



PSA 

Te Rūnanga o Ngā Toa Āwhina

June 2024

Submission to the Social Services and Community Committee on the Oranga Tamariki (Repeal of Section 7AA) Amendment Bill.

“Tino rangatiratanga: mō tātou, ā, mō kā uri ā muri ake nei”

About us

Te Rūnanga O Ngā Toa Awhina is the democratically elected governance structure representing the PSA’s more than 11,000 Māori members working across the public sector, in local government and public and community services, established to provide leadership to our Māori membership and to ensure a strong Māori voice is represented within our union.

The New Zealand Public Service Association Te Pūkenga Here Tikanga Mahi (the PSA) is the largest trade union in New Zealand with over 95,000 members. We are a democratic and bicultural organisation representing people working in the Public Service including for departments, crown agents and other crown entities, and state-owned enterprises; local government; tertiary education institutions; and non-governmental organisations working in the health, social services and community sectors.

Submission

The PSA has been advocating for strong, innovative and effective public and community services since our establishment in 1913, including recognition of the Crown’s commitment to Māori under Te Tiriti o Waitangi (Te Tiriti).

This submission, on behalf of the members of **Te Rūnanga O Ngā Toa Āwhina**, was guided by the PSA’s strategic goals, values and Ngā Kaupapa o Te Rūnanga o Ngā Toa Āwhina¹. Along with our submission we tautoko the submission of the PSA Women’s Network.

The PSA is affiliated to Te Kauae Kaimahi the New Zealand Council of Trade Unions, Public Services International and UniGlobal.

¹ <https://www.psa.org.nz/about-us/about-the-psa/>



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Our position on the Bill

We strongly oppose this Bill.

Te Rūnanga O Ngā Toa Āwhina strongly opposes the Government's intent to repeal Section 7AA of the Oranga Tamariki Act 1989, which currently creates the duty for Oranga Tamariki to respect the Treaty of Waitangi (Te Tiriti) and report publicly on the measures taken to fulfil that obligation.

Introduction of Section 7AA

The inclusion of Section 7AA (7AA) in the Oranga Tamariki Act took effect in 2019 and was driven by a commitment to uphold the principles of Te Tiriti o Waitangi and to address continual failures of the care and protection system in preventing harm and neglect of tamariki and rangatahi Māori both in, and outside of, state care. Its enactment was supported by iwi and community leaders, care professionals and sustained political pressure from Māori.

This legislative change explicitly imposed an obligation on the Oranga Tamariki Chief Executive to recognize Te Tiriti and provide a practical commitment to improve outcomes for tamariki (Māori children) and rangatahi Māori (Māori youth) who come to the agency's attention. The goal was to reduce the disproportionate number of Māori entering care and enhance outcomes for those already in care².

The Act also introduced tikanga Māori, defining terms like mana tamaiti, whakapapa, and whanaungatanga within the context of Māori cultural principles, to ensure better outcomes for Māori. That being said, this government continues to drive to repeal 7AA against the advice of iwi, hapū, hāpori, whānau Māori, the Waitangi Tribunal and experts in this field.

The value of Section 7AA

The current Royal Inquiry into Abuse in State Care³ has made explicit the strained or broken whakapapa, violence, and ill-treatment suffered by tamariki under the state's care and protection system.

7AA is the only section in the Act that ensures the Chief Executive "*recognises and provides a practical commitment to the principles of the Treaty of Waitangi (te Tiriti o Waitangi)*". That they are held accountable for redressing the inequitable, culturally insensitive and inadequate support for 'at risk' tamariki, rangatahi and their whānau by providing the best care for tamariki and rangatahi Māori.

It commits the Chief Executive to ongoing reporting on the progress of the measures it implements "*in improving outcomes for tamariki Māori who come to the attention of the department under this Act and the steps to be taken in the immediate future*"⁴.

By binding Oranga Tamariki to a practical commitment to the principles of Te Tiriti, it ensures that policies, practices, and services are focused on reducing disparities for tamariki and rangatahi Māori

² [Section 7AA background | Oranga Tamariki — Ministry for Children](#)

³ <https://www.abuseincare.org.nz/>

⁴ <https://www.legislation.govt.nz/act/public/1989/0024/latest/LMS216331.html>



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and upholding Māori well-being. It ensures the government keeps its obligations to Māori under Te Tiriti. Even though it falls short of full tino rangatiratanga (self-determination) over kainga (family) protected by Te Tiriti, 7AA has led to positive outcomes in the child protection system for Māori⁵.

Our members working in Oranga Tamariki have noted other positive outcomes from Section 7AA. It has evolved the way Oranga Tamariki works with non-Māori tamariki and rangatahi who come in to contact with the Ministry, working more holistically in the context of their culture as a result. Using 7AA to help understand what hapū and iwi looks like in non-Māori cultures and how connecting in those spaces has created better outcomes for non-Māori as well.

The Government's intentions are unsubstantiated and breach Te Tiriti o Waitangi

The PSA is dismayed that the Government announced its intention to repeal 7AA without any consultation with kaimahi in Oranga Tamariki who work specifically in this area or with Iwi and Māori organisations with close connections to Oranga Tamariki. The Waitangi Tribunal has ruled that this is in direct violation of Te Tiriti and 7AA itself as it exists now. They found that the repeal breaches the guarantee of Māori self-determination and Treaty principles of partnership and active protection⁷.

The Government claims that the reason to repeal 7AA is to put children's safety before their cultural affiliations (ideology). The Minister cited anecdotal stories that *"some Oranga Tamariki staff prioritized cultural considerations and the desires of the child's family over the individual needs of the child. This sometimes led to unsafe care decisions and disruption for children and caregivers."*

The PSA asserts that there is no empirical evidence to support the Minister's claims that the safety and wellbeing of tamariki and rangatahi are being negatively impacted by its existence.

This absence of evidence has been made clear in both the Waitangi Tribunal 7AA urgent inquiry held in March 2024 and the Regulatory Impact Statement prepared by Oranga Tamariki⁶ which, among other things, stated:

"Repealing section 7AA is unlikely to contribute to improvements to safety and stability. However, a repeal of section 7AA may undo some of the progress that Oranga Tamariki has made in building trust, relationships, and accountability in the communities we work with. This may worsen the safety, stability, and well-being of our children with the greatest needs."

It further stated:

"While some practice decisions have been made that, in hindsight, have not resulted in the best outcome for the child, it is important to reiterate that there is no evidence to suggest these resulted from the duties outlined in section 7AA."

⁵ <https://nzfvc.org.nz/news/repeal-oranga-tamariki-act-section-7aa-new-legislation-submissions-open-and-waitangi-tribunal>

⁶ <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Report-and-releases/Cabinet-papers/Subsequent-children-provisions/Regulatory-Impact-Analysis-Subsequent-children.pdf>



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Oranga Tamariki recommended retaining section 7AA and strengthening practice:

"The Department [Oranga Tamariki] considers that a full or partial repeal of section 7AA will not address the policy problem. This paper recommends retaining section 7AA while continuing to strengthen practice and operational guidelines to fulfil the policy objectives and best address the Government's concerns."

The Waitangi Tribunal confirmed this in its urgent enquiry⁷ when it stated:

"We agree entirely with the views of senior officials that a policy change of such significance must rely on evidence and not on anecdotal stories, hearsay, and ideological positions. It should also be informed by community consultation, and in particular consultation with the iwi and Māori organisations that have established strategic agreements with the Chief Executive pursuant to section 7AA."

The PSA notes the Government's premise that "repealing 7AA will put children before ideology" disregards the fact that, prior to 7AA, Māori have been systematically disenfranchised from their culture, which is the one connection that Māori families rely on to be connected and safe as Māori.

It disregards the harm that has been done repeatedly to Māori families and their tamariki and rangatahi in state care and the statistics that show the level and impacts of this harm before the implementation of 7AA, as was highlighted in the MSD Pūao-te-Āta-tū report⁸. It ignores the Crown's obligations to Māori and the overwhelming evidence and advice of many childcare specialists and iwi organisations working under 7AA and Oranga Tamariki as well as the findings of the Waitangi Tribunal urgent enquiry⁷.

We believe that the party ideologies and policies of this government have dictated the repeal of 7AA, discounting the value of culture to delivering positive outcomes for Māori and ignoring the voice of Māori in determining the decision to repeal 7AA.

Conclusion

In summary, we are disappointed to see the current Government attempting to remove Section 7AA. In our view, repealing Section 7AA shows disrespect for Māori as Tangata whenua of this country and with this Amendment Bill, a complete disregard of the Crown's obligations to Māori and their tamariki and rangatahi.

We believe that repealing 7AA risks undoing positive steps toward cultural responsiveness and safety for tamariki and rangatahi Māori in state care. We believe that the Crown Māori relationship must be respected, and Māori consulted with. Our members recommend that the advice and evidence given to the Government and this committee on 7AA must be heeded and accepted by this committee when deliberating on a recommendation.

⁷<https://www.waitangitribunal.govt.nz/news/tribunal-releases-report-on-oranga-tamariki-section-7aa-urgent-inquiry/>

⁸ <https://msd.govt.nz/documents/about-msd-and-our-work/publications-resources/archive/1988-puaoteatatu.pdf>



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In addition to voicing our opposition to the Bill, we wish to voice our concerns about:

- the lack of any engagement with Māori, the Crown completely failing to consult with its Treaty partner when drafting this bill, instead prioritising coalition agreement commitments and as a result, breaching the Treaty principle of partnership and active protection.
- the Crown's failure to actively protect Māori rights and interests by ignoring the desires and actions of Māori for Tino Rangatiratanga and 7AA, disregarding its obligations to the Treaty and reimposing significant prejudice to Māori.
- this Amendment Bill directly opposing the Tino Rangatiratanga rights of Māori and undermining the principles of equality and fairness.

We recommend

1. That the overwhelming advice, evidence and recommendations given to the Government and this committee, in support of Section 7AA, be heeded and accepted by this committee when considering this Amendment Bill.
2. **That the Oranga Tamariki (Repeal of Section 7AA) Amendment Bill be withdrawn** and that Section 7AA be retained, based on all the evidence and advice provided to the Government on the Bill and the Crown's obligations to Māori under Te Tiriti (That a full or partial repeal of Section 7AA will not address the issues that the government are trying to rectify with this Bill).
3. That the Select Committee takes the advice of Oranga Tamariki to retain Section 7AA, instead of repealing Section 7AA, and continue to strengthen practice and operational guidelines to fulfil the policy objectives and best address the Government's concerns.
4. That the Select Committee takes on the Waitangi Tribunal recommendation that, as a first step for review of the legislation, the Crown talks with Section 7AA strategic partners and Māori post-settlement entities.
5. That the Select Committee takes on the Waitangi Tribunal recommendation that the requirements of Section 7AA to develop strategic partnerships with iwi and Māori organisations and to focus on the reduction of disparities by setting and publicly reporting on expectations and targets, be retained.
6. That the Select Committee acts reasonably and in good faith when performing its duties, adequately informing itself of its Treaty obligations to Māori, actively protecting Māori rights and interests and ensuring the opportunity for proper consultation and partnership with Māori.

Thank you for considering our submission. We are also willing to speak to this submission.

Ngā mihi nui ki a koutou

Te Rūnanga O Ngā Toa Awhina
Te Pūkanga Here Tikanga Mahi



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