

A-Z Guide

CHILDREN'S ACT 2014



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Use This Guide to Understand

- What the Children's Act 2014 is and whether it applies to your workplace.
- Understanding specified organisations.
- Whether you and/or your organisation may be exempt from the requirements under the Children's Act 2014.
- Your obligations in conducting new vetting and additional safety screening checks on people who work with children.

The Children's Act

On 1 July 2014, the Vulnerable Children Act 2014 and its regulations passed into law. The name of the Act was changed to Children's Act 2014 on 20 December 2018.

The Act forms part of the Children's Action Plan and represents a cross-agency plan between the Social Development and NZ Police aimed at improving the well-being of vulnerable children in New Zealand. Government funded employers ("specified organisations") must now conduct new vetting and additional safety screening checks on all paid employees and contractors who work with children. This also applies to unpaid people working with children as part of an educational or vocational training course.

These worker safety checks have been progressively phased in from the 1 July 2015 to ensure that specified organisations have sufficient time to screen their existing workforce and implement the necessary processes for pre-employment screening.

The entire central State-funded workforce will need to have been safety checked by 1 July 2019. Businesses, unfunded non-government organisations, and voluntary organisations are not covered by the requirements, but are encouraged to also adopt the new standards voluntarily.

Specified Organisations

- Any of the State services (as defined in section 2 of the State Sector Act 1988) whether, or other instruments and a range of other organisations.
- An individual or organisation that is funded (whether wholly or partly and whether directly or indirectly) by a state service to provide regulated service(s). The regulated services are identified in schedule 1 of the Act, and include a range of health, welfare, justice and education services.

Note: Local authorities must comply with the requirements from 1 September 2016.

Examples of Specified Organisations

The children's workforce is large and diverse, and cataloguing every specified organisation exceeds the scope of this guide. However, the following are common examples of specified organisations:



Education services - Schools, early childhood services, organisations providing services to education providers (including trade academies, service academies, alternative education providers, attendance services, school bus services, and school hostels).

Health services - Public hospitals, publicly funded medical practices or facilities, providers of services (including residencies, approved carers, iwi social services, cultural social services, child and family support services, and community services).

Social services - Publicly funded providers of social or support services (including victim support services, drug and alcohol rehabilitation services, childcare services, out-of-school care and recreational services, mentoring and counselling services, and youth services).



Individualised Funding Exceptions

Despite otherwise, the following providers are not “specified organisations”:

- Parents, guardians or persons with care of, receiving directly or indirectly) from a specified organisation so that they can secure regulated services for the child.
- An organisation which is paid by such persons to provide regulated services to the child, or an organisation that receives funding due to an entitlement of such persons.

Examples of Individualised Funding Exceptions

- A parent receiving an allowance from a government agency (e.g., ACC) to employ a private carer to look after an injured child: the parent is not a specified organisation and is not required to safety check the worker.
- An organisation receiving an allowance originating from a government agency (e.g., ACC) but which is paid directly by a parent, to employ one of the organisation’s carers: the organisation is not a specified organisation and is not required to safety check the worker.
- An organisation receiving an allowance from a government agency (e.g.) on behalf of a parent, to employ one of the organisation’s carers: the organisation is not a specified organisation and is not required to safety check the worker.
- A parent receiving a funding allocation from the Ministry of Health for a disabled child. The parent is not a specified organisation and although they may use the state) to assist with care of the, they are not required to safety check any worker they employ or engage.

For the avoidance of doubt, if an organisation is contracted or funded by any of the State services to provide regulated services it will be a specified organisation, even if it also receives individualised funding –the exemption only applies where such arrangements are the sole source of public funds.

Children’s Worker

A children’s worker means a person who works in, or provides, regulated services, and the person’s work:

- May or does involve regular or overnight contact with a child or children (other than with children who are co-workers); and
- Takes place without a parent or guardian of the child, or of each child, being present.

Core and Non-Core Children’s Workers

The Act creates two categories of children’s workers: core children’s workers and non-core children’s workers. The required children’s worker safety check is the same for each group, but the requirements come into force earlier for core children’s workers.



Core worker means a children's worker whose work in, or providing a regulated service requires or allows that, when the person is present with a child or children in the course of that work, the person is either:

- The only person present; or
- is the children's worker who has primary responsibility for or authority over the child or children present.

Non-core worker means a children's worker who is not a core worker.



When the requirements come into force

The requirement to safety check children's workers come into effect at different times for new core and non-core workers, while existing workers will need to have been checked over the next three years.

The key dates are:

- 1 July 2015 –all new core workers starting employment or engagement.
- 1 July 2016 –all new non-core workers starting employment or engagement.
- 1 July 2018 –all existing core workers currently employed.
- 1 July 2019 –all existing non-core workers currently employed.

In addition, children's workers will need to have their checks updated every three years while a specified organisation continues to employ or engage them.

Principal Changes

Child Protection Policies: Specified organisations (and all providers they contract to deliver children's services) must have child protection policies that guide staff to identify and report child abuse and neglect.

Safety Checking Requirements: For children's workers who are going to start in a new role, the following checks are to be completed:

- Confirmation of the identity of the children's worker, either by using an appropriate manual process (including physically sighting the required documents), or by using an electronic service, such as the RealMe identity verification service.
- Collection and consideration of a range of information about the children's worker, including a work history, a referee check, and an interview of the children's worker.
In addition, third party checks with their professional registration body or licensing authority (as appropriate) and a New Zealand Police vet are required.
- Evaluation of this information and assessment of the risk the person would pose to the safety of children if employed or engaged as a children's worker, including consideration of whether the role is a core children's workforce or non-core children's workforce role.

For children's workers who are already employed or engaged by the organisation, fewer checks are required: confirmation, checks with the relevant professional registration body or licensing authority, a fresh New Zealand Police vet, and a risk assessment based on these checks. When updating a check every three years the following checks are required: confirmation of any changes of officially recorded name, updating the checks with the relevant professional registration body or licensing authority, a fresh New Zealand Police vet, and a risk assessment based on these checks.



For Your Business

If your organisation meets the definition of specified organisation under the Act, then you will need adequate policies and procedures in place to ensure that you comply with the enhanced vetting and safety checking requirements for both new and existing employees. More detailed information can be accessed via the link noted below:

<https://www.orangatamariki.govt.nz/working-with-children/>

(NOTE: This link contains detailed information on interpreting and applying the Act and its regulations.

If you have any further questions, you may also wish to contact Oranga Tamariki -Ministry for Children directly at contact@ot.govt.nz

Remember

- Always call AdviceLine on 0800 300 362 to check you have the latest guide.
Never hesitate to ask AdviceLine for help in interpreting and applying this guide to your situation.
- Use our AdviceLine employment advisors as a sounding board to test your views.
- Get one of our consultants to draft an agreement template that's tailor-made for your business.

This guide is not comprehensive and should not be used as a substitute for professional advice.

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