

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

Government Bill

As reported from the Education and Science Committee

Commentary

Recommendation

The Education and Science Committee has examined the National Library of New Zealand (Te Puna Mātauranga o Aotearoa) Bill and recommends that it be passed with the amendments shown.

Introduction

The National Library of New Zealand (Te Puna Mātauranga o Aotearoa) Bill seeks to replace the National Library Act 1965 (the Act) and provides for:

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

Background

The need for new legislation initially arose from public concern about the security and status of the Alexander Turnbull Library within the institutional framework of the Act. The bill seeks to rectify this by setting out the specific purpose of the Alexander Turnbull Library and clarifying the functions and powers of the

Chief Librarian as those which are delegated to the Chief Librarian by the National Librarian under section 41 of the State Sector Act 1988. The bill also seeks to replace the Trustees of the National Library with the Guardians Kaitiaki of the Alexander Turnbull Library (Guardians) and the Library and Information Advisory Commission Ngā Kaiwhakamārama i ngā Kohikohinga Kōrero (Commission).

The bill seeks to include the interests of tangata whenua by incorporating the existing Māori name of the National Library into the title. References are made to mātauranga Māori alongside other references to knowledge and information, and the status of material held in the National Library is affirmed as taonga for all the people of New Zealand. Those exercising powers under the bill are also required to protect taonga. The Guardians and the Commission are also expected to provide advice to the Minister on mātauranga Māori issues for both the Alexander Turnbull Library and the National Library. The Minister of Māori Affairs must be consulted in relation to appointments to both bodies. Some submitters raised the issue of the lack of precision surrounding the meanings of the terms 'taonga' and 'mātauranga Māori'. However, it was recognised that there was broad understanding of these terms and, on balance, it was better to include such terminology rather than to try to precisely define them.

The Act limits the scope of legal deposit to books, therefore excluding other formats of recorded knowledge. The bill seeks to extend coverage of legal deposit to any publicly available document, including information which is stored or displayed electronically by means such as the Internet.

The Official Information Act (OIA) currently applies to material placed in the National Library by present or former Ministers of the Crown in their official capacity and therefore oral histories are discoverable under an OIA request. This means that donors cannot impose conditions on access to their material, and consequently many informants are unwilling to provide oral histories to the Alexander Turnbull Library. The bill proposes that any such oral history is excluded from the definition of 'official information' in the OIA.

Transfer of documents

Clause 9(3) prevents the National Librarian from permanently transferring the use or custody of any documents belonging to the National Library without the approval of the Minister. The National

Library and one submission suggest that this provision should be extended to include transfer of the ownership of such documents.

We agree that the National Librarian should be prevented from permanently transferring the ownership of any documents owned by the National Library without the approval of the Minister and recommend that clause 9(3) be amended to ensure this.

Public exhibition of documents

Clause 11(3) specifies that the collections bequeathed to the Crown by Alexander Turnbull must remain in the custody of the National Library at all times. Four submissions express concern that this appears to discontinue the ability, contained in the Alexander Turnbull Library Regulations 1966, for material to be loaned.

We agree that there should be a continuing ability for materials to be loaned for purposes of public exhibition and recommend that a new clause 11(3) be inserted to give effect to this.

We recommend new clause 14A be inserted to give the Chief Librarian of the Alexander Turnbull Library the power to make documents from the collection available for public exhibition on a temporary basis and to specify the matters to which the Chief Librarian must have regard.

We also recommend new clause 17(1)(ca) to include the power to loan documents as one of the matters on which the Guardians of the Alexander Turnbull Library should advise the Minister.

Legal deposit

Clause 30 sets out the legal deposit requirements for public documents. Fifteen submissions support the extension of legal deposit to cover electronic publications. However, this is an area of the bill where most changes are needed, mainly to clarify the legal deposit process and use of material deposited. The National Library advises that a single process for all documents, or one that is prescribed in full in the bill, is unsuitable in the light of the library's need to cater for the very different means of publication and to be selective.

We recommend new clause 30 be inserted to set out separate procedures for the deposit of internet documents, other electronic documents, and all other public documents. All requirements will have to be notified by the Minister and will be subject to the Regulations (Disallowance) Act 1989.

We recommend the inclusion of new clause 30B to require publishers of electronic documents to provide reasonable assistance to enable the National Librarian to store and use copies of electronic documents.

Our proposed new clause 30C permits the National Librarian to possess, copy, store in electronic form, and use a copy of a deposited document. In addition, if the publisher agrees, or if the document is freely available on the Internet without restriction, the National Librarian may provide up to three copies of deposited documents for use by the public.

Definitions

Several clauses provide interpretations of terms used in the bill. The National Library and several submissions suggest that some new definitions be inserted, and others amended or omitted.

We recommend that definitions be inserted for 'electronic' (clause 4); 'authorisation', 'electronic document', 'internet document', 'make a copy' and 'restriction' (clause 28); and 'deposited document' (new clause 30C) to clarify their meaning.

We recommend 'public document' in clause 28 be extended to include documents that are: issued to the public, available to the public on request, available to the public on the Internet, and referred to in section 27(1) of the Copyright Act 1994.

We recommend 'publication' be clarified to include documents whether or not there is any restriction on their acquisition or use by the public. 'Publisher' should also be extended to include, in relation to an internet document, the person who has control over the content of the website and, in relation to any other public documents, the person who produced the copies of the document in New Zealand or who commissioned their production outside New Zealand.

We recommend the definition of 'requirement' be extended to include authorisation under clause 30(3) and amended requirements.

We recommend new subclause (2) be added to clause 28 to clarify that, when public documents which are made available on the Internet are changed, they become different documents.

Transitional measures

Clause 37 specifies that section 30A of the Act continues to apply to books that are published before the bill comes into force. This clause requires greater clarification and we recommend that clause 37 be omitted and replaced with more comprehensive transitional provisions.

We recommend new clause 37A be inserted to extend the transitional arrangements to include books published after the commencement of the bill if no requirement is in force in relation to the book.

Appendix

Committee process

The National Library of New Zealand (Te Puna Mātauranga o Aotearoa) Bill was referred to the committee on 2 May 2002. The initial closing date for submissions was 1 July 2002. Following the dissolution of Parliament, the closing date was extended to 13 September 2002. We received and considered 36 submissions from interested groups. We heard 21 submissions and the hearing of evidence took four hours and ten minutes.

We spent 2 hours considering the bill.

We received advice from the National Library of New Zealand.

Committee membership

Hon Brian Donnelly (Chairperson)

Jill Pettis (Deputy Chairperson)

Donna Awatere Huata

Dr Ashraf Choudhary

Helen Duncan

Dr Paul Hutchison

Bernie Ogilvy

Mark Peck

Simon Power

Metiria Turei (non-voting member)

On 12 September 2002 the House appointed Sue Bradford as a member of the committee for the purposes of its consideration of the bill, but without the right to vote on any question before the committee.

Key to symbols used in reprinted bill

As reported from a select committee

Struck out (unanimous)

Subject to this Act,

Text struck out unanimously

New (unanimous)

Subject to this Act,

Text inserted unanimously

(Subject to this Act,)

Words struck out unanimously

Subject to this Act,

Words inserted unanimously

Hon Marian Hobbs

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

Government Bill

Contents

1	Title	
	Part 1	Part 3
	Preliminary provisions	Library and Information Advisory Commission and advisory bodies
2	Commencement	21 Establishment of Commission
3	Purpose	22 Purpose of Commission
4	Interpretation	23 Functions of Commission
5	Act binds the Crown	24 Advisory bodies
	Part 2	25 Reports
	National Library of New Zealand Te Puna Mātauranga o Aotearoa including Alexander Turnbull Library	26 Fees and allowances
	Subpart 1—National Library and National Librarian	27 Administration
	<i>National Library</i>	
6	Continuation of National Library	Part 4
7	Purpose of National Library	Provision of copies of public documents to National Library
8	National Librarian	28 Interpretation relating to this Part
9	Functions and powers of National Librarian	29 Purpose of this Part
	<i>Oral histories</i>	30 Notice of requirement for public documents
10	Provision of oral histories to National Library	30A Contents of requirement
	Subpart 2—Alexander Turnbull Library	30B Publishers to assist National Libra- rian to store and use documents
11	Continuation of Alexander Turnbull Library	30C Use of public documents in National Library
12	Purposes of Alexander Turnbull Library	31 Status of requirement as regulation
13	Chief Librarian of Alexander Turnbull Library	32 Consultation
14	Functions and powers of Chief Librarian	33 Copies of document
14A	Documents may be made available for public exhibition	34 Exemption from requirement
	Subpart 3—Guardians of Alexander Turnbull Library	35 Obligations to comply with requirement
15	Guardians of Alexander Turnbull Library	36 Offence and penalty
16	Purpose of Guardians	37 Savings
17	Function of Guardians	37A Transitional provision
18	Reports	37B National Librarian's other powers and rights not limited
19	Fees and allowances	
20	Administration	Part 5
		Dissolution of Trustees of National Library and miscellaneous provisions
		<i>Dissolution of Trustees of National Library</i>
		38 Dissolution of Trustees
		<i>Regulations</i>
		39 Regulations
		<i>Repeals, revocations, and amendments</i>
		40 Repeal and revocations

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

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)* the day after the date on which it receives the Royal assent. 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; and 25
- (d) establish an unincorporated body called the Guardians Kaitiaki of the Alexander Turnbull Library for the purpose, among other things, of providing assurance to the 30

- 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)* *Kaiwhakamārama i ngā* 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

Struck out (unanimous)

- (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 15

New (unanimous)

- (g) enable the Minister to notify requirements that copies of public documents be provided to the National Library, for the purposes of assisting in preserving New Zealand's documentary heritage; and
- (ga) ensure that the power to require public documents referred to in **paragraph (g)** extends to internet documents and authorises the National Librarian to copy such documents; and 20

- (h) provide for other related matters.

4 Interpretation 25

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** 30

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

document means a document in any form; and includes—

- (a) any writing on any material; and 5
- (b) information recorded or stored by means of any recording device, computer, or other electronic device, or any other device, and material subsequently derived from information so recorded or stored; and
- (c) a book, manuscript, newspaper, periodical, pamphlet, magazine, sheet of letterpress, sheet of music, map, plan, chart, (*artprint*,) art print, painting, picture, etching, print, table, graph, or drawing; and 10
- (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 15
- (e) a second or subsequent edition of any of the above

New (unanimous)

electronic includes electrical, digital, magnetic, optical, electromagnetic, biometric, and phototonic 20

Guardians means the Guardians Kaitiaki 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 25

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** 30

year means a year ending on 30 June.

5 Act binds the Crown
This Act binds the Crown.

Part 2
National Library of New Zealand Te Puna
Mātauranga o Aotearoa including Alexander
Turnbull Library

Subpart 1—National Library and National Librarian	5
<i>National Library</i>	
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.	10
(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,—	15
(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 heritage and taonga; and	20
(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.	25
8 National Librarian	
(1) There is an office of National Librarian.	
(2) The National Librarian is also the chief executive of the National Library.	30
(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.	35

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 5
 - (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 10
 - (c) to provide other services, including access to information resources, and bibliographical and school services, as the Minister thinks fit; and 15
 - (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 20
 - (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 25
 - (b) continue to provide—
 - (i) separate and suitable accommodation in a national library building for the collections of the Alexander Turnbull Library; and 30
 - (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 35
 - (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*) ownership, custody, or use of any documents 40

(*belonging to*) owned by 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)**.

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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 10

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. 15

(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. 20

(3) This section—

- (a) applies whether or not the oral history was created or acquired by, or on behalf of, the Crown; and 25
- (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*) consisting of— 30

- (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 35

- (b) bequests, donations, and other additions to, and acquisitions for(, *that collection*) the purposes of the Alexander Turnbull Library.
- (2) The Crown must continue to own the collections of the Alexander Turnbull Library in perpetuity. 5

Struck out (unanimous)

- (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.

New (unanimous)

- (3) Except to the extent provided by **section 14A**, the collections of the Alexander Turnbull Library must remain in the custody of the National Library at all times. 10
- (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— 15
- (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 20
- (c) to develop and maintain a comprehensive collection of documents relating to New Zealand and the people of New Zealand. 25

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.
- (3) The Chief Librarian must not, at the same time, hold—
 - (a) the position of National Librarian; or 5
 - (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.

14 Functions and powers of Chief Librarian 15

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

New (unanimous)

- 14A Documents may be made available for public exhibition**
- (1) The Chief Librarian may, to the extent that the power is delegated in accordance with **section 14**, make 1 or more documents from the collections of the Alexander Turnbull Library available on a temporary basis for public exhibition in New Zealand or elsewhere, on terms and conditions that the Chief Librarian thinks fit. 25
 - (2) In determining whether to exercise the power under **subsection (1)**, the Chief Librarian must have regard to the following matters: 30
 - (a) the purposes of the Alexander Turnbull Library; and
 - (b) the interests of readers visiting the Alexander Turnbull Library; and
 - (c) the physical condition and rarity of the document; and
 - (d) the physical environment in which the document will be exhibited; and 35

New (unanimous)

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| (e) any risks to which the document is likely to be exposed while in transit to, or in the custody of, the person or authority responsible for the exhibition of the document; and | |
| (f) terms and conditions imposed by the National Librarian in a delegation made under section 14 . | 5 |

Subpart 3—Guardians of Alexander Turnbull Library

15 Guardians of Alexander Turnbull Library

- (1) There is an unincorporated body called the Guardians Kaitiaki of the Alexander Turnbull Library, consisting of not more than 5 persons. 10
- (2) The Guardians are to be appointed by the Minister, by notice in the *Gazette*, after consultation with the Minister of Māori Affairs.
- (3) Before making an appointment under **subsection (2)**, the Minister— 15
- (a) must consult with the Minister of Māori Affairs; and
 - (b) may consult with such national organisations as he or she thinks fit.
- (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. 20
- (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*) function of the Guardians. 25

16 Purpose of Guardians

- The purpose of the Guardians is to provide assurance to the people of New Zealand that— 30
- (a) the collections of the Alexander Turnbull Library are held in perpetuity; and
 - (b) those collections are— 35
 - (i) provided with separate and suitable accommodation; and

- (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. 5

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*); 10
 - (b) the provision of services to enable access and research using the collections of the Alexander Turnbull Library(; *and*); 15
 - (c) the appropriate and adequate protection of the collections of the Alexander Turnbull Library(; *and*);

New (unanimous)

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| (ca) a decision made by the Chief Librarian under section 14A to make documents from the collections of the Alexander Turnbull Library available for public exhibition: | 20 |
|--|----|
- (d) the means to maintain—
 - (i) the identity and status of the collections of the Alexander Turnbull Library(; *and*);
 - (ii) the character of the services distinguishing that library as a research library(; *and*); 25
 - (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. 30
- (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. 35

18 Reports

- (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*) in accordance with **section 14**.
- (2) The National Librarian must each year— 5
- (a) report to the Guardians on the performance of the functions and exercise of the powers delegated to the Chief Librarian (*under*) in accordance with **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)**. 10
- (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 15
- (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. 20
- (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,— 25
- (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. 30

20 Administration

- (1) The Guardians must meet at least 3 times in each year.
- (2) The National Library must provide administrative services for the Guardians. 35

Part 3

Library and Information Advisory Commission and advisory bodies

- 21 Establishment of Commission**
- (1) There is an unincorporated body called the Library and Information Advisory Commission Ngā Kaiwhakamārama i *(nga)* ngā Kohikohinga Kōrero. 5
- (2) The Commission consists of—
- (a) up to 6 members; and
- (b) the National Librarian, as an ex officio member. 10
- (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.
- (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. 15
- (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. 20
- 22 Purpose of Commission**
- The purpose of the Commission is to provide advice to the Minister on library and information issues, including mātauranga Māori. 25
- 23 Functions of Commission**
- (1) The functions of the Commission are to advise and report to the Minister on—
- (a) library and information issues in New Zealand, including mātauranga Māori, and access to library and information services; and 30
- (b) the role of library and information services, including mātauranga Māori, in the cultural and economic life of New Zealand; and
- (c) any other matters requested by the Minister. 35
- (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
 - (b) the appropriate means for promoting collaboration among persons and institutions (for example, museums, libraries, and archives) in relation to protecting, preserving, and promoting access to information, including documentary heritage and mātauranga Māori. 5
- 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. 10
- 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. 15
- 26 Fees and allowances**
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,— 20
- (a) fees determined by the Minister in accordance with Government policy; and
 - (b) reimbursing allowances or actual and reasonable expenses incurred in undertaking the functions of the Commission or advisory body, as the case may be. 25
- 27 Administration**
The National Library must provide administrative services for the Commission and any advisory body established under **section 24**.

Part 4 30

(Requirement for) Provision of copies of public documents to (be provided to) National Library

- 28 Interpretation relating to this Part**
- (1) In this Part, unless the context otherwise requires,—

New (unanimous)

authorisation, in relation to an internet document, means an authorisation notified under **section 30(3)**

electronic document means a public document in which information is stored or displayed by means of an electronic recording device, computer, or other electronic medium, and includes an internet document

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Struck out (unanimous)

give means,—

(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

10

(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

15

New (unanimous)

internet document means a public document that is published on the Internet, whether or not there is any restriction on access to the document; and includes the whole or part of a website

20

make a copy, in relation to an internet document, means to make a copy of the document for the purpose of storing and using it in accordance with this Part; and includes circumventing any technological protection measures which otherwise would prevent or hinder the copying, storage, or use of the document

25

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

public document means a document—

New (unanimous)

- (aa) of which 1 or more copies (whether or not there is any restriction on members of the public acquiring or accessing the document) are—
 - (i) issued to the public; or
 - (ii) available to the public upon request; or
 - (iii) available to the public on the Internet; and

- (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*) person who is resident in New Zealand or whose principal place of business is in New Zealand; and
- (b) in which copyright exists (*by virtue of*) under the Copyright Act 1994 or that is a document of a kind referred to in section 27(1) of that Act; 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
 - (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*) making publicly available in the manner specified in (*the*) a requirement (*concerned*), whether or not there is any restriction on the acquisition or use of the document by members of the public

publisher means,—

- (a) in relation to a printed public document, the publisher of that document; and

Struck out (unanimous)

- (b) in relation to any other public document, the owner of the copyright in that document, or other person who makes the document available

New (unanimous)

- (b) in relation to any other public document other than an internet document, the person who produced in New Zealand, or commissioned the production outside New Zealand of, the copies of the document issued to, or available on request by, the public; and 5
- (c) in relation to an internet document, the person who has control over the content of the website, or part of the website, on which the document is located 10

Struck out (unanimous)

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)**.

New (unanimous)

requirement means a requirement notified by the Minister under **section 30(1)**; and includes—

- (a) an authorisation notified under **section 30(3)**; and 20
- (b) an amendment notified under **section 30(4)**

restriction, in relation to the acquisition, use, or availability of, or access to, a public document of any kind,—

- (a) means a physical, technical, or mechanical restriction such as a requirement to pay a fee or price, or to use a password or other requirement that prevents or restricts free public access to the document; but 25

New (unanimous)

- (b) does not mean any legal restriction recorded in or claimed for the public document.
- (2) For the avoidance of doubt, a public document that has been made available on the Internet is the document at a particular time and, if that document is changed in any respect, it becomes a different public document for the purposes of this Part. 5

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. 10

Struck out (unanimous)

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,— 15
 - (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 20
 - (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)**. 25
- (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. 30
- (4) A requirement, amendment, or revocation notified under this section comes into force on the date specified in the notice,

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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. 5

New (unanimous)

30 Notice of requirement for public documents

- (1) The Minister may, by notice in the *Gazette*, require a publisher of a public document (other than an internet document) to give to the National Librarian, at the publisher's own expense, a specified number of copies (not exceeding 3) of the printed public document and, in the case of an electronic document, the specified number of copies of the medium that contains the document. 10
- (2) The copies of the public documents referred to in **subsection (1)** must be provided— 15
- (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 notice); and
- (b) on, or in accordance with, any terms and conditions as to format, public access, or other matters that are specified in the notice. 20
- (3) The Minister may, by notice in the *Gazette*, authorise the National Librarian to make a copy, at any time or times and at his or her discretion, of public documents that are internet documents in accordance with any terms and conditions as to format, public access, or other matters that are specified in the notice. 25
- (4) The Minister may, by notice in the *Gazette*, amend or revoke a requirement notified under **subsection (1)** or **subsection (3)**. 30

30A Contents of requirement

- (1) A requirement must specify—

New (unanimous)

- (a) the date on which it comes into force, which, subject to **subsection (2)**, must be at least 3 months after the date on which the notice is published in the *Gazette*; and
 - (b) whether it applies to all classes of public documents or only to a specified class or classes of public documents; and 5
 - (c) in the case of a requirement notified under **section 30(1)**, whether it applies to all publishers of those public documents or only to a specified class or classes of publishers of those documents. 10
- (2) Despite **subsection (1)(a)**, 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 is not subject to the minimum period of 3 months specified in **subsection (1)(a)**. 15

30B Publishers to assist National Librarian to store and use documents

- (1) If, at any time, the National Librarian makes a written request for assistance, a publisher of an electronic document to which a requirement relates must, at the publisher's own expense, provide reasonable assistance within 20 working days of receiving the request to enable the National Librarian to store and use an identical copy of the document. 20
- (2) A written request under **subsection (1)** may relate to— 25
 - (a) 1 or more electronic documents; or
 - (b) 1 or more classes of electronic document.

30C Use of public documents in National Library

- (1) In this section, **deposited document** means a public document of which 1 or more copies have been given to, or made by, the National Librarian under a requirement. 30
- (2) For the purposes of carrying out his or her duties, the National Librarian and any employee, contractor, or agent of the National Library may possess, copy, store in electronic form (whether off-line or on-line), and use any copy of a deposited document. 35

New (unanimous)

- (3) The National Librarian may provide not more than 3 copies of a deposited document for use by members of the public (whether at the premises of the National Library or elsewhere) but, except as provided in **subsection (4)** or with the publisher's agreement, must not make the document available on the Internet. 5
- (4) If a deposited document is made publicly available on the Internet by the publisher without restriction on its access or use by members of the public, the National Librarian may make the document available for access and use by members of the public on the Internet (as well as in the manner permitted by **subsection (3)**). 10
- (5) Except as provided in **subsections (2) to (4)**, the law relating to copyright applies to every deposited document.

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*) terms and conditions referred to in (***section 30(1)(a) and (b)***) **section 30(2)(b) or (3)**. 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

Struck out (unanimous)

Except as otherwise expressly provided in the requirement or amendment, the copies of a public document given under a requirement must be— 30

Struck out (unanimous)

- (a) identical copies of the document; and
- (b) of the same standard as the best copies of the document that have been published in New Zealand.

New (unanimous)

Except as otherwise expressly provided in a requirement, copies of a public document given to the National Librarian in accordance with a requirement notified under **section 30(1)** must be—

- (a) identical copies of the document; and
- (b) of the same standard as the best copy of the document that has 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 documents from the requirement on the basis of criteria set out in the requirement. 15
- (2) The Minister may, by notice in the *Gazette*, exempt a public document or class of public documents from a requirement if—
 - (a) the requirement authorises the Minister to grant exemptions from it; and 20
 - (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. 25
- (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.

35 Obligations to comply with requirement

- (1) A publisher (*of a public document*) to whom a requirement applies must comply with that requirement. 30

New (unanimous)

(1A) A publisher to whom a requirement notified under **section 30(3)** applies must permit the National Librarian to make a copy of that document in accordance 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,—
- (a) the printer is under the same duty to comply with a requirement as the publisher; and
 - (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.

37 Savings

Struck out (unanimous)

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.

New (unanimous)

- (1) Despite **section 40(1)**, section 30A of the National Library Act 1965 continues to apply in relation to a book if its date of publication (as defined in section 30A of that Act) is a date before the commencement of this Act.
- (2) **Subsection (1)** applies in relation to a book whether the 30-day period referred to in section 30A of the National Library Act 1965 expires before, on, or after the commencement of this Act.

New (unanimous)

- 37A Transitional provision**
Despite **section 40(1)**, section 30A of the National Library Act 1965 applies in relation to a book if—
- (a) its date of publication (as defined in section 30A of that Act) is a date on or after the commencement of this Act; 5
and
 - (b) no requirement is in force in relation to the book.
- 37B National Librarian’s other powers and rights not limited**
This Part does not limit any power or right that the National Librarian has in relation to a public document, other than 10
under this Part.

Part 5
**Dissolution of Trustees of National Library and
miscellaneous provisions**

- Dissolution of Trustees of National Library* 15
- 38 Dissolution of Trustees**
- (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. 20
 - (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 25
30
 - (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 35

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.

- (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. 5
- (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. 10

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. 15

Repeals, revocations, and amendments

40 Repeal and revocations

- (1) The National Library Act 1965 (1965 No 136) is repealed. 20
- (2) The Alexander Turnbull Library Regulations 1966 (SR 1966/206) are revoked.

41 Consequential and related amendments

The Acts specified in **Schedule (23)** are amended in the manner indicated in that schedule. 25

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 Reference Library in the City of Wellington for the use and reference of persons and students interested in the subjects specialised in the said Library. 5

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 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. 20
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Struck out (unanimous)

Schedule 2
Enactment repealed

s 41

National Library Act 1965 (1965 No 136)

(s 42) s 41

Schedule 3 Enactments amended

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”. Add to paragraph (e) of the definition of official information :	35
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Part 2—*continued*

Official Information Act 1982 (1982 No 156)—continued

“(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.” 5

Legislative history

14 March 2002

Introduction (Bill 202–1)

2 May 2002

First reading and referral to Education and Science Committee
