

UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD FIVE-YEAR WORK PROGRAMME UPDATE (SUMMARY DOCUMENT)

This paper provides a review of progress on the Government's United Nations Convention on the Rights of the Child (UNCROC) Five-Year Work Programme 2004-2008.

Executive summary

UNCROC is a comprehensive set of obligations designed to ensure the wellbeing of children and young people. Successive New Zealand Governments have affirmed their commitment to UNCROC. This Government has made substantial investments in primary healthcare, education, the youth justice sector and the care and protection system in order to ensure that young people have security and opportunity.

Partnerships forged with non-government organisations committed to the rights of children and young people have also been a significant component of the Government's work in profiling UNCROC in New Zealand. The Office of the Children's Commissioner's formal role in reporting on and monitoring the implementation of UNCROC in New Zealand is a valued dimension of this work.

The UNCROC Five-Year Work Programme covers the period 2004 to 2008. It was developed in response to the United Nations Committee on the Rights of the Child's recommendations to New Zealand in 2003. The Government's next periodic report to the UN Committee will be in November 2008.

Good progress has been made on the UNCROC work programme since its inception in 2004, with the majority of the 28 items completed or underway. This paper proposes an updated set of milestones for Cabinet approval that will focus activity on the UNCROC work programme over the coming year.

New Zealand has three Reservations to UNCROC. The UN Committee on the Rights of the Child (UN Committee) has been critical of New Zealand's maintenance of the Reservations. The Government has previously agreed that work on the withdrawal of the Reservations should be prioritised, and Cabinet has previously given in-principle agreement for the withdrawal of two of the Reservations: age-mixing in prisons and children unlawfully in New Zealand.

New Zealand's three Reservations to UNCROC are substantive items on the UNCROC work programme. Following extensive consultation across government and with non-government organisations sitting on an UNCROC advisory group, next steps for the three Reservations have been determined. They are as follows:

- *Reservation on age-mixing in prisons:* this paper recommends that the Minister of Justice, in consultation with the Ministers of Police, Corrections and other relevant Ministers, report to Cabinet by August 2007 with options for the withdrawal of the Reservation, taking into account that compliance with Article 37(c) may have considerable fiscal and operational implications.
- *Reservation on child labour:* the Department of Labour is engaged in discussions with the International Labour Organisation (ILO) on options for the ratification of ILO Convention 138, a recognised proxy for UNCROC Article 32(2). When the assessment of compliance with ILO 138 has been completed, it is envisaged that options will be developed that would enable New Zealand to withdraw the Reservation on child labour.

- *Reservation on children unlawfully in New Zealand*: this paper recommends that the Ministry of Education, in consultation with the Department of Labour and the Ministry of Foreign Affairs and Trade, undertake the necessary action for the withdrawal of the Reservation, upon enactment of a new Immigration Act, scheduled for mid-2008.

A considerable amount of work has been done to progress work towards the withdrawal of New Zealand's Reservations to UNCROC since the inception of the UNCROC work programme. Nonetheless, the UN Committee is likely to intensify its adverse criticism of New Zealand's outstanding Reservations following the Government's next periodic report in November 2008.

New Zealand's Reservations to UNCROC are also likely to be the subject of criticism in a report on New Zealand's progress with UNCROC to be published by the Office of the Children's Commissioner in mid-late 2007.

Background

In 2004 the Government agreed to a five-year UNCROC work programme and to annual reviews of government activity reported to Cabinet. The last report to Cabinet was in June 2005. This current report has been deferred from June 2006 to incorporate information gathered for an UNCROC forum held by the Ministry of Youth Development in August 2006, and to allow for progress to be made on the withdrawal of New Zealand's Reservations to UNCROC.

Work on New Zealand's three Reservations to UNCROC has previously been the subject of three separate reporting streams. Cabinet report-backs on two of the Reservations – age-mixing in prisons and children unlawfully in New Zealand – have been incorporated into this paper.

A separate paper reporting back on ILO Convention 138 will occur once discussions with the ILO have concluded.

The United Nations Convention on the Rights of the Child (UNCROC)

UNCROC is history's most ratified human rights treaty, and one of the United Nations' core human rights instruments.

UNCROC is comprised of 54 articles of different kinds. Four of the articles constitute the "general principles" that underpin the Convention. These can be paraphrased as follows:

- all children have the right to protection from discrimination on any grounds
- the best interests of the child should be the primary consideration in all matters affecting the child
- children have the rights to life, survival and development
- all children have the right to an opinion and for that opinion to be heard in all contexts.

These general principles apply across a comprehensive range of contexts and environments, including justice, education, health, employment, the care and protection system, and adoption.

UNCROC places obligations upon adults to respect and provide for the best interests and welfare of the children in their care, and on society as a whole to recognise that children should be active participants in decision-making, rather than just recipients of services or

beneficiaries of protective measures. Appendix 1 to this paper provides an overview of UNCROC and a summary of each of its primary articles.

The implementation of UNCROC in New Zealand

Parties to UNCROC agree to supply an initial report to the UN Committee two years after ratification, and periodic reports every five years after that. Governments receive country-specific recommendations from the UN Committee after each report is submitted. Subsequent reports are expected to respond directly to these recommendations and to provide an account of general measures taken to implement UNCROC.

New Zealand became party to UNCROC in 1993. Two periodic reports have been submitted to the UN Committee, in 1995 and 2000. In 2003 the UN Committee issued its most recent recommendations on New Zealand's improved compliance with UNCROC, as well as on the related Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

In 2004 the Ministry of Youth Development consolidated the UN Committee recommendations with the aim of identifying where existing and new government activity responded to or aligned with them. From that work the UNCROC Five-Year Work Programme 2004 to 2008 was developed and approved by Cabinet.

Appendix 2 to this paper sets out some new milestones for progress on key work programme items, which plot a course towards completion of the UNCROC work programme and New Zealand's next periodic report to the UN Committee in November 2008. Updates on these milestones will be provided in the next annual UNCROC work programme report to Cabinet in March 2008.

Progress on the UNCROC Work Programme

UNCROC recognises that achieving good outcomes for children and young people is fundamental to a well-functioning society. A considerable amount of government activity is contributing to improving outcomes for children and young people in New Zealand, with significant investments being made in early childhood education, subsidised healthcare for children and young people, the child protection system, and the youth justice sector.

Appendix 2 sets out progress to date on the work programme, and provides an updated set of milestones for each work programme item for Cabinet approval.

Good progress has been made to date on the work programme, with the majority of the 28 items completed or underway. These include substantial amounts of work on:

- child and adolescent health outcomes (Items 16 and 17)
- addressing education disparities (Item 19)
- assistance to child abuse victims (Item 13)
- a Department of Corrections "test of best interests" for guiding the placement of young people in correctional facilities (Item 4).

Of the remaining items, aside from "Reservation on child labour: Department of Labour's work programme" (item 14) – which has been extended owing to ongoing discussions with the ILO – all are on schedule to be completed by the conclusion of the work programme in mid-2008.

New Zealand's Reservations to UNCROC

New Zealand's three Reservations to UNCROC are key items on the work programme. Their inclusion reflects the Government's stated view that work on their removal be afforded high priority because of the importance of ensuring compliance with the spirit of UNCROC.

The three Reservations are included on the work programme in the following summary form:

- withdrawal of the Reservation on children unlawfully in New Zealand (Article 2)
- withdrawal of the Reservation on child labour (Article 32)
- withdrawal of the Reservation on age-mixing in prisons (Article 37(c)).

The UN Committee has expressed concern at New Zealand's Reservations to UNCROC in its last two sets of recommendations and is likely to intensify its adverse commentary on those Reservations that are still in place at the time of New Zealand's next periodic report in November 2008.

Cabinet has agreed in principle to the removal of the Reservations on age-mixing in prisons and children unlawfully in New Zealand.

Progress on New Zealand's Reservations to UNCROC

The table below provides an overview of New Zealand's three Reservations to UNCROC. Following the table is more a detailed description of the background to the Reservations and next steps for their possible withdrawal.

Reservation to UNCROC	Context	Proposed action	Status at next report to UN Committee in November 2008
Age-mixing in prisons (Article 37(c))	Withdrawal of the Reservation is dependent on further assessment of the contexts in which young people in New Zealand are detained outside prison, and the compatibility of the regulations, guidelines and practice governing these contexts with the requirements of UNCROC.	This paper recommends that the Minister of Justice, in consultation with the Ministers of Police, Corrections and other relevant Ministers, report to Cabinet by August 2007 with options for the withdrawal of the Reservation to Article 37(c), taking into account that compliance with this Article may have considerable fiscal and operational implications.	To be determined by late 2007 following Cabinet consideration of options presented by the Minister of Justice
Child labour (Article 32)	Convention ILO 138 is a recognised proxy for UNCROC Article 32. Work towards possible ratification of ILO 138 is ongoing.	The Department of Labour is actively working with the ILO on options for ratification of the Convention. Further discussions with the ILO are proposed for June 2007.	To be determined following discussions with the ILO
Children unlawfully in New Zealand (Article 2)	Cabinet has recently approved proposals for a new Immigration Act that will allow children unlawfully in New Zealand to access compulsory education services [CBC Min (06) 20/14]. Enactment of the new Immigration Act will enable withdrawal of the reservation.	This paper recommends that the Ministry of Education, in consultation with the Department of Labour and the Ministry of Foreign Affairs and Trade, undertake the necessary action for the withdrawal of the Reservation on children unlawfully in New Zealand, upon enactment of a new Immigration Act, scheduled for mid-2008.	Withdrawn or withdrawal underway

Reservation on age-mixing in prisons (Article 37(c))

Background

Article 37(c) requires that “every child [aged 17 and below] deprived of liberty be separated from adults unless it is considered to be in the child’s best interest not to do so”. New Zealand entered the following Reservation to this Article upon becoming a party in 1993:

The Government of New Zealand reserves the right not to apply Article 37(c) in circumstances where the shortage of suitable facilities makes the mixing of juveniles and adults unavoidable; and further reserves the right not to apply Article 37(c) where the interests of other juveniles in an establishment require the removal of a particular juvenile offender, or where mixing is considered to be of benefit to the persons concerned.

In November 2001 the Cabinet Social Equity Committee agreed “in principle” to the removal of the reservation on age-mixing in prisons. Agreement was subject to:

- the completion of specialist Youth Offender Units, so that a shortage of suitable facilities would no longer be cause for age-mixing
- confirmation by the UN Committee that the inclusion of vulnerable 18- and 19-year-olds in specialist youth facilities would not fall short of New Zealand’s obligations.

These conditions have subsequently been met by the following means:

- the Department of Corrections has completed four specialist youth units in male prisons¹
- a change to Corrections Regulations in 2005 brought down the age threshold for youth from 20 years to 18, with the result that young people under the age of 18 will not be mixed with older prisoners unless it is in their best interests
- an informal approach to the United Nations Secretariat has corroborated the view that a “test of best interests”, developed to ensure that vulnerable 18- and 19-year-olds are only placed in youth units if it is in the best interests of the younger prisoners, meets the requirements of Article 37(c).²

Following advice from the Ministry of Foreign Affairs and Trade, it is now clear that options previously presented to Cabinet were based on a definition of “deprivation of liberty” that is insufficiently broad to ensure compliance with UNCROC.

This is in part because the operational focus at the time New Zealand became a party to UNCROC was on the availability of prison facilities to accommodate young offenders. Options for withdrawal of the Reservation presented to Cabinet in 2001 consequently emphasised the in-prison environment as the primary focus for withdrawal of the Reservation.

The Department of Corrections and the New Zealand Police believe that current directions and guidelines governing detention in their respective jurisdictions afford young people sufficient protection. However, both departments agree that further analysis is required of contexts in

¹ The low number of female prisoners under the age of 18 makes a female youth unit facility unviable; however females under the age of 18 are separated from those aged 18 and over unless it is in their best interests for them to be mixed with older prisoners.

² The test is currently being trialled and will be reviewed in early 2007. Subject to the results of the review, it will be implemented nationwide.

which young people are deprived of their liberty outside prison in order to assess the scale of reform required to enable compliance with UNCROC. These contexts include:

- the holding of arrested persons prior to being charged with an offence by the Police
- the “day room” in Police stations
- the transportation of persons by Police (both following arrest and from Police cells to Court)
- court holding cells
- transportation between correctional facilities and Court (accepting that an existing Ministerial directive prevents the age-mixing of prisoners, in Corrections’ custody, while being transported).

The Ministry of Justice has advised that contexts in which young people are deprived of their liberty in health and immigration facilities also need to be assessed in relation to the requirements of Article 37(c).

Next steps

This paper recommends that the Minister of Justice, in consultation with the Ministers of Police and Corrections and other relevant Ministers, report to Cabinet by August 2007 with options for the withdrawal of the Reservation to Article 37(c), taking into account that compliance with this Article may have considerable fiscal and operational implications.

Reservation on child labour (Article 32)

UNCROC Article 32(1) requires States to “recognise the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development”.

Article 32(2) requires governments to put in place mechanisms for a minimum age or minimum ages for admission to employment, regulation of hours and conditions of employment, and appropriate sanctions for the enforcement of those regulations. The following Reservation was entered to Article 32 upon New Zealand’s ratification of UNCROC in 1993:

The Government of New Zealand considers the Rights of the Child provided for in Article 32(1) are adequately protected by its existing law. It therefore reserves the right to not legislate further or to take additional measures as may be envisaged in Article 32(2).

Following concerns expressed by the UN Committee about protections around the employment of children and young people in New Zealand, the Department of Labour reported to Cabinet in November 2001 with options to address New Zealand’s Reservation to article 32 of UNCROC.

Cabinet directed the Department of Labour to report back with more information on the nature of children’s employment, evidence of economic exploitation, and the implications of introducing a minimum age or ages of employment as required by UNCROC Article 32.

The Department of Labour reported to Cabinet in 2002 and 2003 with research findings indicating that there is no evidence to show widespread harmful outcomes from youth labour market participation in New Zealand, although there was some evidence to suggest a general

lack of awareness by children of (and potentially employer non-compliance with) their employment rights.

In response to this information, Cabinet directed the Department of Labour to undertake a programme of work relating to children's employment conditions and rights, including an item focussing on improving children's ability to enforce their employment. The five items comprising this work programme are included within the current UNCROC work programme as "Item 14 – Reservation on child labour: Department of Labour's work programme". Appendix 2 details the progress to date on this item.

As part of the same Cabinet consideration, Ministers agreed to defer a decision on lifting the Reservation to Article 32 of UNCROC until an assessment had been made of the steps required to ratify ILO Convention 138. This decision reflects the accepted view that ratification of Convention 138 fulfils similar requirements to those set out by Article 32 of UNCROC, including a minimum age of employment.

In November 2006, the Department of Labour had further discussions with the ILO about New Zealand's current law, policy and practice relating to children's employment, including proposed policy options that would strengthen New Zealand's compliance with Convention 138. Informal advice from the ILO suggests that New Zealand's existing settings are sufficient to meet Convention requirement for a minimum age of admission to general employment.

However, the ILO has indicated two areas where New Zealand may not fully comply with Convention:

- 15 year olds are permitted to participate in hazardous work (under the Convention this should be at least 16 years)
- children under 13 are permitted to participate in light work (under the Convention under 13 year olds are not allowed to work except in a small number of exempted areas).

Next steps

The Department of Labour is engaged in ongoing discussions with the ILO regarding the requirements for New Zealand's possible ratification of Convention 138. Officials will discuss New Zealand's situation with the ILO at the next governing body meeting in June 2007. If New Zealand were in a position to become party to ILO Convention 138 – a recognised proxy to Article 32 of UNCROC – officials have advised that New Zealand would then be able to withdraw the Reservation.

The Department of Labour, in consultation with the Ministry of Youth Development, will be progressing the development and implementation of their children's employment work programme to ensure employment protections for children and young people. New items to the work programme are likely to include:

- beginning the process to review the Health and Safety Regulations to prohibit hazardous work for employees aged under 16
- investigating workplace practices relating to 16- to 18-year-olds in hazardous work (particularly with respect to training and supervision)
- examining the possibility of guaranteeing adequate meal breaks and rest breaks for young people.

General Reservation on children unlawfully in New Zealand (Article 2)

The first paragraph of Article 2 of UNCROC requires State parties to “respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status”.

New Zealand entered the following General Reservation upon ratification of UNCROC in 1993:

Nothing in this Convention shall affect the right of the Government of New Zealand to continue to distinguish as it considers appropriate in its law and practice between persons according to the nature of their authority to be in New Zealand, including but not limited to their entitlement to benefits and other protections described in the Convention, and the Government of New Zealand reserves the right to interpret and apply the Convention accordingly.

Since this Reservation was entered in 1993, a significant amount of work has been undertaken to identify any amendments to legislation, policy and practice requisite to its removal.

In November 2003 Cabinet agreed in principle to withdraw the Reservation, subject to reports from the Ministries of Health and Education on the compatibility of health and education settings with UNCROC.

The Ministry of Health, in a report back to Cabinet in 2005, concluded that limits on access to publicly funded health services would not need to be adjusted to enable compliance with UNCROC. This is because paid-for health services are already available to all non-residents in New Zealand, with the result that current health settings would not be in breach of Article 2 if the General Reservation were withdrawn.

The Ministry of Education reported to Cabinet in 2005 that regulations governing access to education services could be widened to accommodate children unlawfully in New Zealand who are trying to regularise their immigration status. At this point Cabinet confirmed its in principle decision to withdraw the reservation.

In November 2006 Cabinet addressed the final impediment to withdrawal of the Reservation by approving proposals developed as part of the review of the Immigration Act 1987. The proposals recommended that an education provider does not commit an offence by enrolling or maintaining the enrolment of a non-citizen child in compulsory education, regardless of their immigration status. This will allow settings for access to education services to be set in education regulations, as provided for by section 4A of the Education Act 1989.

As a result, the Reservation can be withdrawn upon enactment of the new Immigration Act.

Next steps

This paper recommends that the Ministry of Education, in consultation with the Department of Labour and the Ministry of Foreign Affairs and Trade, undertake the necessary action for the withdrawal of the Reservation on children unlawfully in New Zealand, upon enactment of the new Immigration Act, scheduled for mid-2008.

In the meantime officials have identified an interim measure that would enable some children who are unlawfully in New Zealand to access education before the new Immigration Act is

enacted. The measure, coupled with reform of immigration laws, would demonstrate active progress towards lifting the Reservation.

If adopted, the interim measure would have the following features:

- Limited Purpose Permits would be granted to children unlawfully in New Zealand with their parents, where the parents were taking measures to regularise their immigration status, allowing those children to attend school lawfully
- the interim measure would not be available to children in New Zealand unlawfully without their parents, for example, children who have come to New Zealand alone on a visitor's permit, have overstayed, and are living with relatives. Granting such children a Limited Purpose Permit (or any type of immigration permit) makes their presence lawful and removes the grounds for regularisation.

While it is not known how many Limited Purpose Permits would be issued if this measure were implemented, analysis of past appeals suggests that the number may be small. The Ministers of Education and Immigration have stated that they favour the permit option as a workable interim measure prior to the enactment of a new Immigration Act. The costs of the measure would be met from the Ministry of Education and Department of Labour's baseline funding.

This paper recommends that Cabinet direct the Ministry of Education and the Department of Labour to instigate the proposed Limited Purpose Permit option as soon as is practicable.

Next Steps in the five-year work programme

2006-2007: refreshing the UNCROC work programme

New Zealand is entering the second phase of the five-year UNCROC reporting cycle with most of the items on the Government's current UNCROC work programme already underway or completed. The coversheet to Appendix 2 proposes an updated set of milestones for the coming year to ensure continued progress with the implementation of the work programme, leading into New Zealand's next periodic report to the UN Committee in November 2008.

A new item entitled "Placing Children at the Centre of Policy-Making" (Item 29) has been added to the work programme. Subject to Cabinet approval, the Ministry of Social Development will be the lead agency for work on this item, which will include a report to the Minister for Social Development and Employment by November 2007 on strategies for making sure that children are a central focus of policy development.

Progress on the milestones set out in Appendix 2 will be the subject of the next update to Cabinet in March 2008.

New Zealand's compliance with UNCROC: Emerging Issues

Responding to an Office of the Children's Commissioner's UNCROC report

The Children's Commissioner, Dr Cindy Kiro, has announced that her Office will publish a report on New Zealand's compliance with UNCROC in mid-late 2007. A draft version of the report will be released to the Government for fact-checking prior to publication; the Ministry of Youth Development will co-ordinate this process by distributing copies of the report and collating government departments' feedback to it.

Depending on the issues raised by the Commissioner's report, it is feasible that the current work programme could be modified to incorporate any recommendations that the Government may wish to address prior to the next report to the UN Committee in 2008.

UNICEF Innocenti report on child wellbeing in rich nations

On 14 February 2007 UNICEF's innocenti research group published *Child poverty in perspective: An overview of child well-being in rich countries, an assessment of the wellbeing of children and young people in OECD nations and other selected countries across a range of wellbeing domains*.

The report finds that New Zealand ranks poorly on a number of specific indicators, including material wellbeing and health and safety. Because the data used in the report was collected mostly between 2000 and 2003, it does not reflect subsequent improvements in income levels, employment and infant mortality.

In early 2008 the Ministry of Social Development, in consultation with the Ministry of Youth Development, will publish a second edition of *Children and Young People: Indicators of Wellbeing in New Zealand*. This will provide a more detailed and comprehensive picture of the situation for children and young people in New Zealand than is provided by the UNICEF report.

UNCROC Advisory Group Consultation

The Ministry of Youth Development has convened an UNCROC Advisory Group³ since late 2003 to provide non-government/Crown entity perspectives on UNCROC-related matters and input into UNCROC-related projects. Members of the Advisory Group have been consulted, and their comments are set out below.

Advisory Group Commentary

UNCROC contains a minimum set of internationally agreed standards by which the wellbeing of children and young people can be continually advanced and supported. By ratifying UNCROC, the Government has made a commitment to give practical effect to compliance with UNCROC.

Compliance also strengthens the Government's capacity to achieve its strategic priorities and initiatives. However failure to advance compliance may risk the successful implementation of these priorities. The UNCROC work programme therefore provides an opportunity to improve the situation of children and young people in New Zealand and to strengthen work in the New Zealand Action Plan on Human Rights. Nevertheless the Advisory Group submits that:

- this work programme does not reflect or address the disparities and challenges facing some children and young people in New Zealand
- this work programme does not adequately capture, nor fully address, the concerns and unequivocal recommendations made by the UN Committee in 1997 and 2003, and the lack of progress to date needs to be rectified if the New Zealand Government is to provide a credible report in 2008

³ The UNCROC Advisory Group is comprised of representatives from the Office of the Children's Commissioner, the Human Rights Commission, Save the Children NZ, UNICEF, and Action for Children and Youth Aotearoa (ACYA). Except for ACYA, these comments are provided by the group as representatives of their organisations, rather than as individuals.

- greater commitment and urgency should be given to ensuring that the UN Committee's concerns are addressed, including the systematic identification of areas and issues of non-compliance.

The Advisory Group strongly urges the Government to give priority to removing the Reservations.

The Advisory Group calls on the Government to urgently address New Zealand's shortcomings in complying with the Convention. Doing so will ensure that New Zealand maintains its international reputation as a world leader and staunch protector of child and human rights.

Summary of Cabinet Recommendations

Progress on the UNCROC work programme

Cabinet agreed that good progress has been made on the commitments set out in the UNCROC work programme at its mid-way point, and that the work programme has been reorganised to reflect this progress and to maximise the further implementation of the work programme over its final phase. Cabinet also agreed to the implementation of the updated milestones for each of the 28 existing items on the work programme, and to the introduction of a new work programme item titled "Placing children at the centre of policymaking", with a subsequent progress report to Cabinet in March 2008.

Reservation to UNCROC on age-mixing in prisons (Article 37(c))

In 2001 Cabinet agreed that the Reservation on age-mixing in prisons be withdrawn, subject to completion of specialist youth units and confirmation that the procedure of limited age-mixing with a "test of best interests" is UNCROC-compliant. Subsequent to that agreement it has been found that the wider contexts in which young people are deprived of their liberty, including transit and Police custody were not subject to Cabinet's 2001 in-principle decision, and that they now need to be analysed in the context of compliance with Article 37(c) of UNCROC before the Reservation on age-mixing can be withdrawn.

Therefore, the Minister of Justice, in consultation with the Minister of Police, the Minister of Corrections and other relevant Ministers, will report to Cabinet by August 2007 with options for the withdrawal of the Reservation to Article 37(c), taking into account that compliance with this Article may have considerable fiscal and operational implications.

Reservation to UNCROC on child labour (Article 32)

The Department of Labour is engaged in discussions with the International Labour Organisation (ILO) regarding the requirements for New Zealand's possible ratification of Convention 138, a recognised proxy for Article 32. Officials will meet with the ILO in June 2007. A decision on the Reservation on child labour cannot be reviewed until this process has been completed

Reservation to UNCROC on children unlawfully in New Zealand

The Cabinet Business Committee has agreed, as part of the review of the Immigration Act 1987, that an education provider does not commit an offence by enrolling, or maintaining the enrolment of, a non-citizen child in compulsory education, regardless of their immigration status, and that this will enable the Reservation to be withdrawn when a new Immigration Act is enacted in 2008.

To that end, the Ministry of Education, in consultation with the Department of Labour and the Ministry of Foreign Affairs and Trade, will begin necessary action for the withdrawal of the Reservation on children unlawfully in New Zealand, upon enactment of a new Immigration Act, scheduled for mid-2008

An interim measure involving the issuing of Limited Purpose Permits has been developed by the Department of Labour and the Ministry of Education that will enable schools to provide compulsory education services to children who are unlawfully in New Zealand with their parents, where an application is being made for their immigration status to be regularised.

This interim measure has the support of the Minister of Education and the Minister of Immigration, and that their respective Ministries are able to meet through baseline funding any costs the measure may incur. The Ministry of Education and the Department of Labour will instigate the proposed Limited Purpose Permit option as soon as is practicable