariki — Ministry for Children |
| <b>Portfolio</b>             | Minister for Children                   |
| <b>Date finalised</b>        | 24 July 2026                            |
| <b>Identification number</b> | REG-1530 and REG-1532                   |

## Statement of Review

I confirm that Oranga Tamariki — Ministry for Children has assessed the above legislation, and the process for developing it, for consistency with the principles of responsible regulation as set out in section 9 of the Regulatory Standards Act 2025.

This assessment identified no inconsistencies with the principles of responsible regulation.

Emma Powell

Deputy Chief Executive System Leadership  
Oranga Tamariki — Ministry for Children

# Summary of Underpinning Analysis: Oranga Tamariki (Residential Care) Amendment Regulations (No 2) 2026

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## Good law-making: 9(i)

**The importance of consulting, to the extent that is reasonably practicable, the persons or representatives of the persons that the responsible agency considers will be directly and materially affected by the legislation**

**Inconsistency identified?** NO

### Summary of agency analysis

Stakeholders and the general public had the opportunity to provide input on the proposed new search powers during consultation on the enabling legislation, [Responding to Abuse in Care Legislation Amendment Act 2025](#) (the Act).

Key stakeholders were consulted on the details of search plans and processes during development of these regulations. Most stakeholders supported the proposed approach, and adjustments were made to the regulations to reflect stakeholder feedback on additional protections for children and young people.

## Good law-making: 9(j)

**The importance of carefully evaluating—**

- the issue concerned; and
- the effectiveness of any relevant existing legislation and common law; and
- whether the public interest requires that the issue be addressed; and
- any options (including non-legislative options) that are reasonably available for addressing the issue; and
- who is likely to benefit, and who is likely to suffer a detriment, from the legislation

**Inconsistency identified?** NO

### Summary of agency analysis

Oranga Tamariki undertook detailed analysis to address the ongoing issue of harmful items entering care and protection residences and youth justice residences.

Increasing the number of searches raised concerns about the impact on children and young people in these residences. Analysis showed that better search processes and the adoption of new technology were the best options to improve safety and wellbeing outcomes for residents, staff and visitors. More detail is here:

- [Regulatory Impact Statement: Search powers in secure Care and Protection and Youth Justice residences](#), 16 September 2024

The regulations do not introduce additional requirements but provide greater detail to support the provisions set out in the Act. For example, the regulations set out the detailed processes and procedures to be followed in developing and reviewing new search plans for children and young people in these residences. More detail can be found here:

- [Regulatory Impact Statement: Search plans in secure care and protection and youth justice residences](#), February 2026

The regulations also include the training and competency requirements for those undertaking searches of all visitors to youth justice residences. These requirements provide another layer of safeguards. They ensure search procedures support implementation of the new legislation and its intent to protect the safety and wellbeing of residents, staff and visitors. More detail can be found here:

- [Regulatory Impact Statement: Searches on entry to Youth Justice residences – changes to regulations](#), February 2026.

## Good law-making: 9(k)

### The importance of the responsible agency identifying and developing effective arrangements for implementing the legislation

Inconsistency identified?

NO

### Summary of agency analysis

Processes to develop and review approved search plans will be ready the day the Act and regulations enter into force (24 October 2026). Changes to forms and IT systems and relevant training for undertaking searches and developing search plans are under way to ensure an effective transition.

Oranga Tamariki received additional investment funding in Budget 2025 to support the implementation of new technology for search on entry at youth justice residences. This was supported by well-developed business planning. Procurement and installation of new search technology and procedures are progressing in line with final decisions on implementation.

## Good law-making: 9(l)

**Legislation should be expected to produce benefits that exceed the costs of the legislation to the public or persons**

**Inconsistency identified?** NO

### Summary of agency analysis

Overall, we assess that the benefits derived from introduction of this legislation outweigh the increase in operational costs to Oranga Tamariki.

The introduction of **search plans** in secure care and protection and youth justice residences is expected to improve the safety and wellbeing of children and young people in these residences. We consider that this benefit outweighs the minimal increase in costs for changes to forms and IT systems and relevant training.

Benefits from effective implementation of **searches on entry to youth justice residences** include:

- fewer unauthorised items entering youth justice residences
- reduced need for pat-down searches (with introduction of new technology)
- reduced costs from injury of residents and staff in youth justice residences
- improved ability to detect non-metal items.

We consider that these benefits outweigh the increased capital and operational costs, which include:

- the procurement and installation of body imaging scanners
- training for 'authorised persons' undertaking searches
- a complaints mechanism for visitors who are searched
- establishing and maintaining a search register
- establishing alternative arrangements for maintaining contact with family and whanau when visitors are denied entry.

Refer to Regulatory Impact Statements for details on costs and benefits:

- [RIS: Search powers in secure Care and Protection and Youth Justice residences](#), 16 September 2024.
- [RIS: Search plans in secure care and protection and youth justice residences](#), February 2026.
- [RIS: Searches on entry to youth justice residences – changes to regulations](#), February 2026.

## Good law-making: 9(m)

**Legislation should be the most effective, efficient, and proportionate response to the issue concerned that is available**

**Inconsistency identified?** NO

### Summary of agency analysis

We consider that legislation is a proportionate response to the issue of providing a safe living and working environment in secure care and protection and youth justice residences, while protecting rights.

Conducting a search of a child or young person, or any other person, has an impact on their rights. The right to be secure against unreasonable search or seizure is protected in legislation by the New Zealand Bill of Rights Act 1990.

Procedures and processes to govern searches in secure care and protection and youth justice residences are most appropriately specified in a legislative framework. This is in line with other powers of this type, especially when these are exercised in the context of state care or custody. Appropriate safeguards in legislation uphold the rights of the person being searched and ensure that any limitations on those rights are reasonable to protect the safety and wellbeing of residents, staff and visitors.

### Rule of Law: 9(a)(i)

#### The law should be clear and accessible

**Inconsistency identified?** NO

#### Summary of agency analysis

The regulations clarify the legal requirements governing searches. They then ensure that those requirements are made clear and accessible to children and young people. The regulations introduce specific requirements on Oranga Tamariki to provide appropriate support to assist understanding of the new search processes. This includes a requirement to provide a statement of rights and an explanation appropriate to the age and understanding of the child or young person.

### Rule of Law: 9(a)(ii)

#### The law should not adversely affect rights and liberties, or impose obligations, retrospectively

**Inconsistency identified?** NOT APPLICABLE

#### Summary of agency analysis

There are no elements in the regulations that are retrospective.

### Rule of Law: 9(a)(iii)

#### Every person is equal before the law

**Inconsistency identified?** NO

#### Summary of agency analysis

The legislation binds the Crown. It requires young people in a secure care and protection or youth justice residence to have an approved search plan, which details their needs and preferences for how a search will be conducted. The goal of these plans is to ensure that these children and young people, who have no right to refuse a search, feel safe and are not further traumatised.

The legislation provides for all people entering a youth justice residence to be searched.

It is not feasible or appropriate to have a formal search plan for visitors to a youth justice residence, who are able to decline a search. Instead, the regulations include a requirement for the authorised person undertaking a search to take into account any views, needs and preferences of a visitor being searched.

The inconsistency in treatment between residents and visitors is considered appropriate, given the difference in searches for different groups and the nature of a young person's ongoing confinement at a youth justice residence.

### Rule of Law: 9(a)(iv)

**There should be an independent impartial judiciary**

**Inconsistency identified?** NOT APPLICABLE

**Summary of agency analysis**

### Rule of Law: 9(a)(v)

**Issues of legal right and liability should be resolved by the application of law, rather than the exercise of administrative discretion**

**Inconsistency identified?** NO

**Summary of agency analysis**

The regulations (and primary legislation relating to searches) provide for a range of administrative decisions that allow Oranga Tamariki to manage risk appropriately on a case-by-case basis. These include:

- the undertaking of searches on entry at youth justice residences
- the approval of search plans for residents at care and protection and youth justice residences
- processing complaints made by visitors, staff or residents
- the seizure, retention and later return, destruction, or the handing to Police of unauthorised items seized from visitors and residents during a search of their person, possessions or vehicles.

The discretion involved in these administrative decisions is constrained by primary legislation and regulations. There are clear criteria and frameworks governing decision-

making, processes if there is disagreement, and limitations on who can be delegated decision-making rights by the chief executive of Oranga Tamariki.

The regulations do not limit recourse to the courts under judicial review or any other pathway, nor the ability to use other processes such as the Ombudsman.

## Liberties: 9(b)

**Legislation should not unduly diminish a person's liberty, personal security, freedom of choice or action, or rights to own, use, and dispose of property, except as is necessary to provide for, or protect, any such liberty, freedom, or right of another person**

**Inconsistency identified?**

NO

### Summary of agency analysis

The Act and regulations enable searches of residents, staff and visitors entering a youth justice residence. Visitors can refuse to be searched if they wish, although they may be declined entry if they do.

Legislation provides for the seizure of any unauthorised item detected during a search. The regulations enable either the retention and later return, destruction, or handing to Police of the items seized.

The search of any person and ability to seize property may be considered to constrain some rights and freedoms. These constraints are necessary to protect the liberty, freedom, or right of another person. Improved search processes will reduce the number of harmful items that enter youth justice residences, leading to better safety and wellbeing outcomes for residents, staff and visitors.

The regulations introduce safeguards to mitigate the impact of being searched and having property seized, including:

- development and regular review of individual search plans for all residents, ensuring their needs and preferences are considered so that potential trauma arising from searches is minimised
- allowing for unauthorised items that can be lawfully possessed outside the residence to be held and returned to the person when they exit
- consultation with the person who was searched, or opportunity for residents to lodge a complaint and have it determined, before destruction or the handing over to Police of unauthorised items.
- consent procedures for searching visitors under the age of 16 years entering a youth justice residence
- specifying the necessary training and competencies of people authorised to undertake searches.

## Taking of property: 9(c)

**Legislation should not take or severely impair, or authorise the taking or severe impairment of, property without the consent of the owner unless-**

- **there is a good justification for the taking or severe impairment; and**
- **fair compensation for the taking or severe impairment is provided to the owner; and**
- **the compensation is provided, to the extent practicable, by or on behalf of the persons who obtain the benefit of the taking or severe impairment**

**Inconsistency identified?**

NO

### Summary of agency analysis

The regulations set out powers to seize unauthorised items identified during a search on entry to a youth justice residence. 'Unauthorised items' are defined in the Act as any article, drug or substance that is harmful or that may not be lawfully possessed by a resident (e.g., alcohol, drugs, vapes and tobacco, weapons, and cell phones).

We note that these proposals also constitute search and seizure powers under section 21 of the New Zealand Bill of Rights Act 1990, and may also engage these rights.

The justification for allowing the seizure of unauthorised items is that it provides increased protection for all residents, staff and visitors in a youth justice residence.

The regulations provide for items seized from residents and visitors to be retained and returned on departure from the residence. They may also be destroyed or handed to Police. For visitors, this is limited to items that may not be lawfully possessed outside the residence. No compensation is provided for items that are seized and subsequently destroyed or handed to Police.

Oranga Tamariki provides clear information to residents and visitors about the items that are not authorised in a youth justice residence, as set out in the Act and regulations. The regulations introduce further safeguards to ensure a young person is informed of their right to make a formal complaint before the destruction of an item.

## Taxes, fees and levies: 9(d)

**The importance of maintaining consistency with section 22(a) of the Constitution Act 1996 (Parliamentary control of taxation)**

**Inconsistency identified?**

NOT APPLICABLE

### Summary of agency analysis

## Taxes, fees and levies: 9(e)

**Legislation should impose, or authorise the imposition of, a fee for goods or services only if the amount of the fee bears a proper relation to the**

**cost of providing the good or service to which it relates**

**Inconsistency identified?** NOT APPLICABLE

**Summary of agency analysis**

## **Taxes, fees and levies: 9(f)**

**Legislation should impose, or authorise the imposition of, a levy to fund an objective or a function only if the amount of the levy is reasonable in relation to both—**

- **the benefits that the class of payers is likely to derive, or the risks attributable to the class, in connection with the objective or function; and**
- **the costs of efficiently achieving the objective or providing the function**

**Inconsistency identified?** NOT APPLICABLE

**Summary of agency analysis**

## **Role of courts: 9(g)**

**Legislation should preserve the courts' constitutional role of ascertaining the meaning of legislation**

**Inconsistency identified?** NOT APPLICABLE

**Summary of agency analysis**

## **Role of courts: 9(h)**

**Legislation should make rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review**

**Inconsistency identified?** NO

**Summary of agency analysis**

The regulations set out obligations on the chief executive of Oranga Tamariki in relation to the development and implementation of search plans and searches conducted on entry to a youth justice residence. These obligations dock into the legislative framework of the Oranga Tamariki Act 1989, which sufficiently defines the role of the chief executive and provides for appropriate review.

## **Additional information**

**Relevant publicly available inquiry, review, or evaluation reports**

The final report of the *Royal Commission of Inquiry into Abuse in State and Faith-based Care* made 138 recommendations to provide redress for past abuse and prevent future abuse: <https://www.abuseincare.org.nz/reports/whanaketia/>. This included recommendations to improve the safety of children, young people and adults in care and to strengthen safety within the care system.

The Royal Commission recommendations and findings in relation to searches are reflected in changes to the Oranga Tamariki Act 1989 on how searches are conducted in care and protection and youth justice residences (see [Responding to Abuse in Care Legislation Amendment Act 2025](#)), as well as the proposed changes to the Oranga Tamariki (Residential Care) Regulations 1996.

Changes to search provisions in primary legislation ((s.384A to s.384KN, Oranga Tamariki Act 1989) and these regulations were also informed by the *Oranga Tamariki Secure Residences & a Sample of Community Homes – Independent, External Rapid Review* (2023): <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Performance-and-monitoring/Reviews-and-Inquiries/Rapid-residence-review/Secure-residence-review.pdf>.