



Bids for the Government's 2024 Legislation Programme

To Hon Karen Chhour, Minister for Children			
Date	8 February 2024	Deadline	12 February 2024
Briefing number	B-0056	Priority	High
Key contact	s9(2)(a) Acting Deputy Chief Executive, System Leadership	Contact number	s9(2)(a)
Second contact	s9(2)(a) General Manager, Policy	Contact number	s9(2)(a)
Security	In-confidence		

Purpose
 This briefing asks you to decide how many Bills you wish to seek priority for as part of the Government's 2024 Legislation Programme.

Executive Summary
 s9(2)(f)(iv)
 [Redacted]
 [Redacted]
 Out of scope - Information not related to the repeal of s7AA
 s9(2)(f)(iv)
 [Redacted]

Recommendations
 It is recommended that you:

<p>Agree to seek priority for a Bill that repeals section 7AA, s9(2)(f)(iv) noting that—</p> <ul style="list-style-type: none"> (a) this timeframe could not include any consultation on the proposed repeal before Cabinet policy decisions are made, and (b) the Bill would need to be reported back from select committee within 4 months rather than the standard 6 months. 	<p>YES / NO</p> <p>6 months is preferred.</p>
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¹ We are using the descriptions of the priority categories set out in the Cabinet Office Circular 2024 Legislation Programme: Requirements for Submitting Bids (CO (23) 13).

Out of scope - Information not related to the repeal of s7AA



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Out of scope - Information not related to the repeal of s7AA

Sign-off
Oranga Tamariki

Sign-off
Minister for Children

s9(2)(a)

Acting Deputy Chief Executive
System Leadership
Date signed: 02/02/2024

K. Chhour
Hon Karen Chhour
Minister for Children
Date signed: 12.2.24

Minister comments

Satisfaction

Please select your level of satisfaction with this briefing

- Outstanding Good Acceptable Poor Unacceptable

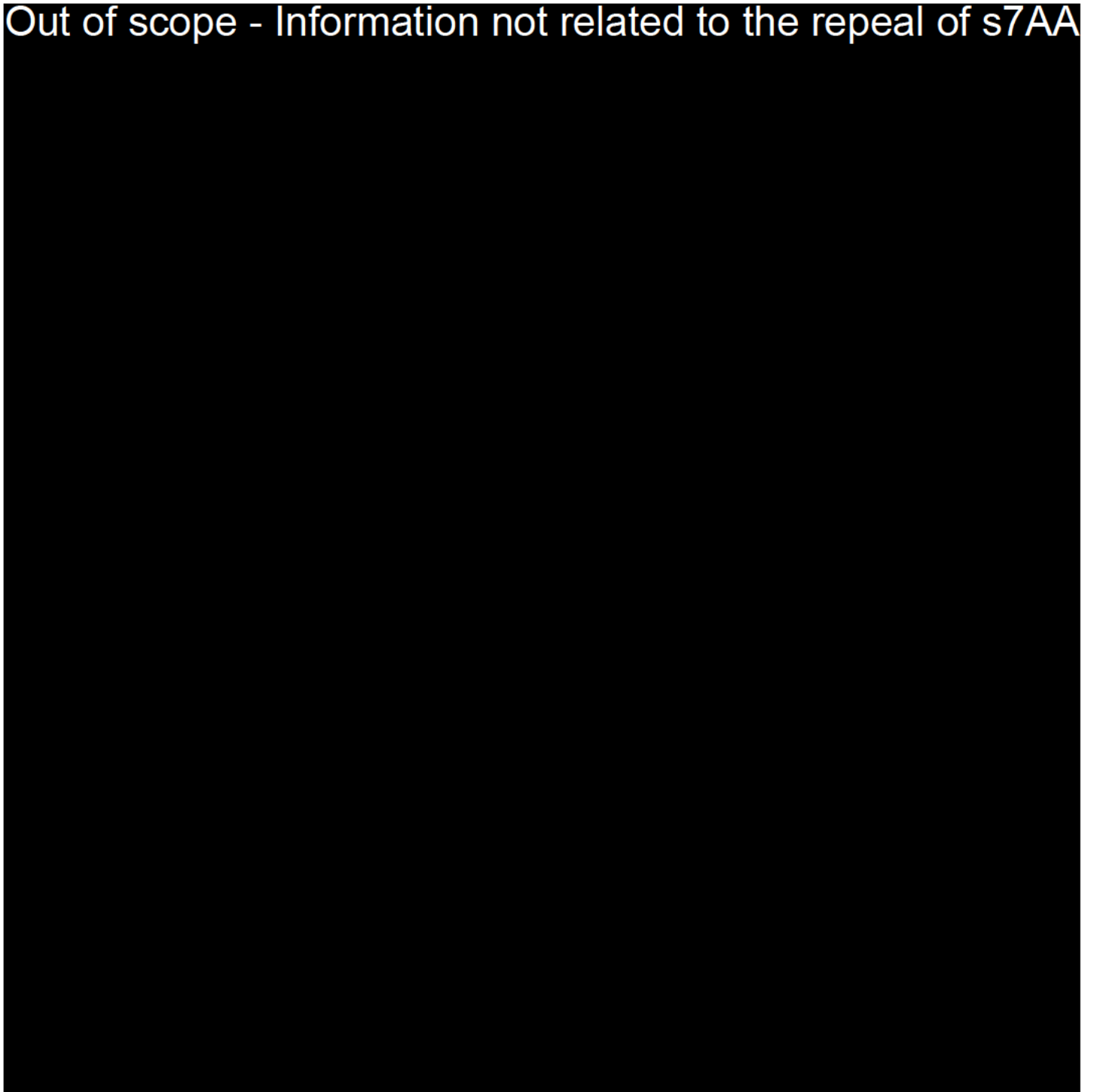
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Bids for the Government's 2024 Legislation Programme

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s9(2)(f)(iv)

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Repeal of Section 7AA Oranga Tamariki Act 1989

11 We understand that repealing section 7AA of the Act is your highest priority and will need to be in the first Bill you introduce to Parliament. The drafting for this change can

³s9(2)(f)(iv)

be prepared relatively quickly and is likely to receive high priority from Cabinet given this matter is in the coalition agreement.

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Best practice is to consult on proposals before seeking Cabinet policy decisions

22 When exploring potential policy changes, best practice is for you to publish a consultation document seeking public feedback over a two-to-three-month period. This helps to ensure that all the potential risks of making an amendment are identified and mitigated before a Bill is drafted. To make informed policy decisions, Cabinet expects that appropriate consultation has taken place and that key feedback from that consultation has been highlighted in the advice Cabinet considers. The more significant the impact of a proposed change, the greater the need for effective consultation, and the greater the risk of not doing so.

⁴ The Children's Act makes it unlawful to employ a core children's worker if they have an offence outlined in the Act. If a core worker exemption is granted to such a person, they can then be employed as a core children's worker.

- 23 Under the Treaty of Waitangi, the Crown has obligations to consult Māori on any issues that are likely to impact them. A failure to effectively consult may be seen as a breach of the principles of the Treaty and harm the relationship between Māori and the Government. Because about two thirds of the children and young people in state care are Māori, any policy changes in the Children's portfolio will usually have a material impact on Māori.
- 24 Any consultation documents must be approved by Cabinet before they are published.⁵ The time needed to prepare the papers for approval, then later summarise the results of the consultation, mean that a consultation process can add four to eight months to policy development. Faster methods of obtaining feedback from key stakeholders are available and can be appropriate for less significant issues, but using these methods for more significant issues increases the risk of poorly informed policy decisions.
- 25 As part of your legislation bids, you must alert Cabinet to the consultation you propose for that Bill and any related risks. For issues that need to be developed over a longer timeframe, full consultation can be built into the policy development timetable. For issues that you wish to progress quickly, you will need to decide how to balance the risks of less consultation with a faster timetable. For any Bill that you would like to introduce to Parliament this year, there would not be time to conduct public consultation in advance of seeking Cabinet policy decisions. However, we would be able to conduct targeted engagement with a small number of key stakeholders as part of the policy design process.
- 26 For issues that you wish to progress quickly, we recommend that officials be able to engage with a small number of the most affected stakeholders as part of the policy development process, rather than publishing a formal consultation document and seeking public consultation. The stakeholders we recommend that officials can engage with are listed in Appendix Four Note, however, that it won't necessarily be possible for officials to engage with all of these groups in the time available. Particularly for any Bill that you wish to enact by the end of the year, the ability to conduct meaningful engagement with these groups will be limited.
- 27 Before deciding what issues you would like to progress quickly, you may wish to consult other relevant Ministers on their expectations for consultation regarding those issues.

Consultation through select committee

- 28 The select committee process is the other standard opportunity for public consultation. The expectation is that a Bill be considered at select committee for six months. However, for any amendments you wish to enact this year, there won't be enough time for the relevant Bill to spend that long in select committee. All legislation bids proposing to refer a Bill to select committee for less than six months must be discussed with the Office of the Leader of the House first, and the outcomes of that discussion recorded in the bid.

s9(2)(f)(iv)

29 s9(2)(f)(iv)

⁵s9(2)(f)(iv)

30 Out of scope - Information not related to the repeal of s7AA

31 We recommend that you seek priority **s9(2)(f)(iv)** described further below—

- a Bill repealing section 7AA to be passed as a Government priority by the end of 2024
- **s9(2)(f)(iv)**
- **s9(2)(f)(iv)**
- **s9(2)(f)(iv)**

We recommend you seek priority for a Bill to be passed by the end of 2024 that solely repeals section 7AA of the Act

32 Because repealing section 7AA only requires simple drafting, a Bill that includes that issue and no others could be drafted sooner than a Bill that includes other issues. Once introduced to Parliament, a stand-alone amendment would also be free from any delays caused by the consideration of other issues.

33 Against that is the fact that repealing section 7AA on its own could be considered an inefficient use of Parliament's time. Other amendments we understand you would like to enact this year are likely to progress through Parliament at almost exactly the same time. However, Cabinet may still support a stand-alone amendment on the grounds that repeal is a commitment in the coalition agreement. You may wish to test other Ministers' thinking on this.

Consultation

34 Stakeholders have strong feelings about the proposed repeal and will expect to have their views heard. However, given the commitment in the coalition agreement, stakeholders may also view consultation as redundant and a court would be unlikely to consider that consultation is genuine. For those reasons, Cabinet may consider that public consultation at select committee is sufficient.

35 You may also wish to consider the claims that iwi have filed with the Waitangi Tribunal (the Tribunal). Although the Tribunal's process and findings cannot prevent the Government from progressing with repeal, the speed with which you progress repeal and your approach to consultation may increase the likelihood of the Tribunal finding that the Crown has breached the Treaty.

Priority

- 36 If you prefer not to undertake public consultation prior to seeking Cabinet approval, we expect a Bill that solely repeals section 7AA could be ready for introduction to Parliament by the middle of this year. That would open the possibility of enacting the repeal by the end of the year. s9(2)(f)(iv)

[Redacted]

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Select committee

- 37 Before submitting your bid, you would need to consult the Office of the Leader of the House to confirm their support for this Bill to be referred to select committee for only 4 months.

Alternatives

- 38 If you prefer to undertake public consultation, that would likely add another 4-5 months to the process. As this could align it with the timing of other Bills below, it is likely to reduce the case for progressing repeal in a Bill on its own. If you did still want to bid for a stand-alone Bill in this scenario, you would need to seek a lower priority s9(2)(f)(iv)

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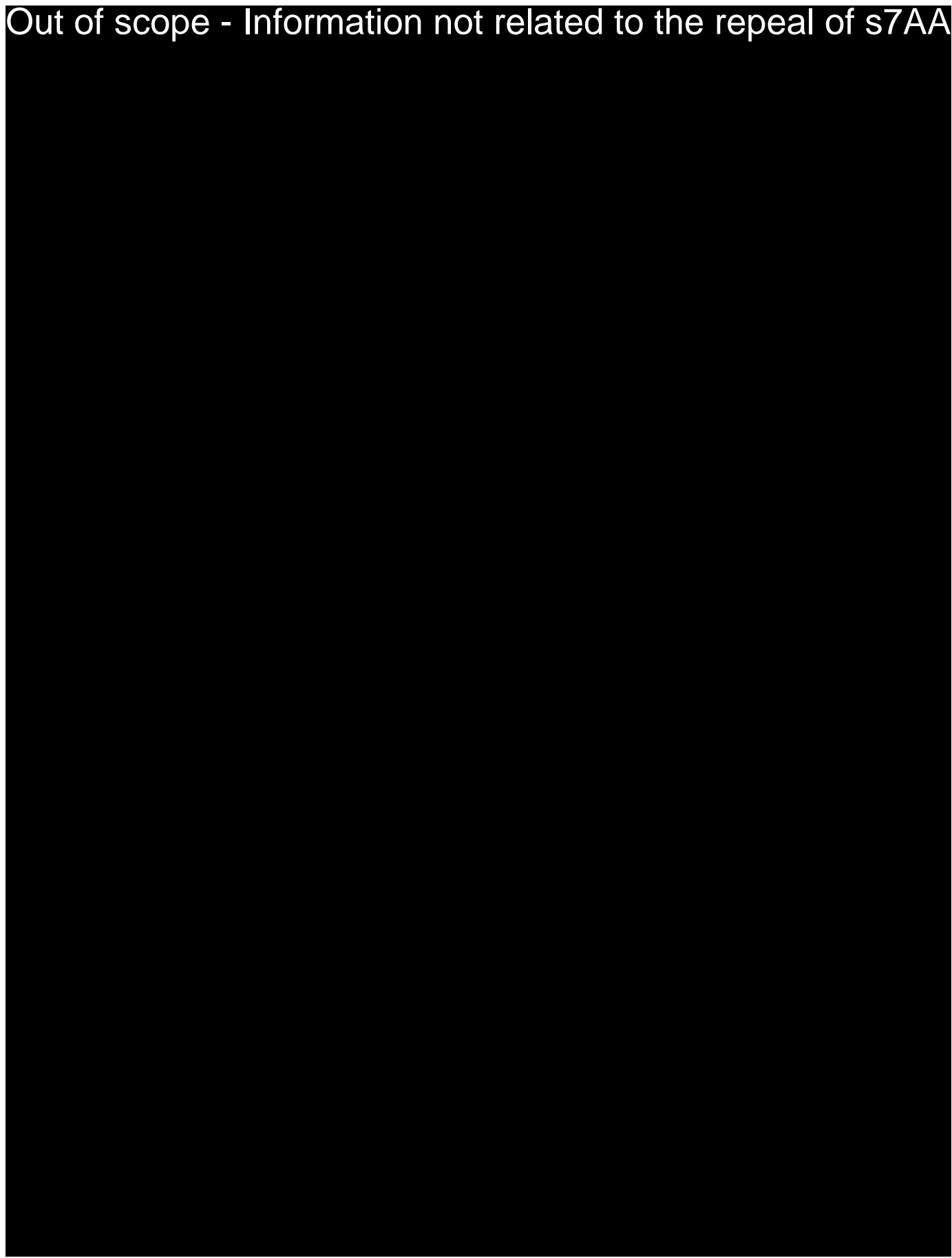
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The next step is to finalise the bids and submit them to the Cabinet Office

60 The first step is to consult the Office of the Leader of the House on whether they support s9(2)(f)(iv) being referred to select committee for less than six months. You may also wish to consult him and other relevant Ministers on whether they would support a Bill that solely repealed section 7AA s9(2)(f)(iv), and on your proposed approach to public consultation.

61 s9(2)(f)(iv)

62 s9(2)(f)(iv)

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In Confidence

Office of the Minister for Children

Oranga Tamariki (Repeal of section 7AA) Amendment Bill: Request for priority in the 2024 Legislation Programme

Summary information

- 1 Key details about the bid for legislation are:
 - 1.1 the portfolio of sponsoring Minister: Minister for Children
 - 1.2 the department responsible: Oranga Tamariki–Ministry for Children (Charlotte Beaglehole, 027 352 4576)
 - 1.3 the title of the proposed Bill: Oranga Tamariki (Repeal of section 7AA) Amendment Bill
 - 1.4 the proposed ranking of the Bill **s9(2)(f)(iv)**
 - 1.5 whether the Bill is estimated to be small/medium/large and whether of low/medium/high complexity: small and low complexity
 - 1.6 proposed priority for 2024: **s9(2)(f)(iv)** a priority to be passed by the end of 2024
 - 1.7 why the proposed priority is being sought: to meet a commitment made in the National-ACT coalition agreement.

Policy

- 2 The National-Act coalition agreement includes a commitment to “remove section 7AA from the Oranga Tamariki Act 1989” (the ‘Act’). This Bill will enable the Government to deliver that commitment.
- 3 A Cabinet paper seeking the policy decision to support this repeal is expected to be submitted for consideration in March.
- 4 Note that there is significant opposition to the repeal of section 7AA, including claims already made with the Waitangi Tribunal, so the Bill is likely to be contentious as it moves through the parliamentary process.


Need for legislation

- 5 Repealing section 7AA can only be achieved by amending the Act.
- 6 This Bill’s proposed priority **s9(2)(f)(iv)** (a priority to be passed by the end of 2024). This priority reflects that repeal of section 7AA is a commitment in the National-Act coalition agreement.
- 7 Other Bills **s9(2)(f)(iv)** **s9(2)(f)(iv)** unlikely to be enacted until the middle of 2025. Waiting to repeal section 7AA as part of that Bill would cause unnecessary delay for this coalition commitment.

Compliance

- 8 It is anticipated that the Bill will comply with each of the following:
- 8.1 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 8.2 the principles and guidelines set out in the Privacy Act 2020;
 - 8.3 the relevant international standards and obligations; and
 - 8.4 except as noted in the following paragraph, the [Legislation Guidelines \(2021 edition\)](#), which are maintained by the Legislation Design and Advisory Committee.

9 s9(2)(h)



Binding on the Crown


- 10 The Oranga Tamariki Act 1989 is binding on the Crown. Repeal of section 7AA will not change the binding nature of the Act on the Crown.

Consultation

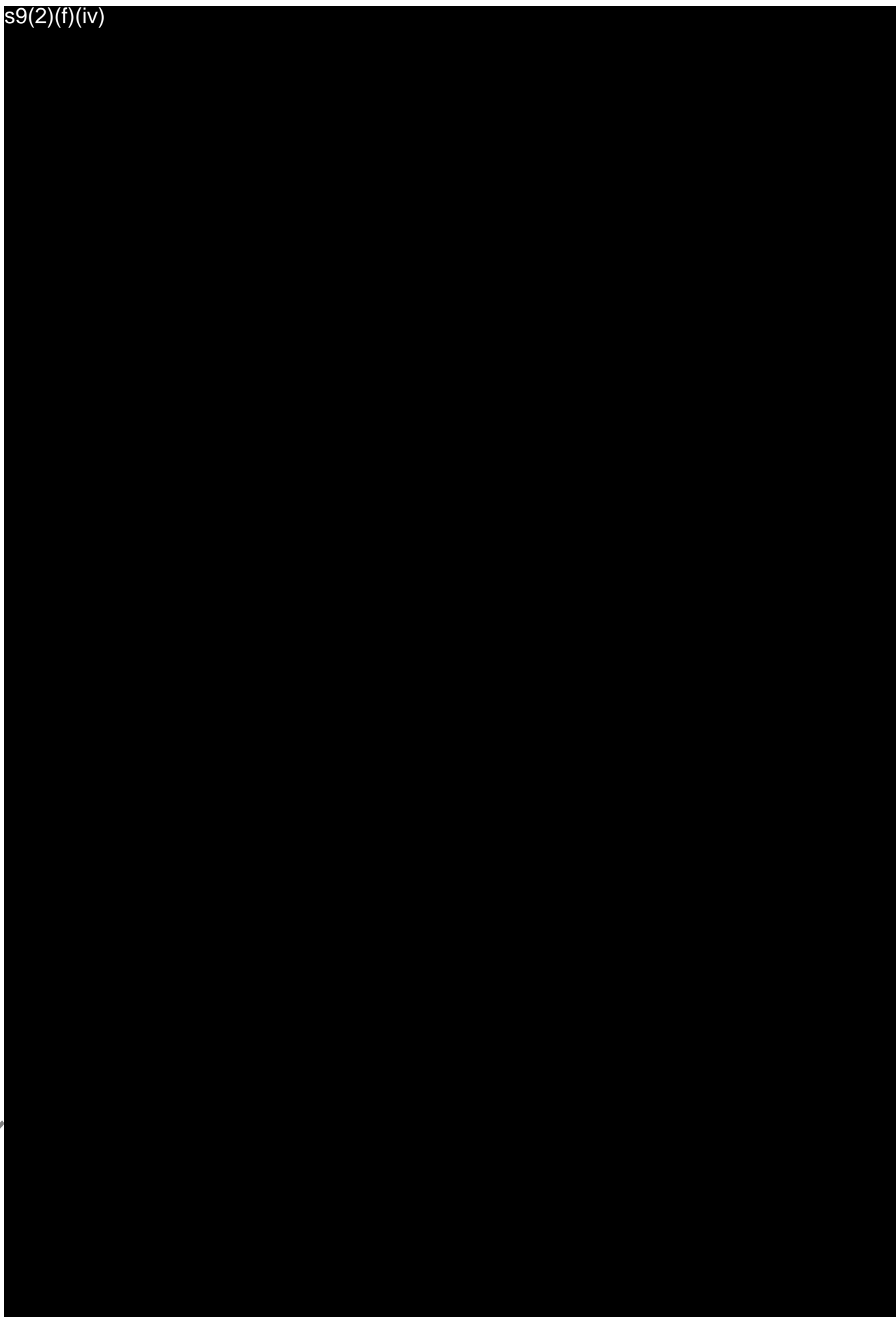
- 11 Repeal of section 7AA was proposed in the Act Party's manifesto and campaigned on during the 2023 General Election campaign. No further consultation is proposed prior to the Bill being referred to select committee. A failure to effectively consult with Māori may be seen as a breach of the principles of the Treaty and harm the relationship between Māori and the Government. However, given the public commitment to repeal section 7AA in the coalition agreement, any consultation is unlikely to be considered genuine.
- 12 Relevant government departments will be consulted before policy decisions are sought from Cabinet. Standard consultation processes with other Ministers and across the coalition parties will also be undertaken.
- 13 The Bill will not be referred to the Legislation Design and Advisory Committee for advice. Drafting of the repeal will be straightforward and it will have little impact on other legislation.

Timeline

14 s9(2)(f)(iv)



s9(2)(f)(iv)

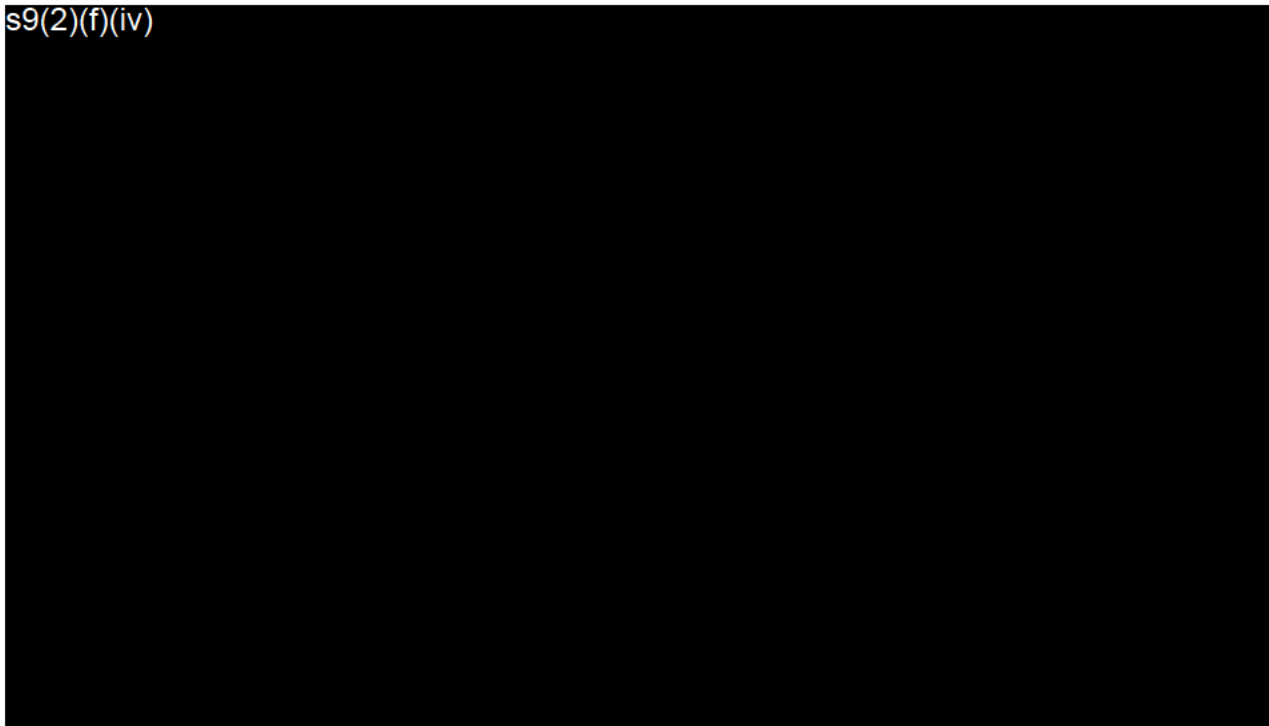


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Recommendations

15 The Minister for Children recommends that the Committee:

15.1 note that the Oranga Tamariki (Repeal of Section 7AA) Amendment Bill will remove section 7AA from the Act;

15.2 s9(2)(f)(iv)

15.3 s9(2)(f)(iv)

15.4 note that the recommended priority is sought to fulfil a commitment in the National-Act coalition agreement;

15.5 s9(2)(f)(iv)

15.6 s9(2)(f)(iv)

15.7 s9(2)(f)(iv)

Authorised for lodgement

Hon Karen Chhour
Minister for Children

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