

National Library of New Zealand Bill (Te Puna Mātauranga o Aotearoa Bill)

Government Bill

Explanatory note

General policy statement

The Bill replaces the present National Library Act 1965 and provides for new policy in 4 key areas as follows:

- (a) clarifying the relationship between the National Library and the Alexander Turnbull Library; and
- (b) addressing Māori interests in the National Library; and
- (c) extending the scope of legal deposit; and
- (d) clarifying the status of oral history under the Official Information Act 1982.

Clarifying the relationship between the National Library and the Alexander Turnbull Library

The Bill continues the National Library, including the Alexander Turnbull Library. The purpose of the Alexander Turnbull Library is confirmed by the Crown's undertaking to preserve, protect, develop, and make accessible for all the people of New Zealand the collections of the Alexander Turnbull Library in perpetuity, in a manner consistent with their status as documentary heritage and taonga. It sets out the terms on which the National Librarian will delegate functions and powers to the Chief Librarian of the Alexander Turnbull Library.

The status of the Alexander Turnbull Library is assured by the replacement of the present Trustees of the National Library with a new body, to be called the Guardians of the Alexander Turnbull Library. The role of the Guardians is to provide assurance to the people of New Zealand that the collections of the Alexander

Turnbull Library are held in perpetuity, that they are provided with separate and suitable accommodation, and that they are preserved, protected, developed, and made accessible for all the people of New Zealand in a manner consistent with their status as documentary heritage and taonga.

A new body, the Library and Information Advisory Commission, will be established to advise the responsible Minister on library and information issues. This body will be representative of the diverse interests in this sector and tender advice on emergent issues in the national and international contexts.

The purpose of the National Library includes working alongside organisations with related aims (for example, museums and archives) as well as with other libraries, and to acknowledge links with the international library and information community.

Addressing Māori interests in the National Library

Revision of the National Library Act 1965 (the **1965 Act**) provides an opportunity to address Māori interests. The 1965 Act contains no reference to the interests of tangata whenua, in contrast to empowering legislation for comparable cultural institutions that has been passed since 1975.

The Bill provides a presence for a Māori world view within the National Library by the inclusion of the existing Māori name of the National Library, Te Puna Mātauranga o Aotearoa, in the title of the Act. The Bill also refers to mātauranga Māori alongside other references to knowledge or information. Persons exercising powers and performing functions under the Act are required to protect the collections as documentary heritage and as taonga.

The members of the 2 advisory bodies to be set up under the Bill, the Guardians and the Commission, must, in all cases, be appointed by the Minister after consultation with the Minister of Māori Affairs.

Legal deposit

Legal deposit is a statutory obligation requiring publishers and/or printers to provide copies of works to a national agency. The mechanism is found in the statutes of over 130 countries. It is provided for under section 30A of the National Library Act 1965, where its scope is limited to books.

Other formats of recorded knowledge collected by the National Library are not included, so that these collections are less comprehensive than is desirable. The Bill therefore expands the range of documents that will become subject to legal deposit, to cover any publicly available document used to store or convey information, whatever the medium.

Before new materials can be brought within the legal deposit scheme under the Bill, the Minister must consult with affected publishers as to the terms on which public documents must be provided. Exemptions will be possible, on the basis of criteria set out in the notification of the requirement (for example, if the costs of compliance or other circumstances make this appropriate).

It is not envisaged that requirements will be made for materials such as broadcast material (television and radio) and motion pictures, where current arrangements are considered adequate.

The Bill does not specify where public documents received under the legal deposit scheme will be located. Custody of National Library materials can be transferred to an appropriate authority with the consent of the Minister.

Amendment of Official Information Act 1982

The Bill provides an opportunity to address a conflict in the Official Information Act 1982 (the **OIA**) in relation to oral histories provided to the Alexander Turnbull Library. Paragraph (e) of the definition of **official information** in section 2(1) of the OIA generally excludes information contained in the National Library, but does include material placed in the National Library by Ministers of the Crown in their official capacity and by Departments. At issue have been personal reminiscences or reflections of present and former Ministers, collected as an historical resource for the future.

Standard practice is to assure donors of oral histories that access to interview material will be in accordance with any conditions they impose (for example, that access may be only after the subject's death). The prospect that these interviews could be discoverable under an OIA request, and that an Ombudsman could examine the interviews when considering whether there were grounds for withholding the material, has caused this project to cease, as informants and oral historians are not able to participate under such terms. The Bill proposes that an oral history provided by any person to the

National Library be excluded from the definition of **official information** in the OIA. The practical effect, therefore, is to confirm that the Crown and its agents will, in relation to oral histories that have been provided to the National Library, comply with conditions of access that have been agreed to by the National Librarian.

Clause by clause analysis

Clause 1 is the Title clause, providing that the Act may be cited by its English or its Māori title.

Part 1

Preliminary provisions

Clause 2 is the commencement clause. The Bill comes into force on **1 July 2002**.

Clause 3 is the purpose clause.

Clause 4 defines certain terms used in the Bill.

Clause 5 provides that the Bill binds the Crown.

Part 2

National Library of New Zealand Te Puna Mātauranga o Aotearoa including Alexander Turnbull Library

Subpart 1—National Library of New Zealand

Clause 6 provides that there continues to be the National Library of New Zealand Te Puna Mātauranga o Aotearoa, as established by the National Library Act 1965. The Alexander Turnbull Library is part of the National Library.

Clause 7 provides for the purpose of the National Library.

Clause 8 provides for the office of National Librarian, the chief executive of the National Library.

Clause 9 sets out the functions and powers of the National Librarian for achieving the purpose of the National Library.

Clause 10 requires the National Library to comply with any conditions upon which oral histories are deposited with the National Library. The Bill, through a related amendment to the definition of **official information** in the OIA, extends the exclusion of materials held in libraries to oral histories provided to the National Library.

Subpart 2—Alexander Turnbull Library

Clause 11 provides that the collections of the Alexander Turnbull Library are owned and must continue to be owned by the Crown in perpetuity, and must remain in the custody of the National Library at all times.

Clause 12 provides for the purposes of the Alexander Turnbull Library.

Clauses 13 and 14 continue the office of Chief Librarian of the Alexander Turnbull Library, and provide that the Chief Librarian must perform the functions and exercise the powers delegated to him or her by the National Librarian.

Subpart 3—Guardians of Alexander Turnbull Library

Clauses 15 to 17 establish an unincorporated body, the Guardians of the Alexander Turnbull Library, and set out its purpose and function.

Clause 18 sets out the reporting obligations for the Chief Librarian, the National Librarian, and the Guardians in relation to the Alexander Turnbull Library.

Clause 19 provides that the Guardians may be paid allowances and expenses, and the basis for those payments.

Clause 20 requires the Guardians to meet at least 3 times a year and the National Library to provide administrative services for the Guardians.

Part 3

Advisory Commission and advisory bodies

Clause 21 establishes the Library and Information Advisory Commission (Ngā Kaiwhakamārama i nga Kohikohinga Kōrero).

Clauses 22 to 23 provide that the purpose and functions of the Commission are to advise the Minister on library and information issues, including mātauranga Māori, and to report to the Minister on specified matters.

Clause 24 provides that other advisory bodies may be set up to advise the Minister.

Clause 25 requires the Commission and any advisory body to report annually to the Minister on the performance of their functions.

Clause 26 provides that the members of the Commission and of any advisory body may be paid allowances and expenses, and the basis for those payments.

Clause 27 provides that the National Library must provide administrative services for the Commission and any advisory body.

Part 4

Requirement for copies of public documents to be provided to National Librarian

Clause 28 defines certain terms used in this subpart.

Clause 29 sets out the purpose of this Part.

Clause 30 authorises the Minister, by notice in the *Gazette*, to require a publisher of a public document to provide up to 3 copies of the public document to the National Librarian on any specified terms and conditions relating to time of delivery, format of the document, public access, and other matters. A requirement for a public document under this clause may be amended or revoked.

Clause 31 provides that a requirement will be subject to the Regulations (Disallowance) Act 1989. A requirement will, therefore, be subject to the scrutiny of Parliament and published in the Statutory Regulations Series.

Clause 32 requires the Minister, before notifying a requirement under this clause, to consult the publisher, or representatives of a class of publishers, on the contents of the proposed requirement in relation to format, terms of public access, and other matters specified in the proposed requirement.

Clause 33 stipulates the standard required of the copies of a public document provided in compliance with a requirement.

Clause 34 authorises the Minister to provide in a requirement that an exemption to the requirement may be granted for a specified public document or class of public documents, on the basis of specified criteria, and subject to terms and conditions the Minister thinks fit.

Clause 35 creates the principal obligation of compliance with a requirement on the publisher of a public document, but in certain circumstances there is also an obligation on the printer, who may recover the cost of compliance from the publisher.

Clause 36 provides that failure to comply without reasonable excuse with *clause 35* is an offence, and creates a liability for a fine not

exceeding \$5,000. The effect of *clause 37* is that, if an offence relates to a book published before the date of commencement of this Act, the present fine of \$1,000 applies.

Clause 37 saves the provisions of section 30A of the National Library Act 1965 in respect of books, as defined in that section, published before the Bill comes into force.

Part 5

Miscellaneous provisions

Clause 38 dissolves the Trustees of the National Library established under the National Library Act 1965, with provision for matters consequential to that dissolution.

Clause 39 provides a regulation-making power.

Clause 40 provides for the repeal of enactments specified in *Schedule 2* and revokes the Alexander Turnbull Library Regulations 1966.

Clause 41 provides for consequential and related amendments to the Acts specified in *Schedule 3*.

Schedules

The *Schedules* set out,—

- in *Schedule 1*, the provisions of the second codicil to the will of Alexander Horsburgh Turnbull:
- in *Schedule 2*,—
 - in *Part 1*, consequential amendments; and
 - in *Part 2*, a related amendment to the definition of **official information** in the OIA, so as to extend the exemption for materials held in libraries under the Official Information Act to oral histories provided to the National Library.

Regulatory impact and compliance cost statement

Statement of public policy objective of legal deposit scheme

The primary purpose of legal deposit is to assist in the preservation of the nation's documentary heritage, in order that future access opportunities can be provided for. Statutory intervention is needed to gather relevant materials into a single site, and to apply the resources necessary to ensure that the collection is preserved and

equitable access to the collections can be provided. Because the interests of future generations cannot be anticipated, the collection must be comprehensive. Private providers cannot be assured of any future return, so have no incentive to collect and preserve the range of material that is required.

UNESCO guidelines for legal deposit state that legal deposit should be based on the principle that any published material, understood in its broadest sense, made available to the public should be subject to legal deposit unless specifically excluded in law.

Statement of problem and need for action

In its current form, section 30A of the National Library Act 1965 limits the scope of legal deposit to books, as originally defined in the Copyright Act 1962. This definition has been overtaken by changing technologies, so that other formats of recorded knowledge cannot presently be accessed through the legal deposit scheme. The collections are less comprehensive than is needed for the Library to fulfil its statutory functions. Public documents recording New Zealand's social, cultural, and economic history increasingly exist in formats not covered by legal deposit definitions. There is, therefore, a risk that the collections of the National Library will not be adequate for future users.

Statement of options for achieving desired objective

The options for addressing the problems are—

- (a) redefine the scope of legal deposit in a format-neutral manner;
or
- (b) assume that the National Library will be funded to purchase materials that are not covered by legal deposit; or
- (c) associate legal deposit with copyright; or
- (d) provide for legal deposit to be a voluntary scheme.

Non-regulatory measures

Only the option for a voluntary scheme, option (d), does not require a regulatory scheme. The benefit of this option is that it would allow publishers to choose whether or not they bear the costs of legal deposit. Its disadvantage is that it would be realistically impossible to achieve a comprehensive collection.

Regulatory measures

Option (a)

The preferred option is to redefine the scope of legal deposit to accommodate the emergence of new technologies. Legislation adopting this option has been enacted, or is scheduled for enactment, in South Africa, France, Norway, Finland, and the United Kingdom, among other countries. The benefit of this option is that it would enable the National Library to respond to future technologies without the need to redefine the scope of legal deposit. The only perceived disadvantage of this option is that it may raise expectations that the National Library will elect to collect in all emerging formats.

Other options

Option (b) would avoid imposing compliance costs on publishers of formats not presently covered by legal deposit, and option (c) would present an incentive to publishers to contribute material.

However, option (b) could put the comprehensiveness of the collection at risk, as the Library's collection policy would be subject to changing purchase decisions by Ministers, and could be seen to disadvantage publishers presently required to provide copies of printed materials free. Option (c), to make copyright protection subject to legal deposit, would contravene the terms of the Berne Convention, which requires copyright protection to be available without any formalities. New Zealand is a signatory to the Convention.

Statement of net benefit of proposal

Benefits

The costs and benefits of legal deposit have been analysed in respect of existing formats that are received. It is accepted that the public benefits are greater than the private costs. The National Library receives around 5 000 new book titles and 70 000 issues of serials (4 500 titles) per year. The value of material received by the Library under legal deposit can only be estimated, since some items are not published for sale, and pricing information for all items that are published is not always available.

Other benefits of legal deposit are principally intangible. Access to information is a prerequisite for many activities that generate economic and social goods, but no quantification of this relationship is attempted here. The process costs of legal deposit to the National Library are equivalent to those that apply to alternative acquisition processes.

Business compliance cost statement

Costs

The costs of legal deposit are primarily borne by the publishers. Production costs are spread across a print run, and the marginal effect of providing, at most, 3 copies impacts only on very small print runs. In such cases, for example, small editions of fine print works that may be produced in editions of 50 or less, the Library invariably elects to claim less than its statutory entitlement, usually a single copy.

Costs to retailers and authors are negligible. Legal deposit does not affect retail sales. The loss of earnings for retailers and authors on three copies unsold would only ever arise where an edition sells out, in which case a publisher would invariably reprint. Reprints are not subject to legal deposit.

The compliance costs for producers of other physical formats follow a similar model, except that, since the marginal costs of production of copies of electronic documents tends toward zero, the costs of producing copies for the purposes of legal deposit can largely be discounted. Likewise, the costs of supplying electronic files are less than are presently incurred for mailing books and other printed material. At the maximum, supply costs incurred would be associated with downloading an electronic file on to a physical medium for the National Library. More commonly, files would be provided electronically and at a lower cost. For some types of material, for example, selected web pages, any costs would be assumed by the National Library harvesting a copy directly from the publisher's site.

Although most online documents are non-commercial, there is a potential revenue loss to publishers if unfettered access is provided to documents that are produced for commercial purposes.

The Bill requires the Minister, before a proposed requirement for legal deposit is notified, to consult with the publishers of any material not previously acquired through legal deposit. That will

enable compliance costs to be taken into account and any potential significant revenue loss through unfettered access to be averted in determining the terms and conditions of a requirement for legal deposit.

Long-term compliance costs can be expected to diminish as the proportion of digital documents increases, and as new technologies allow the National Library to assume more of the costs of obtaining these documents.

Benefits

Publishers also benefit from legal deposit, as it provides for the production and publication of the national bibliography, a listing of all books published in or about New Zealand. The bibliography is used by New Zealand and international libraries as a selection tool, and it assists sales of books that might otherwise go unnoticed.

The benefits to publishers affected by legal deposit are that the National Library will produce a comprehensive searchable list of documents that are publicly available, while identifying publishers. This could increase business opportunities. Moreover, a permanently preserved collection is an insurance against publishers' own archives being lost.

Consultation

A public discussion paper on legal deposit was prepared in October 2000 and circulated among the New Zealand library and publishing communities.

The Trustees of the National Library were consulted and provided the responsible Minister with independent advice.

The policy developed for the Bill was overseen by a steering committee that included the Chief Executive of the Ministry for Culture and Heritage, the Parliamentary Librarian, and the Librarian of the University of Otago.

The State Services Commission, the Ministry of Economic Development (including its Regulatory and Compliance Cost Unit), the Treasury, and Archives New Zealand have also been consulted, and the Crown Law Office provided advice.

Hon Marian Hobbs

National Library of New Zealand (Te Puna Mātauranga o Aotearoa) Bill

Government Bill

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41	Consequential and related amendments	Schedule 2 Enactment repealed
	Schedule 1 Provisions of Second Codicil to Will of Alexander Horsburgh Turnbull	Schedule 3 Enactments amended

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the National Library of New Zealand (Te Puna Mātauranga o Aotearoa) Act **2002**; and may also be cited as either—

- (a) the National Library of New Zealand Act **2002**; or 5
- (b) Te Puna Mātauranga o Aotearoa Act **2002**.

Part 1
Preliminary provisions

2 Commencement

This Act comes into force on 1 July **2002**. 10

3 Purpose

The purpose of this Act is to provide for the preservation, protection, development, and accessibility, as appropriate, for all the people of New Zealand, of the collections of the National Library (which includes the Alexander Turnbull Library) in a manner consistent with their status as documentary heritage and taonga and, to this end, to— 15

- (a) maintain and enhance the National Library; and
- (b) maintain and enhance the Alexander Turnbull Library, as part of the National Library; and 20
- (c) continue the mutually supportive roles of—
 - (i) the National Librarian, as chief executive of the National Library; and
 - (ii) the Chief Librarian of the Alexander Turnbull Library, as an employee of the National Library; 25and
- (d) establish an unincorporated body called the Guardians of the Alexander Turnbull Library for the purpose, among other things, of providing assurance to the

- people of New Zealand that the collections of the Alexander Turnbull Library are held in perpetuity; and
- (e) establish an unincorporated body called the Library and Information Advisory Commission Ngā Kaiwhakamārama i nga Kohikohinga Kōrero for the purpose of providing advice to the Minister on library and information issues, including mātauranga Māori; and 5
 - (f) dissolve the incorporated body called the Trustees of the National Library, which was established by the National Library Act 1965; and 10
 - (g) authorise the National Librarian to require publishers and printers to provide copies of public documents to the National Library for the purpose of assisting in preserving New Zealand's documentary heritage; and
 - (h) provide for other related matters. 15

4 Interpretation

In this Act, unless the context otherwise requires,—

Alexander Turnbull Library means the Alexander Turnbull Library continued by **section 11**

Chief Librarian means the Chief Librarian of the Alexander Turnbull Library referred to in **section 13** 20

Commission means the Library and Information Advisory Commission Ngā Kaiwhakamārama i nga Kohikohinga Kōrero established by **section 21**

document means a document in any form; and includes— 25

- (a) any writing on any material; and
- (b) information recorded or stored by means of any recording device, computer, or other device, and material subsequently derived from information so recorded or stored; and 30
- (c) a book, manuscript, newspaper, periodical, pamphlet, magazine, sheet of letterpress, sheet of music, map, plan, chart, artprint, painting, picture, etching, print, table, graph, or drawing; and
- (d) a photograph, film, negative, tape, or other device in which 1 or more visual images are embodied so as to be capable (with or without the aid of equipment) of being reproduced; and 35
- (e) a second or subsequent edition of any of the above

- Guardians** means the Guardians of the Alexander Turnbull Library referred to in **section 15**
- information** includes information in the form of a document, data, text, images, sound, or speech
- Minister** means the Minister of the Crown for the time being responsible for the administration of this Act 5
- National Librarian** means the National Librarian referred to in **section 8**
- National Library** means the department of State known as the National Library of New Zealand Te Puna Mātauranga o Aotearoa that is continued by **section 6** 10
- year** means a year ending on 30 June.
- 5 Act binds the Crown**
This Act binds the Crown.

Part 2 15

National Library of New Zealand Te Puna Mātauranga o Aotearoa including Alexander Turnbull Library

Subpart 1—National Library and National Librarian

National Library 20

- 6 Continuation of National Library**
- (1) There is a National Library of New Zealand Te Puna Mātauranga o Aotearoa.
- (2) This is the same library as that established by section 3 of the National Library Act 1965. 25
- (3) The Alexander Turnbull Library forms part of the National Library.
- 7 Purpose of National Library**
- The purpose of the National Library is to enrich the cultural and economic life of New Zealand and its interchanges with other nations by, as appropriate,— 30
- (a) collecting, preserving, and protecting documents, particularly those relating to New Zealand, and making them accessible for all the people of New Zealand, in a

manner consistent with their status as documentary her-
itage and taonga; and

- (b) supplementing and furthering the work of other libraries in New Zealand; and
- (c) working collaboratively with other institutions having similar purposes, including those forming part of the international library community. 5

8 National Librarian

- (1) There is an office of National Librarian.
- (2) The National Librarian is also the chief executive of the National Library. 10
- (3) The person holding office as National Librarian immediately before the commencement of this Act continues to hold that office on the commencement of this Act on the same terms and conditions. 15

9 Functions and powers of National Librarian

- (1) The functions of the National Librarian, in achieving the purpose of the National Library, are—
 - (a) to develop and maintain national collections of documents, including a comprehensive collection of documents relating to New Zealand and the people of New Zealand; and 20
 - (b) to make the collections and resources of the National Library accessible in a manner and subject to conditions that the Minister determines, in order to provide for the most advantageous use of those collections and resources; and 25
 - (c) to provide other services, including access to information resources, and bibliographical and school services, as the Minister thinks fit; and 30
 - (d) to promote co-operation in library matters with authorities and other persons in New Zealand and elsewhere; and
 - (e) to advise and assist the Minister in matters relating to library and information issues; and 35
 - (f) other functions prescribed by regulations made under this Act.
- (2) The National Librarian must take reasonable steps to—

- (a) make the documents in the National Library available to institutions and other persons, subject to any regulations made under this Act and to any conditions the Minister may determine; and
 - (b) continue to provide—
 - (i) separate and suitable accommodation in a national library building for the collections of the Alexander Turnbull Library; and
 - (ii) for the development of the research collections and the services of the Alexander Turnbull Library, particularly in the fields of New Zealand and Pacific studies and rare books; and
 - (c) provide assistance in the development of libraries to institutions and persons in New Zealand, subject to any regulations made under this Act and to any conditions the Minister may determine.
- (3) The National Librarian must not transfer permanently the use or custody of any documents belonging to the National Library to any authority or other person without the approval of the Minister.
- (4) **Subsection (3)**—
- (a) does not limit the Archives Act 1957; and
 - (b) applies subject to **section 11(2)**.

Oral histories

- 10 Provision of oral histories to National Library**
- (1) In this section,—
- oral history** means personal reminiscences or reflections recorded by means of a recording device of any kind and information subsequently derived from those recordings
- person** means a natural person; and includes a Minister of the Crown, a chief executive, and an employee of any part of the State services
- State services** means all instruments of the Crown in respect of the Government of New Zealand, whether departments, corporations, agencies, or other instruments.
- (2) If an oral history has been provided to the National Library by a person on conditions (for example, conditions relating to access to the information) that have been agreed to in writing

by, or on behalf of, the National Librarian, the Crown and its agents (including the National Librarian) must comply with those conditions.

- (3) This section—
- (a) applies whether or not the oral history was created or acquired by, or on behalf of, the Crown; and 5
 - (b) does not limit the Archives Act 1957.

Subpart 2—Alexander Turnbull Library

11 Continuation of Alexander Turnbull Library

- (1) There is the library known as the Alexander Turnbull Library, being— 10
- (a) the collection of documents bequeathed to the Crown in 1918 by Alexander Horsburgh Turnbull of Wellington by the second codicil to his will set out in **Schedule 1**; and
 - (b) bequests, donations, and other additions to, and acquisitions for, that collection. 15
- (2) The Crown must continue to own the collections of the Alexander Turnbull Library in perpetuity.
- (3) The collections that were bequeathed to the Crown by Alexander Horsburgh Turnbull must remain in the custody of the National Library at all times. 20
- (4) **Subsection (2)** does not limit section 19 of the Archives Act 1957.

12 Purposes of Alexander Turnbull Library

- The purposes of the Alexander Turnbull Library are— 25
- (a) to preserve, protect, develop, and make accessible for all the people of New Zealand the collections of that library in perpetuity and in a manner consistent with their status as documentary heritage and taonga; and
 - (b) to develop the research collections and the services of the Alexander Turnbull Library, particularly in the fields of New Zealand and Pacific studies and rare books; and 30
 - (c) to develop and maintain a comprehensive collection of documents relating to New Zealand and the people of New Zealand. 35

13 Chief Librarian of Alexander Turnbull Library

- (1) There is an office of Chief Librarian of the Alexander Turnbull Library.
- (2) The Chief Librarian is the person for the time being appointed to that office by the National Librarian under the State Sector Act 1988. 5
- (3) The Chief Librarian must not, at the same time, hold—
- (a) the position of National Librarian; or
 - (b) any other position in the National Library that would, in the opinion of the National Librarian, adversely impact on the ability of the Chief Librarian adequately to perform the functions and exercise the powers delegated to the Chief Librarian. 10
- (4) The person holding office as Chief Librarian immediately before the commencement of this Act continues to hold that office on the commencement of this Act on the same terms and conditions. 15

14 Functions and powers of Chief Librarian

The Chief Librarian must perform the functions and exercise the powers delegated to him or her by the National Librarian under section 41 of the State Sector Act 1988 for preserving, protecting, developing, and making accessible the collections of the Alexander Turnbull Library. 20

Subpart 3—Guardians of Alexander Turnbull Library

15 Guardians of Alexander Turnbull Library 25

- (1) There is an unincorporated body called the Guardians of the Alexander Turnbull Library, consisting of not more than 5 persons.
- (2) The Guardians are to be appointed by the Minister, by notice in the *Gazette*, after consultation with the Minister of Māori Affairs. 30
- (3) Before making an appointment under **subsection (2)**, the Minister—
- (a) must consult with the Minister of Māori Affairs; and
 - (b) may consult with such national organisations as he or she thinks fit. 35

- (4) A term of appointment of a person as a Guardian must not exceed 3 years, but a person may be reappointed as a Guardian so long as the total of all his or her terms does not exceed 6 years.
- (5) The Guardians must be persons who, in the opinion of the Minister, have special knowledge or qualifications that are relevant to the purpose and functions of the Guardians. 5
- 16 Purpose of Guardians**
- The purpose of the Guardians is to provide assurance to the people of New Zealand that— 10
- (a) the collections of the Alexander Turnbull Library are held in perpetuity; and
- (b) those collections are—
- (i) provided with separate and suitable accommodation; and 15
- (ii) preserved, protected, developed, and made accessible for all the people of New Zealand in a manner consistent with their status as documentary heritage and taonga; and
- (c) the character of the services distinguishing the Alexander Turnbull Library as a research library is maintained. 20
- 17 Function of Guardians**
- (1) The function of the Guardians is to advise the Minister on any of the following matters:
- (a) the capacity of the Alexander Turnbull Library to acquire documents to be used for the purposes of research, scholarship, or mātauranga Māori, or by other libraries and the people of New Zealand; and 25
- (b) the provision of services to enable access and research using the collections of the Alexander Turnbull Library; and 30
- (c) the appropriate and adequate protection of the collections of the Alexander Turnbull Library; and
- (d) the means to maintain—
- (i) the identity and status of the collections of the Alexander Turnbull Library; and 35
- (ii) the character of the services distinguishing that library as a research library; and

- (e) the adequacy and suitability of the housing and preservation of the collections of the Alexander Turnbull Library; and
- (f) other matters relating to the Alexander Turnbull Library. 5
- (2) The National Librarian and the Chief Librarian must use their best endeavours to provide to the Guardians the information that the Guardians reasonably require to perform their function.
- 18 Reports** 10
- (1) The Chief Librarian must report to the National Librarian each year on his or her performance of the functions and exercise of the powers delegated under **section 14**.
- (2) The National Librarian must each year— 15
- (a) report to the Guardians on the performance of the functions and exercise of the powers delegated to the Chief Librarian under **section 14** and on other matters that the National Librarian thinks fit; and
- (b) attach to that report a copy of the latest report received by him or her from the Chief Librarian under **subsection (1)**. 20
- (3) The Guardians must report to the Minister each year, which report must include—
- (a) a report on the performance of their function during the preceding year; and 25
- (b) the reports from the National Librarian and the Chief Librarian referred to in **subsection (2)**.
- (4) The Minister must, as soon as practicable after receiving a report under **subsection (3)**, present the report to the House of Representatives. 30
- (5) This section does not limit section 30 of the State Sector Act 1988 or section 39 of the Public Finance Act 1989.
- 19 Fees and allowances**
- The Guardians are entitled to be paid, out of money appropriated by Parliament for the purpose,— 35
- (a) fees determined by the Minister in accordance with Government policy; and

- (b) reimbursing allowances or actual and reasonable expenses incurred in undertaking the function of the Guardians.

20 Administration

- (1) The Guardians must meet at least 3 times in each year. 5
(2) The National Library must provide administrative services for the Guardians.

Part 3

Library and Information Advisory Commission and advisory bodies 10

21 Establishment of Commission

- (1) There is an unincorporated body called the Library and Information Advisory Commission Ngā Kaiwhakamārama i nga Kohikohinga Kōrero.
(2) The Commission consists of— 15
(a) up to 6 members; and
(b) the National Librarian, as an ex officio member.
(3) The members of the Commission must be appointed by the Minister, by notice in the *Gazette*, after consultation with the Minister of Māori Affairs. 20
(4) A term of appointment of a person as a member of the Commission must not exceed 3 years, but a person may be reappointed as a member as long as the total of all his or her terms does not exceed 6 years.
(5) The members of the Commission must be persons who, in the opinion of the Minister, have special knowledge or qualifications that are relevant to the purpose and functions of the Commission. 25

22 Purpose of Commission

The purpose of the Commission is to provide advice to the Minister on library and information issues, including mātauranga Māori. 30

23 Functions of Commission

- (1) The functions of the Commission are to advise and report to the Minister on— 35

- (a) library and information issues in New Zealand, including mātauranga Māori, and access to library and information services; and
 - (b) the role of library and information services, including mātauranga Māori, in the cultural and economic life of New Zealand; and 5
 - (c) any other matters requested by the Minister.
- (2) Before giving advice to the Minister, the Commission must, to the extent practicable, have regard to—
- (a) recent national and international developments in relation to library and information services; and 10
 - (b) the appropriate means for promoting collaboration among persons and institutions (for example, museums, libraries, archives) in relation to protecting, preserving, and promoting access to information, including documentary heritage and mātauranga Māori. 15
- 24 Advisory bodies**
- The Minister may establish 1 or more advisory bodies, in addition to the Commission, to advise him or her on matters relating to library and information issues. 20
- 25 Reports**
- The Commission, and any advisory body established under **section 24**, must report to the Minister each year on the performance of their functions during the preceding year.
- 26 Fees and allowances** 25
- The members of the Commission, and the members of any advisory body established under **section 24**, are entitled to be paid, out of money appropriated by Parliament for the purpose,—
- (a) fees determined by the Minister in accordance with Government policy; and 30
 - (b) reimbursing allowances or actual and reasonable expenses incurred in undertaking the functions of the Commission or advisory body, as the case may be.

27 Administration

The National Library must provide administrative services for the Commission and any advisory body established under **section 24**.

Part 4

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Requirement for copies of public documents to be provided to National Library

28 Interpretation relating to this Part

In this Part, unless the context otherwise requires,—

give means,—

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(a) in the case of an electronic document (other than an electronic document made available by means of the Internet), to give the required number of copies of the disk, video, or other means by which the document is recorded or stored, and to provide reasonable assistance to enable the National Librarian to read the document in usable form; and

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(b) in the case of an electronic document made available by means of the Internet, to enable the National Librarian (to the extent that he or she requires) to read and store, in both electronic and non-electronic form, the required number of copies of the document in usable form

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printer, in relation to any printed public document, means the owner of the undertaking by which the document is printed

public document means a document—

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(a) that is printed or produced by any other means in New Zealand, or is commissioned to be printed or otherwise produced outside New Zealand by a publisher who is resident in New Zealand or whose principal place of business is in New Zealand; and

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(b) in which copyright exists by virtue of the Copyright Act 1994; but

(c) does not include—

(i) a public record within the meaning of section 2 of the Archives Act 1957, except public records made available to the public (for example, public records that have an ISBN or ISSN number); or

35

- (ii) a reprint of a document whose content and form are identical to the content and form of a document already given to the National Librarian under this Act or any previous Act
- publication** means make publicly available in the manner specified in the requirement concerned 5
- publisher** means,—
- (a) in relation to a printed public document, the publisher of that document; and
- (b) in relation to any other public document, the owner of the copyright in that document, or other person who makes the document available 10
- requirement** means—
- (a) a requirement notified by the Minister under **section 30(1)** for copies of a public document to be given to the National Librarian; and 15
- (b) includes any amendment to the requirement made under **section 30(2)**.
- 29 Purpose of this Part**
- The purpose of this Part is to assist in preserving New Zealand's documentary heritage so that it is available, subject to any applicable terms or conditions, for the benefit of New Zealanders. 20
- 30 Requirement for public documents**
- (1) The Minister may, by notice in the *Gazette*, require a publisher of a public document to give, at the publisher's own expense, a specified number of copies (not exceeding 3) of the public document to the National Librarian,— 25
- (a) within 20 working days from the date of first publication of the document (or a longer period, if any, that is specified in the requirement); and 30
- (b) on, or in accordance with, any terms and conditions as to format, public access, or other matters that are specified in the requirement.
- (2) The Minister may, by notice in the *Gazette*, amend or revoke a requirement notified under **subsection (1)**. 35
- (3) A requirement must specify—

- (a) the class or classes of public documents to which it relates; and
- (b) whether it applies to all publishers of those public documents, or only to a specified class or classes of publishers of those documents. 5
- (4) A requirement, amendment, or revocation notified under this section comes into force on the date specified in the notice, which must be at least 3 months after the date on which the notice is published in the *Gazette*.
- (5) **Subsection (4)** does not apply to a requirement that relates to books to which section 30A of the National Library Act 1965 would have applied if that Act had not been repealed by this Act. 10
- 31 Status of requirement as regulation** 15
A requirement notified under **section 30** is a regulation for the purposes of the Regulations (Disallowance) Act 1989.
- 32 Consultation**
- (1) Before the Minister notifies a requirement under **section 30**, the Minister must consult the publishers or representatives of the publishers likely to be affected by the proposed requirement about the matters referred to in **section 30(1)(a) and (b)**. 20
- (2) **Subsection (1)** does not apply in respect of a requirement that relates to books to which section 30A of the National Library Act 1965 would have applied if that Act had not been repealed by this Act. 25
- 33 Copies of document**
- Except as otherwise expressly provided in the requirement or amendment, the copies of a public document given under a requirement must be—
- (a) identical copies of the document; and 30
- (b) of the same standard as the best copies of the document that have been published in New Zealand.
- 34 Exemption from requirement**
- (1) A requirement may authorise the Minister to exempt, by notice in the *Gazette*, a public document or class of public 35

- documents from the requirement on the basis of criteria set out in the requirement.
- (2) The Minister may, by notice in the *Gazette*, exempt a public document or class of public documents from a requirement if— 5
- (a) the requirement authorises the Minister to grant exemptions from it; and
 - (b) a written application for the exemption has been made to the Minister; and
 - (c) the Minister is satisfied that the criteria for exemptions set out in the requirement are met and that it is appropriate to grant the exemption in the circumstances. 10
- (3) An exemption may be granted on the terms and conditions that the Minister thinks fit.
- (4) An exemption takes effect on the date, and on the terms and conditions, specified in the notice. 15
- 35 Obligations to comply with requirement**
- (1) A publisher of a public document to whom a requirement applies must comply with that requirement.
- (2) If the name of the publisher does not appear on a printed public document and the printer of that document is resident in New Zealand or has its principal place of business in New Zealand,— 20
- (a) the printer is under the same duty to comply with a requirement as the publisher; and 25
 - (b) if the printer complies with a requirement, the printer is entitled to recover the cost of doing so from the publisher.
- 36 Offence and penalty**
- A publisher or printer who, without reasonable excuse, fails to comply with **section 35** commits an offence and, on summary conviction, is liable to a fine not exceeding \$5,000. 30
- 37 Savings**
- Despite **section 40**, section 30A of the National Library Act 1965 continues to apply to books whose date of publication (within the meaning of that section) is before this Act comes into force. 35

Part 5 Dissolution of Trustees of National Library and miscellaneous provisions

Dissolution of Trustees of National Library

- 38 Dissolution of Trustees** 5
- (1) The body known as the Trustees of the National Library established by section 8 of the National Library Act 1965 (in this section called the **Trustees**) is dissolved.
- (2) Except as provided in **subsection (3)**, all assets (including entitlements and rights) and liabilities of the Trustees vest in the Crown (acting through the National Library) on the commencement of this Act. 10
- (3) If—
- (a) the Trustees are appointed as an executor or trustee of a will or trust (whether before or after the dissolution of the Trustees), then, unless the will or trust deed concerned expressly provides otherwise, on and from the dissolution of the Trustees, the National Librarian (acting on behalf of the Crown) takes the place of the Trustees as executor or trustee of the will or trust; and 15 20
- (b) the Trustees are a beneficiary under a will or trust (whether executed or created before or after the dissolution of the Trustees), then, unless the will or trust deed concerned expressly provides otherwise, on and from the dissolution of the Trustees, the Crown (acting through the National Library) takes the place of the Trustees as beneficiary under the will or trust. 25
- (4) The National Librarian must, as soon as practicable after the commencement of this Act, provide to the Minister a report on the operations of the Trustees during the period from the end of the last year for which such a report has been provided to the Minister to the commencement of this Act. 30
- (5) The Minister must present a copy of the report referred to in **subsection (4)** to the House of Representatives in accordance with section 44A of the Public Finance Act 1989. 35

Regulations

39 Regulations

The Governor General may, by Order in Council, make regulations providing for matters that are contemplated by this Act, necessary for its administration, or necessary for giving it full effect. 5

Repeals, revocations, and amendments

40 Repeal and revocations

- (1) The National Library Act 1965 (1965 No 136) is repealed.
- (2) The Alexander Turnbull Library Regulations 1966 (SR 1966/206) are revoked. 10

41 Consequential and related amendments

The Acts specified in **Schedule 2** are amended in the manner indicated in that schedule.

s 11

Schedule 1
**Provisions of Second Codicil to Will of Alexander
Horsburgh Turnbull**

- I bequeath to His Majesty the King all my Library comprising my
printed books pamphlets engravings charts manuscripts sketches
maps photographs plans and pictures as and to constitute a Refer- 5
ence Library in the City of Wellington for the use and reference of
persons and students interested in the subjects specialised in the said
Library.
- I desire (but without imposing any trust)— 10
- (a) that the contents of the Library shall not be permitted to be
lent out it being my desire that the contents of the Library
comprised in this bequest shall be kept together as the nucleus
of a New Zealand National Collection the permanent site
thereof to be in the City of Wellington: 15
- (b) the duplicate copies and in cases where there are more than
two copies shall not be sold exchanged or given away:
- (c) that the conditions of use shall be at the discretion of the
Government of New Zealand from time to time and that the
rules of the British Museum Library and the Mitchell Library 20
in Sydney for the time being and from time to time in force be
used as a guide as to conditions of use of the Library.
-

s 41

**Schedule 2
Enactment repealed**

National Library Act 1965 (1965 No 136)

Schedule 3
Enactments amended

s 42

Part 1
Consequential amendments

Copyright Act 1994 (1994 No 143) Repeal so much of the Second Schedule as relates to the National Library Act 1965.	5
Films, Videos, and Publications Classification Act 1993 (1993 No 94) Omit from section 131(4)(k) and (5)(f) the words “section 30A of the National Library Act 1965” and substitute in each case the words “ Subpart 1 of Part 3 of the National Library Act 2002 ”.	10
Local Authorities (Members’ Interests) Act 1968 (1968 No 147) Omit from Part 2 of the First Schedule the reference to the Trustees of the National Library.	15
Public Audit Act 2001 (2001 No 10) Omit from Part 1 of Schedule 4 the amendment to the National Library Act 1965.	
Public Bodies Contracts Act 1959 (1959 No 98) Omit from Part 2 of the First Schedule the reference to the Trustees of the National Library.	20
Public Finance Act 1989 (1989 No 44) Omit from the Fourth, Fifth, and Seventh Schedules the references to the Trustees of the National Library.	25
State Sector Act 1988 (1988 No 20) Omit from the First Schedule the item “National Library Department” and substitute the item “National Library of New Zealand Te Puna Mātauranga o Aotearoa”.	

Part 2
Related amendment

Official Information Act 1982 (1982 No 156)

Omit from paragraph (e)(ii) of the definition of **official information** the word “; and” and substitute the word “; or”.

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Add to paragraph (e) of the definition of **official information**:

“(iii) any oral history provided to the National Library of New Zealand Te Puna Mātauranga o Aotearoa in accordance with **section 10** of the National Library of New Zealand (Te Puna Mātauranga o Aotearoa) Act **2002**; and”.

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