

Regulatory Impact Statement: Amendments to the Child Protection (Child Sex Offender Government Agency Registration) Act 2016

Coversheet

Purpose of Document	
Decision sought:	Analysis produced for the purpose of informing final Cabinet decisions.
Advising agencies:	New Zealand Police
Proposing Ministers:	Minister of Police
Date finalised:	19 October 2022
Problem Definition	
<p>The recommendations from a three-year evaluation of the Child Sex Offender Register (the Register) included the need for <i>refinements to legislation to better support the operation of the Register and Risk Management Framework (RMF)</i>. This was supported by feedback from Registry and case management staff, registered offenders, government agencies and external legal advice.</p> <p>While Police consider that the Act is generally working well, some of the provisions:</p> <ul style="list-style-type: none">• are unnecessarily complex, inconsistent and/or contradictory, which can result in misunderstandings and inconsistency of practice• contain outdated terminology that leaves the provisions open to legal challenge• have gaps that make it difficult for information to be verified and for risks to be proactively managed. <p>There are also four offences that closely align to existing qualifying offences that need to be included in Schedule 2 of the Child Protection (Child Sex Offender Government Agency Registration) Act 2016 (the Act) . This will ensure that the risks from those convicted of these offences can be proactively managed by the Register.</p> <p>Legislative amendments are required to effectively address these problems.</p>	

Executive Summary

The purpose of the Act is to establish a Child Sex Offender Register that will reduce sexual reoffending against child¹ victims, and the risk posed by serious child sex offenders, by:

- providing government agencies with the information needed to monitor child sex offenders in the community, including after the completion of their sentence, and
- providing up-to-date information that assists New Zealand Police (Police) to more rapidly resolve cases of child sexual offending.

The Register commenced operation in 2016. As directed by Cabinet, a three-year evaluation of the Child Sex Offender Register was undertaken, and the findings were reported back to Cabinet on 20 October 2021. One of the recommendations from the evaluation was to *consider refinements to the Act to better support the operation of the Register and Risk Management Framework*.

Overall, Police considers that the Register is functioning as intended. However, the experience gained from applying the legislation for over six years, and the findings from the three-year evaluation have shown that there are aspects of the legislation that are overly complex and difficult to understand. There are also gaps in the legislation and areas that require updating to reflect evolving technology.

Proposed amendments

Twenty-six largely administrative amendments have been identified, and four additional offences are proposed for inclusion in Schedule 2: Qualifying offences. Only ten of the amendments (including the four additional qualifying offences) require a Regulatory Impact Analysis. The remaining amendments have been exempted by the Treasury on the grounds that they have no, or only minor, impact on individuals, or are suitable for inclusion in a Statutes Amendment Bill (see Appendix One for the list of exempted amendments).

The proposed amendments will improve the clarity of the Act and enhance the standard and consistency of practice by the Register, district case managers and probation officers that supervise registered offenders. They will also assist registered offenders to more easily comply with the requirements placed on them by the Act. This will help to ensure that the Register better achieves the Act's purpose of protecting public safety, particularly the sexual safety of children.

It is proposed that the amendments, with the exception of the four additional qualifying offences, be retrospective and therefore apply to all current registered offenders, as well as those registered after the commencement date. However, existing registered offenders will only be required to comply with the new requirements and provide additional relevant personal information from the date of enactment. They will not be required to provide historical details back to their date of registration.

Managing two separate groups of registered offenders (those registered prior to, and those registered after, the new legislation comes into force) would result in the Register being unable to identify or manage the risks presented by one group of registered offenders to the same extent as those risks presented by the other group. This could leave children exposed to unnecessary risk and ultimately impact the level of trust placed in the Register, as public expectation will be that all registered offenders are subject to the same requirements.

¹ Section 4 of the Act defines a child as a person under the age of 16 years.

Transitional arrangements will be addressed when drafting the Bill and will aim to have the least impact possible on existing registered offenders.

The retrospective nature of most amendments is likely to engage the New Zealand Bill of Rights Act 1990 – specifically sections 26(2) (Freedom from double jeopardy) and 25(g) (Right to benefit from a lesser penalty when penalties change). It is expected that the Attorney-General will present a section 7 report noting the inconsistencies with the Bill of Rights Act 1990.

Police considers that the imposition of retrospective amendments is justified and proportionate under section 5 of the Bill of Rights Act 1990, when balanced against the objectives of the Act. While the evidence for the effectiveness of the Register is unknown at this stage, the harm to children from sexual offending is acknowledged as severe.

Limitations and Constraints on Analysis

Consultation

Information about the effectiveness of the legislation and the need for some amendments came from the evaluation, and from:

- Register and case management staff
- registered offenders
- government agencies, such as the New Zealand Customs Service
- external legal advice.

Most amendments are technical or minor changes to clarify the legislation, or to address anomalies, gaps or risks that have been identified. The amendments align with the existing policy intent of the legislation. The amendments will not significantly alter the existing impact of the legislation for any particular population group.

There has been no widespread consultation with other stakeholders or the public due to the administrative and/or technical nature of the proposals.

Government agencies, and the Office of the Privacy Commissioner and Office of the Disability Commissioner have been consulted on the RIA. The feedback received has been reflected in the RIA where appropriate.

Impact on Māori

This paper proposes technical or minor amendments to an existing Act, and as such does not alter the policy intent of the legislation or the implications for the Treaty of Waitangi.

The amendments will not significantly alter the existing impact of the legislation for registered offenders who are Māori.

It is recognised that some of the required personal information provided by a Māori individual on the Register must be treated as a taonga, as the personal information relates to a person's whakapapa. Mātauranga Māori is not generally considered to be owned by the individual concerned but held by them as kaitiaki on behalf of past, current and future generations.

Some of the 26 amendments included in the Cabinet paper will contribute to keeping this information safe and ensuring that the information provided is only used for the purpose intended (e.g. allowing a registered offender to request electronic communication rather than letter, to better protect the security of that information). The specific amendments and four additional qualifying offences contained in this RIA will contribute to keeping tamariki and

whanau safe (e.g. notification of the principal caregiver for any child residing at an address to which a registered offender intends to travel).

Limitations on supporting data

There have been some limitations on the data available to support the RIA due to the developing nature of the Child Sex Offender Management system (CSOM). The evaluation also noted this, recommending a review of the CSOM to allow for more efficient, accurate and sophisticated monitoring and to enable an accurate reporting capability as required. Work is currently underway to increase IT capability.

Limitations on analysis

Nine of the ten proposals only provide one option as an alternative to the status quo. This is because of the specific and largely self-explanatory nature of the issues involved. There is one proposal relating to overseas travel, where two alternatives to the status quo are provided.

The four additional qualifying offences proposed for inclusion in Schedule 2 have been identified as gaps in the legislation by the Register, other 'specified agencies' (under section 43 the Act), or from external legal advice. The additional offences all support existing offences that qualify for registration and are therefore consistent with the intent of the Act.

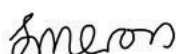
Responsible Manager(s) (completed by relevant manager)

Jenny Cross

Manager Criminal Justice Policy

Policy and Partnerships

New Zealand Police



25/10/22

Quality Assurance (completed by QA panel)

Reviewing Agency:	New Zealand Police
Panel Assessment & Comment:	<p>The Regulatory Impact Statement: Amendments to the Child Protection (Child Sex Offender Government Agency Registration) Act 2016 was reviewed by Carolyn Read and Katie Gunatunga.</p> <p>We have assessed the RIS as: MEETS</p> <p>We considered that the RIS is complete and contains all relevant information to enable informed decision making.</p>

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

The Act came into force on 14 October 2016. The purpose of the Act is to establish a Child Sex Offender Register (the Register) that will reduce sexual reoffending against child victims and the risk posed by serious child sex offenders, by:

- providing government agencies with the information needed to monitor child sex offenders in the community, including after the completion of their sentence
- providing up-to-date information that assists Police to more rapidly resolve cases of child sexual offending.

The Act requires that a person who is convicted of a qualifying offence and sentenced to imprisonment, be automatically registered. Those convicted of a qualifying offence and sentenced to a non-custodial offence may be registered at the discretion of the sentencing judge. The registered offender remains on the Register for eight or 15 years, or life, depending on the seriousness of the offence committed and the sentence.

During this period, the registered offender is required to provide the range of personal information listed in section 16 of the Act and update the Register whenever this information changes. The registered offender is also required to report in person to the Register when first released from prison, or upon sentence, and usually every twelve months until the completion of the registration period. There are also specific requirements related to domestic and overseas travel.

It is an offence to fail to comply with reporting obligations (maximum penalty of 1 year imprisonment or a fine of up to \$2,000), and to provide false or misleading information (maximum penalty of 2 years' imprisonment or a fine of up to \$4,000).

The Act's effectiveness relies on the quality and integrity of the personal information reported by registered offenders. This information can be shared between specified agencies when required to identify and manage the risks associated with registered offenders living in the community. Where there are gaps in the information, or where the information cannot be verified, the risks to the sexual safety of children and youth in the community may not be identified.

The Register has now been operating for six years. A process evaluation was completed after year three, with refinements to the legislation recommended.

If these amendments are not made to the Act, the current gaps in the legislation will remain, making it more difficult to effectively manage the risks presented by registered offenders. As the references to technology become further outdated, opportunities to avoid the reporting requirements will increase, or be open to challenge. The lack of clarity in some areas of the legislation will result in additional inconsistency in practice across the country, and place greater pressure on both Police and the Department of Corrections'² resources as practitioners and registered offenders' attempt to interpret the requirements.

The Act has required amendment under urgency on two occasions, in 2017 and 2021, to address issues of clarity in relation to the retrospective provisions in the Act. These current

² The Department of Corrections takes the lead case management role for the Register while the registered offender remains subject to a sentence or order. Police takes the lead role once that sentence or order is completed.

amendments will help to ensure that issues with the legislation are addressed to mitigate the need for urgent amendments in the future.

What is the policy problem or opportunity?

While the Act is generally working well, some of the provisions are unnecessarily complex, inconsistent and in some cases, contradictory. **s.6(c) OIA**

[REDACTED] This causes difficulties for those operating the Register, as well as for registered offenders who need to be clear about their requirements in order to comply.

There are also some gaps in the information that registered offenders are required to report, which makes it difficult for information to be verified. Additionally, there are four offences which are not included in Schedule 2: Qualifying Offences, despite closely aligning to offences that are currently included as qualifying offence. There is value in ensuring consistency in approach for qualifying offences.

The identified amendments to the Act would provide more clarity and certainty around the requirements of the Act and address the current inconsistencies and gaps in legislation. This would benefit the Register, specified agency partners, and registered offenders by enhancing the operation of the Register and the consistency of practice across the country.

What objectives are sought in relation to the policy problem?

The overall objective of the amendments to the Act is to enhance the sexual safety of children by reducing reoffending by registered child sex offenders living in the community.

The amendments to the Act will help to achieve this by clarifying and simplifying some the provisions of the Act which will assist the Register to better manage registered offenders. It will also assist registered offenders to more easily comply with the requirements placed on them by the Act. The amendments will also fill some gaps in the legislation that have been identified and address outdated terminology around the internet and social media, to ensure that risk is more effectively identified and able to be proactively managed.

Section 2: Deciding upon an option to address the policy problem

What criteria will be used to compare options to the status quo?

Options will be compared based on the extent to which they meet the original policy intent, are efficient, and are equitable, as follows:

Meet the original policy intent	<p>The extent to which the proposal will:</p> <ul style="list-style-type: none"> • contribute to protecting the sexual safety of children • add value to the current information provided by registered offenders • increase the ability of specified agencies to monitor and manage the risks presented by registered offenders living in the community and traveling overseas.
Efficiency	<p>The extent to which the information will:</p> <ul style="list-style-type: none"> • allow the Register to better and more readily fulfil its obligations under the Act • assist registered offenders to comply with the requirements of the Act. <p>The ease of implementation (procedurally simple), taking into account the impact on funding and resourcing for Police, and transitional arrangements for existing registered offenders.</p>
Equity	<p>The extent which the proposals:</p> <ul style="list-style-type: none"> • are equitable for different population groups • are a proportionate response to presenting risk • recognise and, to the extent possible, address any potentially negative impacts on the rights of existing registered offenders.

The following criteria will be used:

- ++** much better than doing nothing/the status quo/counterfactual
- +** better than doing nothing/the status quo/counterfactual
- 0** about the same as doing nothing/the status quo/counterfactual
- worse than doing nothing/the status quo/counterfactual
- much worse than doing nothing/the status quo/counterfactual

What scope will options be considered within?

A full review of the Act has not been undertaken. The proposed amendments relate mostly to the practical application of the Act over the past six years, reflecting the experience of Register staff, district case managers, authorised Department of Corrections staff, registered offenders, and the findings from the evaluation.

At this stage there is no evidence to support major amendments or a full review of the Act. Longitudinal research is currently underway. A report on the first five years of recidivism data from the longitudinal study, based on reconviction and reimprisonment rates, will likely be available in 2027. This report will provide indicative (though not statistically significant) reoffending data.

What options are being considered?

Cabinet approval is being sought for a total of 30 amendments to the Child Protection (Child Sex Offender Government Agency Registration) Act 2016.

Twenty amendments are exempt from regulatory impact analysis requirements

Twenty amendments are technical or minor. They have been granted a Regulatory Impact Analysis (RIA) exemption by Treasury on the grounds that the proposed amendments have no, or only minor, impact on individuals, or are suitable for inclusion in a Statutes Amendment Bill (see *Appendix One* for the list of exempted amendments).

Ten amendments require regulatory impact analysis

The following ten amendments require a RIA:

Additional information to be reported by registered offenders:

- attendance at education, training and/or voluntary work
- if a child will be residing at the registered offender's address 48 hours *prior* to this occurring (where possible), rather than within 72 hours *after* the change of circumstances
- the name of the principal caregiver for any child who is residing at an address where the registered offender is staying while travelling
- when intending to travel overseas, the countries to be visited and the approximate dates in each country
- overseas travel for 48 hours or less.

Wording to be updated:

- replace the existing words '*routing or modem device*' with the words '*any devices capable of accessing the internet*' and replace the existing words '*social networks*' with the words '*any online accounts, which includes but is not limited to online social networks.*'

Additional qualifying offences to be added to Schedule 2 of the Act:

- add *Prostitution Reform Act 2003* sections 20, 21 and 22, prohibitions on use in prostitution of persons under the age of 18 years, where the victim is under 16 years
- add *Crimes Act 1961* section 98AA, Dealing in people under 18 for sexual exploitation where the victim is under 16 years
- add *Crimes Act 1961*, section 216H, making of intimate visual recordings, where the victim is under 16 years of age
- add *Customs and Excise Act 2018* section 95, importation and exportation of objectionable publications, other indecent or obscene articles and goods for dishonest purposes, as it relates to child exploitation material for children and youth under the age of 16 years.

For nine of the ten amendments requiring RIA, only one option has been provided as an alternative to the status quo. This is because of the relatively minor, specific and largely self-explanatory nature of the amendments, to which there are no further viable alternatives.

The four qualifying offences proposed for addition to Schedule 2 have been identified as gaps in the legislation by other specified agencies, from legal advice, and by the Register. The additional offences all align with existing offences that currently qualify for registration and are therefore consistent with the intent of the Act. There are no options provided other than the status quo as these are specific offences relevant to the purpose of the Act. Additional offences could be considered, but this would risk potential net-widening.

What options are being considered and how do they compare

a) Add to section 16(1) the requirement to report attendance at education, training courses and/or voluntary work

<p>Proposal context</p>	<p>Currently, while registered offenders are required under section 16(1) to report such things as address, employment, and the clubs and organisations to which they are affiliated, there is no requirement for a registered offender to report if they are attending education, a training course and/or undertaking voluntary work.</p> <p>A requirement to report this additional information will help identify where a registered offender may present a significant risk to the sexual safety of children. For example, where a training course may be alongside children or youth, or the voluntary work is undertaken in an environment likely to include children, such as a gardener in a school.</p>	
<p>What options are being considered?</p>	<p><u>Status Quo</u>: Section 16 does not require registered offenders to report their attendance at education, training courses or voluntary work. Therefore an accurate risk assessment is reliant on voluntary disclosure.</p> <p><u>Option 2</u>: Include in section 16(1) the requirement to report to the Register attendance at education, training courses, and/or voluntary work.</p>	
<p>Analysis of options against criteria*</p> <p>*Key for qualitative judgements:</p> <p>++ much better than doing nothing/the status quo/counterfactual</p>	<p style="text-align: center;">Option 1 (Status Quo)</p> <p><u>Original policy intent</u>: 0</p> <p>Maintaining the status quo means that the Register will not know if registered offenders are attending education, training courses and/or voluntary work that pose a risk to the sexual safety of children and will not be able to take action to manage those risks if required.</p>	<p style="text-align: center;">Option 2 (Proposed Amendment)</p> <p><u>Original policy intent</u>: ++</p> <p>Option 2 reflects the intent of the Act and is consistent with other relevant personal information that a registered offender is required to report (for example address, employment, and the clubs and organisations to which they are affiliated).</p> <p><u>Efficiency</u>: ++</p> <p>The Register will have the information they require to monitor and, if necessary, manage any risks associated</p>

<p>+ better than doing nothing/the status quo/counterfactual</p> <p>0 about the same as doing nothing/the status quo/counterfactual</p> <p>- worse than doing nothing/the status quo/counterfactual</p> <p>- - much worse than doing nothing/the status quo/counterfactual</p> <p>Overall assessment:</p>	<p><u>Efficiency: 0</u></p> <p>The Register will remain unable to monitor and manage this risk unless the information is volunteered by the registered offender.</p> <p><u>Equity: 0</u></p> <p>Registered offenders will not be required to report attendance at education/training courses or voluntary work.</p> <p>Option 1: 0</p>	<p>with a registered offender attending education/training courses or voluntary work, that involves contact with children or youth.</p> <p><u>Equity: -</u></p> <p>This amendment will require all registered offenders who attend education/training courses or voluntary work, to provide additional personal information and potentially, where a risk is identified, have the Register involved in additional aspects of their lives.</p> <p>Given the retrospective approach being proposed, this will further impact on some existing registered offenders by requiring new information that was not required when they were initially registered. Failure to provide this information, without reasonable excuse, will be an offence under section 39 of the Act.</p> <p>Some registered offenders will be attending education/training or voluntary work when the amended legislation comes into force. A risk assessment will be undertaken by the Register, and where a risk is identified this will be managed on a case-by-case basis balancing the rights and wellbeing of the registered offender with the risk to the sexual safety of children with whom they may come into contact.</p> <p>Option 2: +++</p>
<p>What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?</p>	<p>Option 2 will ensure that any risks to the sexual safety of children, associated with the registered offenders' attendance at education, training courses, or voluntary work, can be assessed and managed. Reporting such attendance aligns with required reporting of other daily life activities, such as employment or membership of organisations. It therefore should not significantly affect the reporting practices of the registered offender.</p>	

<p>What are the marginal costs and benefits of the option?</p>	<p><u>Costs</u>: resources would be required to monitor and manage an additional activity for some registered offenders. Requires registered offenders to provide additional information that may be perceived to impact their privacy.</p> <p><u>Benefits</u>: allows the Register to collect information about a registered offender's regular activities in order to proactively manage situations where a significant risk to the sexual safety of children is identified. May assist the registered offender to reconsider placing themselves in a situation where they are at risk of reoffending.</p>
--	--

b) Amend section 16(1)(n) and (o) to update the terminology to reflect technological advances

<p>Proposal context</p>	<p>Social media is a significant enabler of child sex offending. The ability to accurately identify and monitor the use of internet accounts/online social media activity (if required) is critical to the purpose of the Act, which is to provide government agencies with the information needed to monitor child sex offenders in the community, and to assist with the rapid resolution of cases of child sex offending.</p> <p>It has been over six years since the Act was enacted. Since that time, electronic communication has evolved and become more sophisticated. s.6(c) OIA [REDACTED]</p>
<p>What options are being considered</p>	<p><u>Status Quo:</u></p> <p>The language of the Act is outdated and no longer accurately reflects internet usage by registered offenders.</p> <p>s.6(c) OIA [REDACTED]</p> <p><u>Option 2:</u></p> <p>An amendment to the wording is proposed s.6(c) OIA [REDACTED]</p> <p>It is proposed to update the wording in</p> <ul style="list-style-type: none"> • section 16(1)(n) - to replace the existing words <i>routing or modem device</i> with the words <i>any device capable of accessing the internet</i>, and • section 16(1)(o) by replacing the existing words <i>online social networks</i> with the words <i>online accounts, which includes, but is not limited to, online social networks (online social networks are online platforms to connect or communicate or broadcast with others)</i>.

Analysis of options against criteria*	Option 1 (Status Quo)	Option 2 (Proposed Amendment)
<p>*Key for qualitative judgements:</p> <p>++ much better than doing nothing/the status quo/counterfactual</p> <p>+ better than doing nothing/the status quo/counterfactual</p> <p>0 about the same as doing nothing/the status quo/counterfactual</p> <p>- worse than doing nothing/the status quo/counterfactual</p> <p>-- much worse than doing nothing/the status quo/counterfactual</p>	<p><u>Original policy intent: 0</u></p> <p>Maintaining the status quo means that the Register will not be able to access the full extent of a registered offender's relevant internet activities (if necessary), reducing Police's ability to proactively identify and manage any risk observed through online activities.</p> <p><u>Efficiency: 0</u></p> <p>The Register will not be able to fully identify and manage the registered offender's risks in relation to the use of social media.</p> <p><u>Equity: 0</u></p> <p>Registered offenders will only be required to report the information that is currently required.</p>	<p><u>Original policy intent: ++</u></p> <p>These amendments will s.6(c) OIA provide the Register with the information they require when/if a significant risk to the sexual safety of a child or children is identified.</p> <p><u>Efficiency: +</u></p> <p>The Register will have access to the information they require to monitor and if necessary, better manage any risks associated with a registered offender's use of social media.</p> <p><u>Equity: -</u></p> <p>This amendment will require all registered offenders who access the internet and hold online accounts, to provide additional personal information to the Register. This information will allow the Register to access more detailed and accurate information about their use of social networks, where a significant risk has been identified.</p> <p>Given the retrospective approach being proposed, this will further impact on some existing registered offenders by requiring new information that was not required when they were initially registered.</p>

<p>Overall assessment:</p>	<p>Option 1: 0</p>	<p>Failure to provide this additional information will be an offence under section 39 of the Act. As with the general approach of the Register, there would be consideration of the circumstances on a case-by-case basis.</p> <p>Option 2: ++</p>
<p>What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?</p>	<p>Option 2 will ensure that any risks to the sexual safety of children, associated with the registered offenders' access to the internet and use of social media, can be assessed and managed.</p>	
<p>What are the marginal costs and benefits of the option?</p>	<p><u>Costs:</u> minimal resources will be required as this information is already largely reported. Will require registered offenders to provide more detailed information that may potentially impact their privacy.</p> <p><u>Benefits:</u> allows the Register to proactively manage situations more effectively where a significant risk to the sexual safety of children is identified. The updated terminology will be more reflective of current technology, enabling more specific collection of information to prevent potential harm to children through the use of social networks and online activity.</p>	

c) Amend section 20(1)(b) to require a registered offender to report that a child will be living at their address, 48 hours prior to the child’s arrival, rather than 72 hours after the event

<p>Proposal context</p>	<p>Section 20(1)(b) requires a registered offender to notify the Register within 72 hours of their arrival, that a child is residing at their address, and the name and contact details for the principal caregiver for that child. This is inconsistent with the intent of the Act, as the registered offender may present a risk to the child during those 72 hours prior to notification.</p> <p>If the Register is informed of the arrival of the child (where possible) in advance, there could be an opportunity for intervention to prevent potential harm to the sexual safety of the child or children.</p>	
<p>What options are being considered?</p>	<p><u>Status Quo:</u></p> <p>The status quo does not require a registered offender to report that a child is residing at their address until 72 hours after the child has moved in. This presents a potential risk to the sexual safety of the child or children.</p> <p><u>Option 2:</u></p> <p>It is proposed that the registered offender be required to notify the Register of the intention for a child to reside at the same address, and the name and contact details for the child’s principal caregiver, 48 hours prior to the child’s arrival, or immediately upon the child’s arrival, if there has been no prior notice.</p> <p>This amendment is consistent with section 20(1)(a) which requires a registered offender to notify a change of address 48 hours prior to moving, and 21(2)(c), which requires the registered offender to notify the Register 48 hours prior to any domestic travel, including the presence of any child at the proposed address.</p>	
<p>Analysis of options against criteria*</p>	<p style="text-align: center;">Option 1 (Status Quo)</p> <p><u>Original policy intent:</u></p>	<p style="text-align: center;">Option 2 (Proposed Amendment)</p> <p><u>Original policy intent:</u> ++</p> <p>The proposed approach addresses the current concerns around the status quo by amending the Act so</p>

<p>*Key for qualitative judgements:</p> <p>++ much better than doing nothing/the status quo/counterfactual</p> <p>+ better than doing nothing/the status quo/counterfactual</p> <p>0 about the same as doing nothing/the status quo/counterfactual</p> <p>- worse than doing nothing/the status quo/counterfactual</p> <p>-- much worse than doing nothing/the status quo/counterfactual</p>	<p>Does not meet the original policy intent as a child may be residing with a registered offender 72 hours prior to the Register being notified.</p> <p><u>Efficiency: 0</u></p> <p>The Register is unable to manage the potential risks associated with a child residing with a registered offender until 72 hours after the child has moved in with the registered offender. This precludes the proactive management of risk as there is no opportunity for the Register to discuss the risks with the registered offender, or if necessary, the child's principal caregiver.</p> <p><u>Equity: 0</u></p> <p>Registered offenders will only be required to report the required information within 72 hours after the fact.</p>	<p>that section 20(1)(b) is consistent with other similar sections of the Act, e.g. section 20(1)(a) and 21(2)(c).</p> <p><u>Efficiency: ++</u></p> <p>Earlier notification will assist the Register to carry out an assessment of the risks and ensure that, where necessary, the child's principal caregiver is aware that a registered offender is residing at the address where the child is intending to reside, prior to the child's arrival.</p> <p>It will also provide the opportunity for the Register case manager to discuss the options and potential risks with the registered offender, and potentially develop a plan to mitigate the risk.</p> <p><u>Equity: -</u></p> <p>This amendment will require all registered offenders who have a child moving to their address, to notify the Register earlier than previously required. The information to be provided will not change, but the timing will.</p> <p>If the Register identifies a risk, they may approach the caregiver to ensure that they are aware of the risks before the child moves in. This may impact on the registered offender - for example, if the principal caregiver decides that the child (and potentially the caregiver) should not reside at that address.</p> <p>It is acknowledged that there may be circumstances where the registered offender is unable to notify the Register 48 hours prior to the child arriving. In this case the Register must be notified as soon as reasonably possible. As with the general approach of the Register,</p>
---	--	--

<p>Overall assessment:</p>	<p>Option 1: 0</p>	<p>there would be a case-by-case approach to circumstances where the registered offender received no prior notification of the arrival of a child at the address.</p> <p>Given the retrospective approach being proposed, this will further impact on some existing registered offenders by requiring notification of the Register sooner than was originally required when they were initially registered. Failure to provide this information within the required timeframe, without reasonable excuse, will be an offence under section 39 of the Act.</p> <p>Option 2: +++</p>
<p>What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?</p>	<p>Option 2 will provide the opportunity for the Register to address any potential risks to the sexual safety of the child, prior to moving to the address, rather than up to 72 hours after the child has arrived at the address.</p>	
<p>What are the marginal costs and benefits of the option?</p>	<p><u>Costs:</u> there will be similar resource requirements as the same risk assessment process will be undertaken, but prior to the child arriving at the address. Requires registered offenders to provide the same information, but up to five days earlier (e.g. removing the 72 hours after arrival and requiring the information 48 hours in advance). This may have an impact on their privacy, the privacy of the principal caregiver, and potentially prevent the child or children from residing at that address.</p> <p><u>Benefits:</u> allows the Register to proactively manage situations where a significant risk to the sexual safety of a child or children is identified, by having the relevant information available to the Register prior to the child arriving at the address. This amendment could have a significant and positive impact on the safety of the child or children intending to reside at the registered offender's address. May assist the registered offender to reconsider placing themselves in a situation where they are at risk of reoffending.</p>	

d) Amend section 21(2)(c) to require the name of the principal caregiver for any child residing at an address to which a registered offender intends to travel

<p>Proposal context</p>	<p>Section 21(2)(c) requires the registered offender to report, 48 hours prior to travelling, whether any child will or is likely to be residing together with the registered offender at the address(es) to which they are travelling. It does not require the registered offender to report the name of the child's principal caregiver. This can make it difficult for the Register to identify the child's principal caregiver to, if necessary, advise them that the registered offender is assessed as presenting a risk to the sexual safety of that child or children.</p> <p>The purpose of section 21(2)(c) is to help protect a particular child, or children, from the risk of sexual reoffending by a registered offender staying at the address. Where the risk of sexual reoffending by the registered offender is assessed as high, the best way to manage this risk is to inform the child's principal caregiver of the potential risk as per section 45 of the Act.</p>
<p>What options are being considered?</p>	<p><u>Status Quo:</u></p> <p>A registered offender is not required to report the name and contact details for the principal caregiver for any child or children residing at an address to which they are travelling.</p> <p><u>Option 2:</u></p> <p>It is proposed that the Act be amended to require that the registered offender be required to report, 48 hours <i>prior</i> to travelling, the name of the principal caregiver for any child or children who will be residing at an address to which the registered offender is proposing to travel.</p> <p>This is consistent with section 16(1)(f) of the Act which requires the registered offender to report the name of the child's principal caregiver if residing at an address where a child will be residing.</p>

Analysis of options against criteria*	Option 1 (Status Quo)	Option 2 (Proposed Amendment)
<p>Analysis of options against criteria*</p> <p>*Key for qualitative judgements:</p> <p>++ much better than doing nothing/the status quo/counterfactual</p> <p>+ better than doing nothing/the status quo/counterfactual</p> <p>0 about the same as doing nothing/the status quo/counterfactual</p> <p>- worse than doing nothing/the status quo/counterfactual</p> <p>-- much worse than doing nothing/the status quo/counterfactual</p>	<p>Option 1 (Status Quo)</p> <p><u>Original policy intent: 0</u></p> <p>Does not meet the policy intent, or the requirement of section 45, of the Act as it does not provide the information needed for the Register to advise a child’s principal caregiver, where necessary, of the risks associated with the registered offenders’ contact with the child when travelling.</p> <p><u>Efficiency: 0</u></p> <p>The Register relies on the registered offender voluntarily reporting the contact details for the child’s principal caregiver, obtaining this information from another source, or deciding not to notify the principal caregiver.</p> <p><u>Equity: 0</u></p> <p>Registered offenders will only be required to report the required information.</p>	<p>Option 2 (Proposed Amendment)</p> <p><u>Original policy intent: ++</u></p> <p>The purpose of section 21(2)(c) is to protect a particular child or children from the risk of sexual reoffending by a registered offender staying at the address. The best way to ensure this, where the risk of sexual reoffending by the registered offender is assessed as high, is to inform the child’s principal caregiver of the potential risk as per section 45 of the Act.</p> <p><u>Efficiency: ++</u></p> <p>The Register will have all of the information required, 48 hours prior to the registered offender travelling, to assess the risks to any affected, child or children, and where necessary, advise the principal caregiver/s of the risks.</p> <p><u>Equity: -</u></p> <p>This amendment will require all registered offenders who intend to travel to a place where a child or children reside, to provide additional information relating to a third person who may or may not be known to the registered offender. For example, the registered offender may stay at a friend’s home but may not know the friend’s flatmate who resides there with her child. This will increase the likelihood, where a risk is</p>

<p>Overall assessment:</p>	<p>Option 1: 0</p>	<p>identified, of the Register notifying the child's principal caregiver of the assessed risk. This could impact on the registered offender's travel plans but could also impact the privacy of the principal caregiver.</p> <p>It is acknowledged that there may be circumstances where the registered offender is unable to notify the Register of a child's principal caregiver 48 hours prior to travel. For example, they may not be aware that there is a child living there, or the child could arrive unexpectedly, and/or the principal caregiver may refuse to have their details reported to the Register. In this case, the Register must be notified as soon as reasonably possible. As with the general approach of the Register, there would be consideration of the circumstances on a case-by-case basis.</p> <p>Given the retrospective approach being proposed, this will further impact some existing registered offenders by requiring notification of the Register of information that is additional to that originally required when they were initially registered. Failure to provide this information, without a reasonable excuse, will be an offence under section 39 of the Act.</p> <p>Option 2: +++</p>
<p>What option is likely to best address the problem, meet</p>	<p>Option 2 is the only option proposed. This amendment addresses a specific gap in the legislation, which has the potential to impact on the sexual safety of a child or children. It aligns with the intent of the Act and enables</p>	

<p>the policy objectives, and deliver the highest net benefits?</p>	<p>the Register to comply with section 45, which requires the disclosure of information to an affected person, including the caregiver, where there is an assessed threat to child safety or welfare.</p>
<p>What are the marginal costs and benefits of the option?</p>	<p><u>Costs</u>: resources allocated to monitor and manage any additional activity for some registered offenders. Registered offenders will be required to provide additional information that may impact on their privacy and could result in a change to their travel plans. There are also privacy impacts for the principal caregiver, as the information will be required to be provided to the Register, and their name and contact details will be recorded.</p> <p><u>Benefits</u>: allows the Register to proactively manage situations where a significant risk to the sexual safety of children is identified, without having to spend time trying to find the identity of the child's principal caregiver. This amendment could have a significant impact on the safety of the child, or children, temporarily residing with a registered offender. The principal caregiver will be given the opportunity to consider the risks of accommodating the registered offender at their premises and control these risks accordingly. May assist the registered offender to reconsider placing themselves in a situation where they are at risk of reoffending.</p>

e) Amend section 23 to require registered offenders to provide more detailed information about their overseas travel plans

<p>Proposal Context</p>	<p>The registered offender is not currently required to provide any details of their itinerary or travel plans while overseas.</p> <p>Sections 21(3) and (4) state that a registered offender must report if they are intending to travel overseas for more than 48 hours and give details of their dates of departure and arrival back in New Zealand (if intending to return). Under section 22, registered offenders are also required to notify the Register if there are any changes to their travel plans.</p> <p>Section 44 of the Act provides that the Commissioner may disclose personal information in the Register to a corresponding registrar or overseas agency for the purposes of informing them of a registered offender's intention to travel, and the risks posed by that registered offender to the lives or sexual safety of one or more children, or of children generally, in that jurisdiction. Each jurisdiction will use this information as appropriate to their legislative requirements. For example, where a registered offender has not previously declared their conviction/s, the jurisdiction may use this information to refuse entry upon arrival.</p> <p>There is currently no requirement for the registered offender to provide any details about where they will be travelling. While some registered offenders provide this information voluntarily, where this information is not provided, it makes it difficult for the Commissioner to meet the obligations of section 44 of the Act. This would seem to be a drafting error.</p> <p>This gap in the travel information provided does not allow the intention of the Act to be realised in terms of preventing, reducing and managing offending against children overseas, especially in vulnerable nations where sexual tourism is common.</p> <p>In 2018, 14 registered offenders travelled overseas, and in 2019, 21 registered offenders travelled overseas. Since COVID-19, the numbers of registered offenders travelling overseas has reduced to just 1-2 per year, but that will start to increase now that borders have re-opened.</p>
-------------------------	---

<p>What options are being considered?</p>	<p><u>Status Quo:</u></p> <p>Currently the Register will ask the registered offender for their travel plans, which they can chose to provide voluntarily. The experience of the Register to date is that some registered offenders are voluntarily providing more information than they are required to, but this may change. However there is no way to confirm the travel plans, and no requirement to notify the Register if their travel plans change (other than dates of departure and return to New Zealand). There are no repercussions for the registered offender if they knowingly provide false or misleading information.</p> <p><u>Option 2 - Require basic travel plans</u></p> <p>This option would require the registered offender to provide information about the countries they will be visiting and the approximate dates and duration in each country. This option would allow for registered offenders to provide the minimum information required to permit meaningful information sharing with overseas jurisdictions. Under section 22, the registered offender would only be required to notify the Register if their plans were to change significantly (e.g. they intended visiting an additional country), and it would be an offence under section 39 to fail to do so.</p> <p><u>Option 3 - Require detailed travel plans</u></p> <p>This option would require the registered offender to provide additional details such as their addresses while overseas, and a full copy of their itinerary. This would allow the Commissioner of Police to provide a greater level of detail to overseas jurisdictions where the risk assessment for the registered offender suggested this may be required. It would also require that the registered offender notify the Register if there were any changes to the detailed plans recorded by the Register and it would be an offence under section 39 to fail to do so.</p>		
<p>Analysis of options against criteria*</p> <p>*Key for qualitative judgements:</p>	<p>Option 1 (Status Quo)</p> <p><u>Original policy intent: 0</u></p> <p>Does not meet the policy intent of section 44 as registered offenders are only required to report the date of their departure and return, not</p>	<p>Option 2 (Basic travel plans)</p> <p><u>Original policy intent: +</u></p> <p>Will provide some additional information about where the registered offender intends to travel, and when, allowing the Register to</p>	<p>Option 3 (Detailed travel plans)</p> <p><u>Original policy intent: ++</u></p> <p>Will provide more detailed information than that reported for option 2 (such addresses for where they are staying each night). This</p>

<p>++ much better than doing nothing/the status quo/counterfactual</p> <p>+ better than doing nothing/the status quo/counterfactual</p> <p>0 about the same as doing nothing/the status quo/counterfactual</p> <p>- worse than doing nothing/the status quo/counterfactual</p> <p>-- much worse than doing nothing/the status quo/counterfactual</p>	<p>the locations to which they are travelling and the dates.</p> <p><u>Efficiency: 0</u></p> <p>Relies on registered offenders voluntarily advising the Register of the locations to which they are travelling and the dates. There is no requirement to report changes to travel plans to the Register while overseas.</p> <p><u>Equity: 0</u></p> <p>Registered offenders will only be required to report the information currently required by the Act.</p>	<p>notify overseas jurisdictions where necessary.</p> <p><u>Efficiency: ++</u></p> <p>Will provide sufficient information to advise overseas jurisdictions of the arrival of a registered offender and the associated risks.</p> <p>This option will not overburden registered offenders by requiring details which they may not have, such as specific addresses, if they are backpacking. The Act does not put any restrictions on how registered offenders travel when overseas, so they are within their rights to, for instance, go on a road trip with no pre-planned accommodation.</p> <p>This option is more likely than option 3 to encourage compliance.</p> <p><u>Equity: -</u></p> <p>This option is less burdensome than option 3 for the registered offender in terms of reporting travel plans prior to travel and reporting changes to the Register during travel.</p> <p>The additional information will allow the Register to more easily notify the overseas jurisdiction/s of any</p>	<p>would allow the Register to pass that information to overseas jurisdictions if necessary.</p> <p><u>Efficiency: +</u></p> <p>Will provide more details than option 2 to pass on to overseas jurisdictions when advising them of the arrival of a registered offender and their associated risks.</p> <p>Less likely than option 2 to encourage compliance, and it would be very difficult to monitor compliance as it would probably depend on an agreement with the overseas jurisdiction to confirm addresses.</p> <p><u>Equity: --</u></p> <p>This option places a greater burden on the registered offender than option 2 in terms of reporting detailed travel plans prior to travel and reporting changes to the Register during travel.</p> <p>The additional information will allow the Register to more easily notify the overseas jurisdiction/s of any assessed risk related to the registered offenders travel. This could impact on the registered offenders' travel plans, for</p>
--	--	--	---

<p>Overall assessment:</p>	<p>Option 1: 0</p>	<p>assessed risk related to the registered offenders travel. This could impact on the registered offenders' travel plans, for instance, they may not be granted entry to the country.</p> <p>Given the retrospective approach being proposed, this will further impact some existing registered offenders by requiring notification to the Register of information that is additional to that originally required when they were initially registered.</p> <p>Failure to report travel plans and notify the Register of changes, without a reasonable excuse, will be an offence under sections 22 or 39 of the Act.</p> <p>Option 2: ++</p>	<p>instance, they may not be granted entry to the country.</p> <p>Given the retrospective approach being proposed, this will further impact some existing registered offenders by requiring notification to the Register of information that is additional to that originally required when they were initially registered.</p> <p>Failure to report detailed travel plans and notify the Register of changes, without a reasonable excuse, will be an offence under sections 22 or 39 of the Act.</p> <p>Option 3: +</p>
<p>What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?</p>	<p><i>Option 2: Require basic travel plans</i></p> <p>This option will provide sufficient information to allow overseas jurisdictions to manage the risks associated with the registered offender. Other arrival information will be obtained as usual by the receiving jurisdiction when a person enters the country - for example, criminal convictions, purpose of travel and contact details.</p> <p>This option will also be flexible enough to allow registered offenders to travel without an extensive pre-planned itinerary, and the requirement to notify the Register of every minor change. This approach is more likely to encourage compliance, by not placing too many reporting requirements on the registered offender.</p>		

<p>What are the marginal costs and benefits of the option?</p>	<p><u>Costs</u>: the Act already provides for the notifying of overseas jurisdictions about the overseas travel of registered offenders. However, this amendment will require resources to enable the Register to provide this information more frequently. The proposed requirement to record changes to overseas travel plans notified by registered offenders while away will also have resource implications for the Register. The provision of additional information will impact on the privacy of the registered offender and may impact on their travel plans.</p> <p><u>Benefits</u>: allows the Register to proactively manage situations where a significant risk to the sexual safety of children in overseas jurisdictions is identified and enables the Register to meet the requirements for disclosing personal information relating to overseas travel, consistent with the requirements of section 44 (b).</p>
--	--

f) Repeal section 21(3) so that all overseas travel must be reported, regardless of duration

<p>Proposal Context</p>	<p>This amendment is related to the previous amendment <i>Increased information to be provided about overseas travel plans</i>. Section 21(3) states that subsection (4) applies if a registrable offender intends to travel out of New Zealand for more than 48 hours.</p> <p>The intent of section 21(4) is to provide the Register with information about the overseas travel plans of registered offenders, to allow for the Register to notify receiving jurisdictions of any risks posed by the registered offender to the sexual safety of children in that jurisdiction. Section 21(3) was originally drafted to avoid placing unnecessary obligations on registered offenders. However, on reflection, it is considered to be inconsistent with the intent of the Act, especially as short-term travel becomes more readily available. It is entirely possible for a registered offender to travel overseas and return to New Zealand within 48 hours, particularly to Australia. In cases such as these, there is no ability for Police to notify the receiving jurisdiction of the potential risks.</p>	
<p>What options are being considered?</p>	<p><u>Status Quo:</u></p> <p>Registered offenders are only required to report overseas travel for more than 48 hours.</p> <p><u>Option 2:</u></p> <p>Repeal section 21(3), to require registered offenders to notify the Register of all overseas travel, regardless of duration.</p>	
<p>Analysis of options against criteria*</p> <p>*Key for qualitative judgements:</p>	<p>Option 1 (Status Quo)</p> <p><u>Original policy intent: 0</u></p> <p>Does not fully meet the intention of the Act as registered offenders can travel overseas for 48 hours without notifying the Register prior to travel.</p>	<p>Option 2 (Proposed amendment)</p> <p><u>Original policy intent: ++</u></p> <p>Allows the Register to more fully meet the policy intent of the Act by being able to advise overseas jurisdictions when a registered offender is travelling overseas, regardless of the duration of the travel</p>

<p>++ much better than doing nothing/the status quo/counterfactual</p> <p>+ better than doing nothing/the status quo/counterfactual</p> <p>0 about the same as doing nothing/the status quo/counterfactual</p> <p>- worse than doing nothing/the status quo/counterfactual</p> <p>-- much worse than doing nothing/the status quo/counterfactual</p>	<p><u>Efficiency: 0</u></p> <p>Does not enable the Register to monitor or manage the risks associated with all overseas travel by registered offenders.</p> <p><u>Equity: 0</u></p> <p>Registered offenders will only be required to report the information currently required by the Act.</p>	<p>(dependent on the passing of the amendment to section 21(4)).</p> <p><u>Efficiency: +</u></p> <p>Will enable the Register to advise overseas jurisdictions of travel by registered offenders where a risk is identified, regardless of the duration.</p> <p><u>Equity: -</u></p> <p>While the Register is unaware of any registered offender previously travelling overseas for 48 hours or less, the lack of reporting requirement means it may have occurred. Therefore, there is potential for this amendment to impact a small number of registered offenders.</p> <p>The additional reporting requirement may cause an inconvenience and discourage the registered offender from travelling.</p> <p>The additional information will allow the Register to more easily notify the overseas jurisdiction/s of any assessed risk related to the registered offender's travel. This may impact the registered offender's travel plans - for instance, they may not be granted entry to the country.</p> <p>Given the retrospective approach being proposed, this will further impact some existing registered offenders by requiring notification of the Register of information that is additional to that originally required when they were initially registered. Failure to provide this information will be an offence under section 39 of the Act. As with the general approach of the Register,</p>
--	--	--

<p>Overall assessment:</p>	<p>Option 1: 0</p>	<p>there would be consideration of the circumstances on a case-by-case basis.</p> <p>Option 2: ++</p>
<p>What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?</p>	<p>Option 2 will ensure that the Register is aware of all overseas travel plans for registered offenders, at least 48 hours in advance of travel, regardless of duration. It will allow Police to notify the receiving jurisdictions of any potential risks posed by the registered offender.</p> <p>This amendment could have a positive impact on the sexual safety of children and young persons overseas, particularly in countries where sexual tourism is common.</p>	
<p>What are the marginal costs and benefits of the option?</p>	<p><u>Costs:</u> resources required to monitor and manage minimal additional activity. A minimal number of registered offenders will be required to report overseas travel for 48 hours or less. This will have a slight impact on the privacy, and possibly travel plans, of a small group of people who wish to travel overseas for a short period.</p> <p><u>Benefits:</u> allows the Register to proactively manage situations where a significant risk to the sexual safety of children is identified. Allows information about overseas trips of short duration to be collected and to address some knowledge gaps relating to the potential risk to the sexual safety of children from such trips.</p>	

Schedule 2, Qualifying Offences

g) Amend Schedule 2 to include offences from the Prostitution Reform Act 2003, sections 20-22

<p>Proposal context</p>	<p>A person convicted of an offence under sections 20-22 of the Prostitution Reform Act 2003, (the use, in prostitution of a person under 18), where the victim is under 16 years, is not currently eligible for registration. However, the use, in prostitution, of a person under 16 years is a qualifying offence if it takes place overseas (section 144A(4) of the Crimes Act 1961). This approach undermines the seriousness of the offence and fails to fully recognise the harm caused to the victim, and the risk to future victims.</p> <p>Schedule 2, Qualifying Offences, includes as a Class One offence:</p> <ul style="list-style-type: none"> • section 144A(4) (breach outside New Zealand of prohibitions on use in prostitution of persons under 18 years) in relation to an act specified in section 20, 21, or 22(1) of the Prostitution Reform Act 2003, if the victim is under 16. <p>This anomaly needs to be addressed to ensure that the requirements of the Act apply to any persons committing a similar offence, whether the victim lives overseas or in New Zealand. Given the intention of the Act, and the inclusion of section 144A(4) of the Crimes Act 1961, it is likely that the omission was an oversight during the drafting stage of the Bill, rather than an intentional omission.</p>
<p>What options are being considered?</p>	<p><u>Status Quo:</u></p> <p>Currently, under the status quo, a person convicted of an offence under sections 20-22 of the Prostitution Reform Act 2003, where the victim is under 16 years, is not eligible for registration</p> <p>It is possible for an offender to be charged with an alternative qualifying offence (e.g. sexual violation or sexual connection with a person under 16), to allow for that person to be registered upon sentence. This approach is not ideal, as the offence does not fully reflect the nature of the offending behaviour and will not be appropriate in every case.</p>

	<p><u>Option 2:</u></p> <p>The proposal is to amend Schedule 2 of the Act to include offences under the Prostitution Reform Act 2003. While these offences apply to persons under the age of 18 years, convicted persons will only be eligible for registration where the victim is aged under 16 years. This is consistent with a number of existing qualifying offences and reflects the definition of a child in section 4 of the Act. The relevant offences are as follows:</p> <p><i>Class 1 (registration for 8 years):</i></p> <ul style="list-style-type: none"> • section 20 No person may assist a person under 18 years in providing commercial sexual services. • section 21 No person may receive earnings from commercial sexual services provided by person under 18 years. • section 22(1) No person may enter into a contract or other arrangement under which a person under 18 years of age is to provide commercial sexual services to or for that person or another person. <p><i>Class 3 (registration for life):</i></p> <ul style="list-style-type: none"> • section 22(2) No person may receive commercial sexual services from a person under 18 years of age. 	
<p>Analysis of options against criteria*</p> <p>*Key for qualitative judgements:</p> <p>++ much better than doing nothing/the status quo/counterfactual</p>	<p>Option 1 (Status Quo)</p> <p><u>Original policy intent: 0</u></p> <p>Does not meet the policy intent of the Act as it does not allow for the registration of those convicted of offences under sections 20-22 of the Prostitution Reform Act 2003, where the victim is under 16 years.</p> <p><u>Efficiency: 0</u></p> <p>Persons convicted of these offences cannot be monitored, or have their risks assessed and managed, by the Register.</p>	<p>Option 2 (Proposed amendment)</p> <p><u>Original policy intent: ++</u></p> <p>This will meet the policy intent of the Act by allowing for the monitoring of persons convicted of these offences under sections 20-22 of the Prostitution Reform Act 2003, where the victim is under 16 years.</p> <p>It will also ensure consistency with other qualifying offences, particularly the current inclusion of section 144A (4) of the Crimes Act 1961. There seems to be little justification</p>

<p>+ better than doing nothing/the status quo/counterfactual</p> <p>0 about the same as doing nothing/the status quo/counterfactual</p> <p>- worse than doing nothing/the status quo/counterfactual</p> <p>- - much worse than doing nothing/the status quo/counterfactual</p> <p>Overall assessment:</p>	<p><u>Equity: 0</u></p> <p>Persons convicted of the offences, where the victim is under the age of 16 years, remain ineligible for registration.</p> <p>Option 1: 0</p>	<p>for not originally including these sections of the Prostitution Reform Act 2003 as qualifying offences.</p> <p><u>Efficiency: ++</u></p> <p>Allows for an offender to be charged with a more appropriate offence, that recognises the context of the offending, while also providing eligibility for registration.</p> <p><u>Equity: - - - (offender); + (victim)</u></p> <p>Persons convicted of this offence after the date that the Act comes into force, will be eligible for registration. This amendment is not retrospective.</p> <p>As an indication of potential volume, for the four years from 2018-2021 there have been 23 prosecutions for offences under sections 20-22 of the Prostitution Reform Act 2003, and this includes all victims under 18 years. It is unknown how many of these prosecutions relate to victims under 16.</p> <p>Victims will benefit from this amendment to the Act by having the offence recognised as being equally as serious as existing qualifying offences.</p> <p>Option 2: +++</p>
--	--	---

<p>hat option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?</p>	<p>Option 2 to include offences under sections 20, 21, 22(1) and 22(2) of the Prostitution Reform Act 2003, where the victim is aged under 16 years.</p>
<p>What are the marginal costs and benefits of the option?</p>	<p><u>Costs:</u> resources required to monitor and manage additional registered offenders. For persons convicted of this offence and sentenced to imprisonment, or ordered to be registered by the sentencing judge, this will mean that they will be registered for 8 years or life (section 22(2) only), depending on the offence. This will have a significant impact on their privacy, as they will be required to comply with the requirements of the Act – providing relevant personal information and keeping it updated.</p> <p><u>Benefits:</u> allows the Register to monitor and manage the risks posed by these registered offenders when living in the community, in line with other similar offences currently included in Schedule 2 of the Act. While the privacy of the individual is impacted, the Act clearly establishes the purpose for collecting personal information and consequences for registered offenders who are convicted of eligible offences. Victims will benefit from recognition of the seriousness of the offence and the harm caused, as well as a degree of assurance from the knowledge that the registered offender is being monitored and potential risks managed.</p>

h) Amend Schedule 2 to include section 98AA of Crimes Act 1961 where it applies to sexual exploitation

<p>Proposal context</p>	<p>Section 98AA of the Crimes Act 1961, <i>Dealing in people under 18 for sexual exploitation, removal of body parts or engagement of forced labour</i> is not currently included as a qualifying offence in Schedule 2 of the Act.</p> <p>The inability to register a person convicted of sexual exploitation of a person under the age of 16, is inconsistent with the intent of the Act, as reflected in the list of existing qualifying offences. This is a serious offence involving sexual exploitation of children, and young people for financial gain, and has a maximum penalty of 14 years imprisonment.</p>	
<p>What options are being considered?</p>	<p><u>Status Quo:</u></p> <p>Schedule 2 does not currently include section 98AA of the Crimes Act 1961, <i>Dealing in people under 18 for sexual exploitation, removal of body parts or engagement of forced labour</i>. Those convicted of sexual exploitation of those under the age of 16 years, are not eligible for registration.</p> <p><u>Option 2:</u></p> <p>Include as a Class 1 qualifying offence section 98AA of the Crimes Act 1961, <i>Dealing in people under 18 for sexual exploitation, removal of body parts or engagement of forced labour</i>, where a person is convicted of the sexual exploitation of a victim under the age of 16 years. While these offences apply to persons under the age of 18 years, convicted persons will only be eligible for registration where the victim is aged under 16 years. This is consistent with a number of existing qualifying offences and reflects the definition of a child in section 4 of the Act.</p>	
<p>Analysis of options against criteria*</p> <p>*Key for qualitative judgements:</p>	<p>Option 1 (Status Quo)</p> <p><u>Original policy intent: 0</u></p> <p>The inability to register a person convicted of sexual exploitation of a person under the age of 16, is inconsistent with the intent of the Act as reflected in the list of existing qualifying offences. This is a</p>	<p>Option 2 (Proposed amendment)</p> <p><u>Original policy intent: ++</u></p> <p>This will meet the policy intent of the Act by allowing for the registration of persons convicted of sexual exploitation where the victim is under 16 years.</p>

<p>++ much better than doing nothing/the status quo/counterfactual</p> <p>+ better than doing nothing/the status quo/counterfactual</p> <p>0 about the same as doing nothing/the status quo/counterfactual</p> <p>- worse than doing nothing/the status quo/counterfactual</p> <p>--much worse than doing nothing/the status quo/counterfactual</p> <p>Overall assessment:</p>	<p>serious offence involving sexual exploitation of children, and young people, for financial gain, and has a maximum penalty of 14 years imprisonment.</p> <p><u>Efficiency: 0</u></p> <p>Persons convicted of these offences cannot be monitored, or have their risks assessed and managed, by the Register.</p> <p><u>Equity: 0</u></p> <p>Persons convicted of sexual exploitation, where the victim is under the age of 16 years, remain ineligible for registration.</p> <p>Option 1: 0</p>	<p><u>Efficiency: +</u></p> <p>Will ensure consistency with existing Class 1 qualifying offences, such as section 144C(1) (organising or promoting child sex tours).</p> <p><u>Equity: - (offender); + (victim)</u></p> <p>Persons convicted of this offence after the date that the Act comes into force, will be eligible for registration. This amendment is not retrospective.</p> <p>The victims will benefit from this amendment to the Act by having the offence recognised as being equally as serious as those currently included as qualifying offences.</p> <p>This will recognise the seriousness of this offence and the harm caused to victims.</p> <p>As an indication of potential volume, for the four years from 2018-2021 there have been 11 prosecutions for offences under section 98AA of the Crimes Act 1961. It is unknown how many of these were for sexual exploitation, rather than removal of body parts or engagement of forced labour, and this includes all victims under 18 years – it is unknown how many of these prosecutions relate to victims under 16.</p> <p>Option 2: +++</p>
<p>What option is likely to best address the problem, meet the policy objectives, and</p>	<p>Given the seriousness of the offences (maximum 14 years imprisonment) and the potential harm caused, the low number of convictions, and intention of the Act, the impact is considered justified.</p>	

<p>deliver the highest net benefits?</p>	<p>The victims will benefit from this amendment to the Act by having the offence recognised as being sufficiently serious to qualify the person convicted for registration.</p>
<p>What are the marginal costs and benefits of the option?</p>	<p><u>Costs</u>: resources required to monitor and manage additional registered offenders. For persons convicted of this offence and sentenced to imprisonment, or ordered to be registered by the sentencing judge, this will mean that they will be registered for 8 years. This will have a significant impact on their privacy, as they will be required to comply with the requirements of the Act – providing relevant personal information and keeping it updated.</p> <p><u>Benefits</u>: allows the register to monitor and manage the risks posed by these registered offenders when living in the community, in line with other similar offences currently included in Schedule 2 of the Act. While the privacy of the individual is impacted, the Act clearly establishes the purpose for collecting personal information and consequences for registered offenders who are convicted of eligible offences.</p>

i) Amend Schedule 2 to include section 216H-J of the Crimes Act 1961

Proposal context	<p>Schedule 2 currently includes three offences from the Films, Videos and Publications Classification Act 1993, in the list of Class 1 qualifying offences, where the subject is aged under 16 years, and the objectionable publication deals with sex. To be consistent, offences under sections 216H-J of the Crimes Act 1961 – Intimate Visual Recordings - should also be included as Class 1 qualifying offence, where the subject of the recording is under the age of 16 years:</p> <ul style="list-style-type: none">• 216H Prohibition on making intimate visual recording• 216I Prohibition on possessing intimate visual recording in certain circumstances• 216J Prohibition on publishing, importing, exporting, or selling intimate visual recording. <p>Section 216G states that an intimate visual recording can be made in any medium, using any device. It is made without the knowledge or consent of the person, in a place in which the person could reasonably expect privacy, and that person is:</p> <p>(a) a person who is in a place which, in the circumstances, would reasonably be expected to provide privacy, and that person is—</p> <ul style="list-style-type: none">(i) naked or has his or her genitals, pubic area, buttocks, or female breasts exposed, partially exposed, or clad solely in undergarments; or(ii) engaged in an intimate sexual activity; or(iii) engaged in showering, toileting, or other personal bodily activity that involves dressing or undressing; or <p>(b) a person’s naked or undergarment-clad genitals, pubic area, buttocks, or female breasts which is made—</p> <ul style="list-style-type: none">(i) from beneath or under a person’s clothing; or(ii) through a person’s outer clothing in circumstances where it is unreasonable to do so.
------------------	--

<p>What options are being considered?</p>	<p><u>Status Quo:</u></p> <p>Those convicted of offences under section 216H-J of the Crimes Act 1961, where the victim is under the age of 16 years, are not eligible for registration.</p> <p><u>Option 2:</u></p> <p>Include as a Class 1 qualifying offence section 216H-J of the Crimes Act 1961 where the victim is under the age of 16 years.</p>	
<p>Analysis of options against criteria*</p> <p>*Key for qualitative judgements:</p> <p>++ much better than doing nothing/the status quo/counterfactual</p> <p>+ better than doing nothing/the status quo/counterfactual</p> <p>0 about the same as doing nothing/the status quo/counterfactual</p> <p>- worse than doing nothing/the status quo/counterfactual</p>	<p style="text-align: center;">Option 1 (Status Quo)</p> <p><u>Original policy intent: 0</u></p> <p>The inability to register a person convicted of making, possessing or publishing etc an intimate visual recording of a person under the age of 16, is inconsistent with the intent of the Act as reflected in the list of existing qualifying offences.</p> <p><u>Efficiency: 0</u></p> <p>Persons convicted of these offences cannot be monitored, or have their risks assessed and managed, by the Register.</p> <p><u>Equity: 0</u></p> <p>Persons convicted of these offences, where the victim is under the age of 16 years, remain ineligible for registration.</p>	<p style="text-align: center;">Option 2 (Proposed amendment)</p> <p><u>Original policy intent: ++</u></p> <p>This will meet the policy intent of the Act by allowing for the registration of persons convicted of making, possessing or publishing an intimate visual recording where the victim is under 16 years.</p> <p><u>Efficiency: +</u></p> <p>Will ensure consistency with other qualifying offences, such as those from the Films, Videos and Publications Classification Act 1993.</p> <p><u>Equity: - (offender); + (victim)</u></p> <p>Persons convicted of these offences, where the victim is under the age of 16 years, after the date that the Act comes into force, will be eligible for registration.</p>

<p>- - much worse than doing nothing/the status quo/counterfactual</p> <p>Overall assessment:</p>	<p>Option 1: 0</p>	<p>Victims will benefit from this amendment to the Act by having the offence recognised as being equally serious to those offences currently included in Schedule 2.</p> <p>This will recognise the seriousness of this offence and the harm caused to victims.</p> <p>Option 2: +++</p>
<p>What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?</p>	<p>Option 2, including as a Class 1 qualifying offence sections 216H-J of the Crimes Act 1961 where the victim is under the age of 16 years. The making and publishing of intimate images or videos of another person without their consent is a form of sexual abuse that can cause serious and long-lasting harm, such as psychological symptoms and disorders.</p> <p>It is acknowledged that the circumstances of such offending, and the offenders involved, can vary in terms of the extent to which they meet the threshold for child sexual abuse. In general, this sort of filming has a sexual element, but this is not always the case. This is a matter for the sentencing judge to decide – a sentence of imprisonment, indicates the seriousness of the offence and therefore justifies automatic registration. Where there is a non-custodial sentence imposed, the judge can decide whether registration is warranted under the circumstances.</p> <p>Not including this offence as a qualifying offence, where the subject is under 16 years, and the circumstances indicate sexual motivation, sends a message that this is not child sexual abuse and is not harmful to the child or young person to the extent of some other similar qualifying offences.</p>	
<p>What are the marginal costs and benefits of the option?</p>	<p><u>Costs</u>: resources required to monitor and manage additional registered offenders. For persons convicted of this offence and sentenced to imprisonment, or ordered to be registered by the sentencing judge, this will mean that they will be registered for 8 years. This will have a significant impact on their privacy, as they will be required to comply with the requirements of the Act – providing relevant personal information and keeping it updated.</p> <p><u>Benefits</u>: allows the Register to monitor and manage the risks posed by these registered offenders when living in the community, in line with other similar offences currently included in Schedule 2 of the Act. While the</p>	

	privacy of the individual is impacted, the Act clearly establishes the purpose for collecting personal information and consequences for registered offenders who are convicted of eligible offences.
--	--

j) Amend Schedule 2 to include section 390 of the Customs and Excise Act 2018

<p>Proposal Context</p>	<p>Section 390 of the Customs and Excise Act 2018 (Offences in relation to knowingly importing or exporting objectionable publications), is not included as a qualifying offence where the subject of the publication is under the age of 16 years and the subject matter contains sexual material. This means that a person convicted of an offence under this section will not be eligible for registration.</p> <p>This omission is inconsistent with Schedule 2 which includes as a Class 1 qualifying offence section 131A(1) of the Films, Videos and Publications Classifications Act 1993 (offences relating to possession of objectionable publications, involving knowledge) if the subject of the publication is under 16 years.</p> <p>Customs may not always be able to establish offences of possession or distribution of objectionable publications, even when they can prove import or export offences under the Customs and Excise Act 2018. However, they have sought the inclusion of this offence in Schedule 2 of the Act to ensure that people who import or export child exploitation material are potentially eligible for registration.</p> <p>As it currently stands, Schedule 2 of the Act does not fully recognise the harm caused to the children and young persons who are the victims of those producing and distributing child exploitation material. New Zealand is a world leader in the investigation of online child exploitation and this needs to be reflected in all relevant legislation.</p>
<p>What options are being considered?</p>	<p><u>Status Quo:</u></p> <p>Those convicted of the offence of knowingly importing or exporting objectionable publications under section 390 of the Customs and Excise Act 2018, where the subject of the publication is under the age of 16 years, are not eligible for registration.</p> <p><u>Option 2:</u></p> <p>Include as a Class 1 qualifying offence section 390 of the Customs and Excise Act 2018, where the subject of the publication is under the age of 16 years.</p>

Analysis of options against criteria*	Option 1 (Status Quo)	Option 2 (Proposed amendment)
<p>*Key for qualitative judgements:</p> <p>++ much better than doing nothing/the status quo/counterfactual</p> <p>+ better than doing nothing/the status quo/counterfactual</p> <p>0 about the same as doing nothing/the status quo/counterfactual</p> <p>- worse than doing nothing/the status quo/counterfactual</p> <p>-- much worse than doing nothing/the status quo/counterfactual</p>	<p><u>Original policy intent: 0</u></p> <p>The inability to register a person convicted of importing or exporting objectionable publications, where the subject of the publication is a person under the age of 16, and the subject matter contains sexual material, is inconsistent with the intent of the Act as reflected in the list of existing qualifying offences.</p> <p><u>Efficiency: 0</u></p> <p>Persons convicted of this offence cannot be monitored, or have their risks assessed and managed, by the Register.</p> <p><u>Equity: 0</u></p> <p>Persons convicted of this offence, where the subject of the publication is under the age of 16 years, remain ineligible for registration.</p>	<p><u>Original policy intent: ++</u></p> <p>This will meet the policy intent of the Act by allowing for the registration of persons convicted of importing or exporting objectionable publications where the subject of the publication is under 16 years and the subject matter contains sexual material.</p> <p><u>Efficiency: +</u></p> <p>Will ensure consistency with other qualifying offences.</p> <p><u>Equity: - (offender); + (victim)</u></p> <p>Persons convicted of this offence, where the subject of the publication is under the age of 16 years, after the date that the Act comes into force, will be eligible for registration.</p> <p>The victims will benefit from this amendment to the Act by having the offence recognised as being equally serious to those similar offences currently included in Schedule 2.</p> <p>This will recognise the seriousness of this offence and the harm caused to victims.</p> <p>As an indication of the potential volume, in the five and a half years that the Register has been operating, 40 people have been charged with an offence under section 390. It is unknown how many, if any, of these</p>

Overall assessment:	Option 1: 0	convictions relate to publications where the subject is under the age of 16. Option 2: +++
What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?	Include as a Class 1 qualifying offence section 390 of the Customs and Excise Act 2018, where the subject of the publication is under the age of 16 years, and the subject matter contains sexual material.	
What are the marginal costs and benefits of the option?	<p><u>Costs</u>: resources required to monitor and manage additional registered offenders. For persons convicted of this offence and sentenced to imprisonment, or ordered to be registered by the sentencing judge, this will mean that they will be registered for 8 years. This will have a significant impact on their privacy, as they will be required to comply with the requirements of the Act – providing relevant personal information and keeping it updated.</p> <p><u>Benefits</u>: allows the register to monitor and manage the risks posed by these registered offenders when living in the community, in line with other similar offences currently included in Schedule 2 of the Act. While the privacy of the individual is impacted, the Act clearly establishes the purpose for collecting personal information and consequences for registered offenders who are convicted of eligible offences.</p>	

Section 3: Delivering an option

How will the new arrangements be implemented?

The proposals will require amendments to the Child Protection (Child Sex Offender Government Agency Registration) Act 2016. It is intended to request a period between the passage of the Bill and the Act coming into force, to enable the required implementation tasks to be carried out prior to the go-live date.

Advice from the Parliamentary Counsel Office will be sought on the transitional arrangements to ensure the least possible impact from the retrospective provisions on existing registered offenders when the Act comes into force - for instance, those already undertaking education/training or voluntary work,

If passed into law, the proposals will be implemented by Police, through the Register, and in collaboration with Department of Corrections. Normal operational channels, such as training and updating the operations manual will be used to update staff on new processes and procedures. Case managers will receive training and ongoing supervision to ensure they understand the amended legislation.

Prior to the legislation coming into force, case managers will meet with each existing registered offender to discuss the changes to the legislation and what it means for them, particularly in relation to any retrospective provisions that impact them directly. Each registered offender will also be provided with written guidance around the changes and what they are required to do differently. A contact number will be provided to all registered offenders, for any questions, concerns or clarification required.

How will the new arrangements be monitored, evaluated, and reviewed?

The amendments are largely operational, and once fully implemented will be monitored as part of normal business practice. Ongoing evaluations will capture the extent to which the amendments have enhanced the effectiveness of the Register and RMF. The additional qualifying offences will be monitored to gauge the overall impact on the number of registered offenders.

The findings from the three-year process evaluation reported back to Cabinet in 2021 provided an understanding of the implementation and operational processes of the Register and RMF, and highlighted opportunities for improvement, including amendments to the Act. As directed by Cabinet, the evaluation also outlined the proposal for further evaluation to provide information around the actual effectiveness of the Register and RMF.

The next stage of research has commenced, with a phased longitudinal recidivism study led by the University of Waikato. International peer review of the methodology has advised that given the low rate of sexual reoffending by registered offenders, it will take at least 10 - 15 years to gather sufficient data to obtain statistically significant results. Given the length of time required for statistically significant results, the evaluation recommended that consideration be given to an interim report that details progress. A report on the first five years of recidivism data from the longitudinal study, based on reconviction and reimprisonment rates, will likely be available in 2027. This report will provide indicative (though not statistically significant) reoffending data.

Amendments exempt from Regulatory Impact Analysis

- Add the words to section 3(a) 'provide government agencies with the information needed to monitor **and manage the risk posed by** child sex offenders in the community'
- Clarify the interpretation of 'relevant personal information'
- Clarify that unless stated otherwise, all timeframes referred to in the Act are consecutive
- Clarify the term 'intention to reside'
- Add details of place of birth
- Clarify the definition of 'locality' for those with no fixed abode/permanent address
- Expand reference to 'postal address' for service of notices and documents to include electronic addresses where requested by the registered offender
- Require that the registered offender's passport be sighted, and a copy taken rather than just reporting the passport number and date of expiry
- Add copies of Refugee Travel Documents or Certificates of Identity
- Add that the name of the social network be provided, not just the username
- Clarify the timeframe for reporting a change of address
- Simplify the timeframe for reporting upon return to New Zealand from overseas
- Allow a change of address to be reported by telephone or electronically rather than in person
- Allow all reporting, other than the initial report, to be made to an authorised person, rather than just a police officer
- Allow receipt of information received to be by electronic communication rather than in writing if requested by the registered offender
- Add Oranga Tamariki – Ministry for Children and the Registrar General, Births, Deaths, and Marriage to the list of specified agencies (these agencies have been Gazetted by not yet added to section 43(2) in the Act)
- Clarify the information that can be shared by specified agencies
- Provide certainty by clarifying that only a person authorised by the Commission **under this Act** can disclose personal information contained in the Register
- Remove the requirement for an application for review to be made within 28 days of registration
- Clarify that where there is a successful appeal against registration that no personal information, documents, fingerprints/scans and photographs may be retained.