

Accessibility for New Zealanders Bill

Government Bill

As reported from the Social Services and Community Committee

Commentary

Recommendation

The Social Services and Community Committee has examined the Accessibility for New Zealanders Bill and recommends by majority that it be passed. We recommend all amendments by majority.

About the bill

This bill's purpose is to accelerate progress towards a fully accessible New Zealand where disabled people, their families, and others with accessibility needs have an equal opportunity to achieve their goals and aspirations. To this end, it would establish the Accessibility Committee to advise the Minister for Disability Issues on how to address accessibility barriers and grow accessibility practices across New Zealand. The Committee would be led by disabled people, tāngata whaikaha Māori, and their families or whānau.

The bill also aims to strengthen accountability for improving accessibility by creating responsibilities for the Minister for Disability Issues and the chief executive of Whaikaha—Ministry of Disabled People.

We sought to make our process accessible

Because this bill addresses important issues for disabled people, tāngata whaikaha Māori, their families and whānau, and others with accessibility needs, we sought to change parts of the select committee process to make it more accessible and to make participation as easy as possible. Steps we took included:

- publishing our media releases and call for submissions in all five alternate formats (Braille, Easy Read, audio, New Zealand Sign Language video, and large print)

- giving additional time for oral submissions because the oral submission format can be difficult for some people
- allowing people to provide an oral submission without first providing a written submission, as the written submission format can also be difficult for some people
- providing extensive information, when booking oral submissions, about the process and the support available
- providing New Zealand Sign Language interpretation for submitters who wanted it when making oral submissions
- publishing our report, and selected advice we received on the bill, in all five alternate formats
- hearing submissions on the bill at a variety of times of day, to ensure that people who wanted to make an oral submission had the opportunity to do so
- making a video with detailed information about the Social Services and Community Committee, what the bill aims to achieve, and how to make a submission on the bill, and posting it on the committee's Facebook page.

We acknowledge that the select committee process could still be made more accessible for submitters. We want to acknowledge the patience and goodwill of submitters during the submissions process as we learned about improving accessibility in our own work. We will continue to investigate ways to improve the process.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation's design to bring to the attention of the House.

Proposed amendments

This commentary covers the main amendments we recommend to the bill as introduced. We do not discuss minor or technical amendments.

Referring to families and Māori disabled people in the bill

The bill as introduced uses the term "tāngata whaikaha" throughout to refer to Māori disabled people. We were advised that "tāngata whaikaha" can also refer to disabled people in general. We think the bill should be clear in its language when referring to Māori disabled people. Therefore, we recommend amending the bill to use "tāngata whaikaha Māori" to refer to Māori disabled people.

Composition of the Accessibility Committee

Clause 11 of the bill sets out the process for appointing members of the Accessibility Committee. It also sets out requirements for the composition of the Committee. Clause 11(2)(c)(iii) would require the Minister to ensure, as far as reasonably practicable, that the Committee as a whole has a "gender balance". We consider that this lan-

guage should be inclusive of other gender identities. We recommend amending clause 11(2)(c)(iii) to require the Minister to ensure that people of different genders are represented on the Committee.

Family of disabled people and tāngata whaikaha Māori should be represented on the Committee

Clause 11(2)(c)(v) specifies that the Minister must ensure, as far as reasonably practicable, that the Committee membership includes “whānau or carers (or both) of disabled people”. We think that the experience of those who care for disabled people is valuable, and should be represented on the Committee in some way. As introduced, we do not believe clause 11(2)(c)(v) sufficiently captures the breadth of people it intends to. We recommend amending clause 11(2)(c)(v) to include “family or whānau or carers (or all) of disabled people and tāngata whaikaha Māori”.

The Accessibility Committee’s recommendations

Clause 15 sets out the functions of the Committee. One of the functions would be to make recommendations to the Minister about the prevention or removal of accessibility barriers by specified entities.¹ When making such a recommendation, clause 15(3)(a) would require the Committee to identify “the domain in which the accessibility barrier or accessibility practice exists”. We consider the use of “domain” could unintentionally limit the scope of the Accessibility Committee’s recommendations. We recommend amending clause 15(3)(a) to change “domain” to “aspect of life”. This term would also mirror the language used in Article 9 of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).

Receive people’s views and experiences and report on accessibility barriers in New Zealand

We think that the Committee should be required to receive and consider the views and experiences of disabled people, tāngata whaikaha Māori, their families or whānau, and others with accessibility needs in a way that is accessible and then report annually on accessibility barriers that people experience. We consider that a report that states common accessibility barriers that people experience in one place would help to raise awareness of disabled people’s experiences. We also think it would help to hold specified entities to account for reducing or removing those barriers. The report would state:

- the barriers that people face
- the views of those people on the barriers
- the specified entity in charge of improving that area

¹ “Specified entities” is defined in clause 6 of the bill and would include (but are not limited to) government departments, departmental agencies, and local authorities.

- any legal or statutory obligations the specified entity has to comply with related to the barriers
- the progress being made in preventing or removing the barriers.

We think that the Committee should publish the report online and provide it to the Minister, who would then table the report in the House of Representatives. Accordingly, we recommend amending clause 15 to allow the committee to receive and consider people's views and experiences, and inserting clause 16A to make this reporting a function of the Committee.

Power of the Committee to get information

Clauses 18, 19, and 20 of the bill as introduced would allow the Accessibility Committee to collect information from public agencies. In his submission, the Chief Ombudsman questioned why the bill would create a unique information access system for the Committee. In particular, the Ombudsman noted that the Committee would have less access to information than a regular person would under the Official Information Act 1982. We agree that the Committee should not have a proprietary system for requesting information, but nor should it be overly restricted from collecting relevant information.

We recommend deleting clauses 18 to 20 and instead inserting new clauses 17A and 17B. Clause 17A would require specified entities to supply the committee with information when the committee is performing its functions. Clause 17A would also require the chief executive to support the Committee in requesting information from specified entities. Clause 17B would create some privacy restrictions on what information the committee could request.

Presenting recommendations of the Committee to the House of Representatives

Clause 22(b) would require the Minister to present recommendations made by the Accessibility Committee to the House of Representatives. We think that this requirement could be clearer as to when the Minister would be required to do so. We recommend amending clause 22(b) to require the Minister to present recommendations from the Accessibility Committee to the House as soon as practicable after receiving them.

Removing members from the Accessibility Committee

Schedule 2, clause 2 would allow the Minister to remove a Committee member from office, with some restrictions. These restrictions include requiring that there be "just cause" for removal, and that "reasonable accommodations" have been made for that member before they are removed.

We consider that the "reasonable accommodations" are unclear as they relate to removing a member from the Committee. We recommend amending clause 6 to add a definition of "reasonable accommodations" to clarify that it has the same meaning as in Article 2 of the UNCRPD. We also recommend amending Schedule 2 to insert new

clause 2A. New clause 2A would clarify that it is the Committee chairperson's responsibility to ensure that members of the Committee are reasonably accommodated to be able to fully participate in the Committee's work.

Concluding comments

The majority of us see the establishment of an Accessibility Committee as only a first step in creating an accessible Aotearoa, and reaffirm the importance of having those with lived experience involved with the development of solutions to eliminate barriers to accessibility.

Submitters told us that these barriers exist across all sectors including the built environment, transport, housing, health, education, broadcasting, and communications, and that they were significantly impacting their lives.

The majority of us acknowledge that while for some sectors a mix of awareness-raising, education, funded programmes, and policies will be the best way to eliminate accessibility barriers, for others legislative solutions (e.g. standards / regulations) will be required.

While the work to achieve an accessible Aotearoa is complex and will require an ongoing commitment to working across sectors, this should not preclude this work being undertaken at pace. In addition, nothing in this bill should preclude improving accessibility outside of the Accessibility Committee's work.

The majority of us urge the Minister to move quickly to establish the Accessibility Committee and to ensure it is adequately resourced, so the Committee can begin the process of collating, exploring, and advising on solutions to eliminate the accessibility barriers experienced by New Zealanders.

New Zealand National Party view

National Party members of the committee consider that the Accessibility for New Zealanders Bill falls well short of the transformational legislation promised by the Minister when introducing the bill.

National Party members of the committee do not consider that the bill meets the purpose stated "to accelerate progress towards a fully accessible New Zealand".

National Party members of the committee agree with the many submitters who were disappointed that the bill lacked enforceable standards and did not go far enough, calling for considerable strengthening of the bill in the select committee process.

National Party members of the committee also note that the majority of submitters from the disability sector had expectations of a more regulatory model based on Australian or Canadian standards within a New Zealand context.

While National Party members of the committee acknowledge that some changes have been made to accommodate a register or public list of known accessibility barriers to: i) increase communication between the public and the Accessibility Committee, ii) increase public awareness of systems-level accessibility barriers, iii) increase

public accountability of specified entities, we do not consider the changes to the bill have been significant enough to warrant support of the bill.

National Party members of the committee consider the bill is fundamentally flawed and will therefore not be supporting the bill. National recommends the bill be withdrawn and a new bill drafted that aligns more closely with the expectations of the disability sector as expressed in the majority of submissions.

Green Party of Aotearoa New Zealand view

Green Party members of the committee recognise disabled people have pre-existing rights as articulated in the Universal Declaration of Human Rights, and more specifically, the UNCRPD. Accessibility is a core principle of the Convention; it is a right and a precondition to the enjoyment of other fundamental rights.

In the most recent UNCRPD review of New Zealand, the committee raised concerns from organisations of persons with disabilities that “the Accessibility for New Zealanders bill, currently before Parliament, does not contain enforcement mechanisms, may not cover private entities or local government, lacks standard-setting and decision making bodies and lacks obligations to make tangible changes within fixed time frames.”

They made a recommendation that the state party “Establish a co-design and co-production process with organisations of persons with disabilities to address concerns about the Accessibility for New Zealanders bill, following release of the Select Committee’s report.”

This recommendation reflects the importance of accessibility and the UNCRPD requirement for governments to closely consult with and actively involve disabled people, through their representative organisations.

82 percent of submissions and 93 percent of submissions with a stated position made recommendations for substantial change to this bill. It is the view of Green Party members of the committee that these submissions reflect the view of disabled people, and in an area so central to the rights of disabled people Government should not be acting against the wishes of disabled people and their organisations.

We note too the strong view of the Independent Monitoring Mechanism, Ombudsman, Human Rights Commission, and Disabled People’s Organisations Coalition who made a rare, if not unprecedented, submission to this select committee reminding us of our obligations and the inadequacy of this bill.

We call on the Government to follow the UN’s advice and engage in a co-design and co-production process.

Green Party members of the committee cannot support an accessibility bill that is not supported by disabled people.

Appendix

Committee process

The Accessibility for New Zealanders Bill was referred to the committee on 2 August 2022.

We called for submissions on the bill with a closing date of 7 November 2022. We received and considered submissions from 523 interested groups and individuals. We heard oral evidence from 121 submitters at hearings in Wellington and via videoconference.

We received advice on the bill from the Ministry of Social Development. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting.

Committee membership

Angie Warren-Clark (Chairperson)

Karen Chhour

Dr Liz Craig

Dr Emily Henderson

Anahila Kanongata'a

Ricardo Menéndez March

Terisa Ngobi

Maureen Pugh

Hon Louise Upston

Jan Logie, Penny Simmonds, and Toni Severin participated in some of our consideration of this bill.

Key to symbols used in reprinted bill

As reported from a select committee

text inserted by a majority

~~text deleted by a majority~~

Hon Priyanca Radhakrishnan

Accessibility for New Zealanders Bill

Government Bill

Contents

		Page
1	Title	2
2	Commencement	3
Part 1		
Preliminary provisions		
3	Purpose	3
4	Principles	3
5	Tiriti o Waitangi/Treaty of Waitangi	3
6	Interpretation	4
7	Transitional, savings, and related provisions	5
8	Act binds the Crown	5
Part 2		
Accessibility Committee		
Subpart 1—Establishment of Committee		
9	Accessibility Committee established	5
<i>Membership of Committee</i>		
10	Membership of Committee	5
11	Process for appointing Committee members	5
<i>Nominations panels</i>		
12	Community nominations panel	6
13	Māori nominations panel	6
<i>Further provisions relating to Committee</i>		
14	Further provisions relating to Committee	7

Subpart 2—Committee’s functions, duties, and powers

Functions and duties

15	Functions of Committee	7
16	Duties of Committee	8
<u>16A</u>	<u>State of accessibility in New Zealand report</u>	<u>8</u>
17	Annual monitoring report	9
<u>17A</u>	<u>Collaboration with specified agencies</u>	<u>9</u>
<u>17B</u>	<u>Restrictions on requests for certain information</u>	<u>10</u>

Power to obtain information

18	Power of Committee to obtain information	10
19	Restriction on requests for certain information	11
20	Grounds for refusing to supply requested information	11
21	Restriction on publication or disclosure of information	11

Subpart 3—Other matters

Role of Minister and chief executive

22	Role of Minister	12
23	Role of chief executive	12

Technical advisory committees

24	Technical advisory committees	13
----	-------------------------------	----

Information obtained by Committee

<u>24A</u>	<u>Restriction on publication or disclosure of information obtained by Committee</u>	<u>13</u>
------------	--------------------------------------------------------------------------------------	-----------

Review of Act

25	Review of Act	13
----	---------------	----

Amendment to Ombudsmen Act 1975

26	Principal Act	14
27	Schedule 1 amended	14

Schedule 1

15

Transitional, savings, and related provisions**Schedule 2**

16

Further provisions relating to Committee**The Parliament of New Zealand enacts as follows:****1 Title**

This Act is the Accessibility for New Zealanders Act **2022**.

2 Commencement

- (1) This Act comes into force on a date appointed by the Governor-General by Order in Council.
- (2) One or more Orders in Council may be made appointing different dates for the commencement of different provisions and for different purposes. 5
- (3) To the extent that it is not previously brought into force under **subsection (1)**, this Act comes into force on **1 July 2024**.
- (4) An order made under **subsection (1)** is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Part 1 Preliminary provisions 10

3 Purpose

- (1) The purpose of this Act is to accelerate progress towards a fully accessible New Zealand where disabled people, tāngata whaikaha Māori, and their families or whānau, and others with accessibility needs have an equal opportunity to achieve their goals and aspirations. 15
- (2) To that end, this Act establishes the Accessibility Committee to—
 - (a) identify accessibility barriers in New Zealand society; and
 - (b) progressively work towards preventing and removing accessibility barriers in New Zealand society; and 20
 - (c) progressively work towards growing accessibility practices across New Zealand.

4 Principles

All persons performing a function or duty or exercising a power under this Act must have regard to the need to respect and uphold the rights of disabled people, tāngata whaikaha Māori, and their families or whānau, and others with accessibility needs in New Zealand law, including rights that are derived from the following: 25

- (a) the United Nations Convention on the Rights of Persons with Disabilities: 30
- (b) other international instruments that are relevant to, and that affect, disabled people, tāngata whaikaha Māori, and their families or whānau, and others with accessibility needs.

5 Tiriti o Waitangi/Treaty of Waitangi

In achieving the purpose of this Act, all persons performing a function or duty or exercising a power under this Act must act in a manner that gives effect to the principles of te Tiriti o Waitangi/the Treaty of Waitangi. 35

6 Interpretation

In this Act, unless the context otherwise requires,—

accessibility barriers means obstacles or circumstances that prevent or hinder disabled people, tāngata whaikaha Māori, and their families or whānau, and others with accessibility needs from living independently and participating on an equal basis with others 5

Accessibility Committee or **Committee** means the Committee established by **section 9**

accessibility practices means actions, measures, modifications, or adjustments that enable disabled people, tāngata whaikaha Māori, and their families or whānau, and others with accessibility needs to live independently and participate fully on an equal basis with others 10

chief executive means the chief executive of the Ministry

Minister means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is responsible for the administration of this Act 15

Ministry means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

reasonable accommodations, in relation to a Committee member, means making any necessary and appropriate modifications or adjustments that do not impose a disproportionate or undue burden to ensure that the Committee member can carry out their office as a member on an equal basis with others 20

recommendation, except in **sections 10(2) and 24(1)**, means a recommendation made by the Committee under **section 15(1)(c)**

specified entity means— 25

(a) a department named in Part 1 of Schedule 2 of the Public Service Act 2020, other than—

- (i) the Government Communications Security Bureau; and
- (ii) the New Zealand Security Intelligence Service:

(b) a departmental agency named in Part 2 of Schedule 2 of the Public Service Act 2020: 30

(c) a statutory entity named in Schedule 1 of the Crown Entities Act 2004:

(d) Veterans' Affairs New Zealand:

(e) a local authority (as defined in section 5(1) of the Local Government Act 2002) 35

tāngata whaikaha Māori means disabled people who are Māori

te ao Māori means Māori world view

tikanga Māori means Māori custom and protocol.

- 7 Transitional, savings, and related provisions**
The transitional, savings, and related provisions (if any) set out in **Schedule 1** have effect according to their terms.

- 8 Act binds the Crown**
This Act binds the Crown. 5

Part 2

Accessibility Committee

Subpart 1—Establishment of Committee

- 9 Accessibility Committee established**
This section establishes the Accessibility Committee. 10

Membership of Committee

- 10 Membership of Committee**
- (1) The Committee consists of up to 8 members appointed by the Minister, comprising—
- (a) a chairperson; and 15
- (b) 5 to 7 other members.
- (2) The Minister may, on the recommendation of the Committee, appoint up to 2 additional members to ensure that the Committee as a whole has the attributes set out **section 11(2)**, in which case, the Committee consists of up to 10 members. 20

11 Process for appointing Committee members

- (1) The Minister may, by notice in the *Gazette*, appoint a person as a Committee member if—
- (a) the person has been nominated by the community nominations panel or the Māori nominations panel; and 25
- (b) the Minister has had regard to the matters in **subsection (2)**.
- (2) When appointing Committee members, the Minister must—
- (a) ensure that a majority of the members are disabled; and
- (b) ensure that the Committee as a whole—
- (i) has knowledge and understanding of te Tiriti ~~of~~ o Waitangi/the Treaty of Waitangi, te ao Māori, and tikanga Māori; and 30
- (ii) has knowledge and understanding of the United Nations Convention on the Rights of Persons with Disabilities; and

- (iii) has knowledge of, and experience in, preventing and removing accessibility barriers and growing accessibility practices; and
- (c) ensure, as far as is reasonably practicable, that the Committee as a whole—
 - (i) has knowledge of, and experience in, government processes and business; and 5
 - (ii) reflects a broad range of types of impairment; and
 - (iii) ~~has a gender balance~~ includes people of different genders; and
 - (iv) includes perspectives of people from different cultural backgrounds and of different ages; and 10
 - (v) includes the family or whānau or carers (or ~~both~~ all) of disabled people and tāngata whaikaha Māori; and
 - (vi) has knowledge of, and experience in, any other matters that the Minister thinks fit.

Nominations panels 15

12 Community nominations panel

- (1) The Minister must establish a community nominations panel for the purpose of nominating 1 or more candidates for appointment by the Minister as Committee members.
- (2) The community nominations panel consists of up to 5 members appointed by the Minister, comprising— 20
 - (a) a chairperson; and
 - (b) up to 4 other members.
- (3) The Minister must appoint to the community nominations panel people who, in the Minister's opinion, have the relevant skills or experience to identify suitably qualified candidates for appointment to the Committee, having regard to— 25
 - (a) networks of importance to disabled people and tāngata whaikaha Māori, and their families or whānau; and
 - (b) individuals or groups whose specific perspectives are required for the purposes of the Committee's functions or duties; and 30
 - (c) individuals who hold key roles in the disability sector.

13 Māori nominations panel

- (1) The Minister must establish a Māori nominations panel for the purpose of nominating 1 or more candidates for appointment by the Minister as Committee members. 35
- (2) The Māori nominations panel consists of up to 5 members appointed by the Minister, comprising—

- (a) a chairperson; and
- (b) up to 4 other members.
- (3) The Minister must appoint to the Māori nominations panel people who, in the Minister’s opinion, have the relevant skills or experience to identify suitably qualified candidates for appointment to the Committee. 5
- (4) In appointing persons to the Māori nominations panel, the Minister must, as far as is reasonably practicable, consult—
 - (a) tāngata whaikaha Māori and their whānau; and
 - (b) networks of importance to tāngata whaikaha Māori and their whānau; and 10
 - (c) any other Māori groups that the Minister considers appropriate.

Further provisions relating to Committee

14 Further provisions relating to Committee

The provisions set out in **Schedule 2** apply to the Committee and its members. 15

Subpart 2—Committee’s functions, duties, and powers

Functions and duties

15 Functions of Committee

- (1) The functions of the Committee are—
 - (a) to provide advice to the Minister on matters relating to accessibility barriers and accessibility practices: 20
 - (b) to develop a work programme that sets out the accessibility barriers and accessibility practices that the Committee intends to provide advice to the Minister about:
 - (c) to make recommendations to the Minister about the prevention or removal of accessibility barriers by specified entities and the growing of accessibility practices by specified entities: 25
 - (d) to assess, and report to the Minister under **section 17** on, progress made by specified entities in implementing the Committee’s recommendations: 30
 - (da) to receive and consider the views and experiences of disabled people, tāngata whaikaha Māori, and their families or whānau, and others with accessibility needs in a way that is accessible:
 - (e) to perform any other functions conferred or imposed on the Committee— 35
 - (i) by the Minister; or

- (ii) by or under any other legislation.
- (2) The Committee's work programme developed under **subsection (1)(b)** must be—
- (a) updated at least annually; and
 - (b) published on an Internet site maintained by or on behalf of the Ministry. 5
- (3) When making a recommendation under **subsection (1)(c)**, the Committee must, as far as is reasonably practicable,—
- (a) identify the ~~domain~~ aspects of life in which the accessibility barrier or accessibility practice exists; and
 - (b) describe the nature and scale of the accessibility barrier or accessibility practice; and 10
 - (c) describe the historic and current context of the accessibility barrier or accessibility practice, as appropriate; and
 - (d) outline options to address the accessibility barrier or grow the accessibility practice, including any financial implications; and 15
 - (e) outline the potential benefits and trade-offs involved in addressing the accessibility barrier or growing the accessibility practice; and
 - (f) state who the Committee has consulted in developing the recommendation.
- 16 Duties of Committee** 20
- (1) In performing its functions, the Committee must—
- (a) give effect to the principles of te Tiriti o Waitangi/the Treaty of Waitangi and consider tikanga Māori and te ao Māori in its work in preventing and removing accessibility barriers and growing accessibility practices; and 25
 - (b) ensure that its work incorporates the experiences of disabled people, tāngata whaikaha Māori, and their families or whānau, and others with accessibility needs.
- (2) When developing recommendations, the Committee must consult affected sectors and interested parties, including disabled people, tāngata whaikaha Māori, and their families or whānau, and others with accessibility needs in a way that is accessible. 30
- (3) This section is in addition to and does limit any other duties of the Committee under this Act.
- 16A State of accessibility in New Zealand report** 35
- (1) The Committee must, on an annual basis, provide the Minister with a written report that contains an assessment of the state of accessibility in New Zealand.
- (2) The purpose of the report is—

- (a) to promote public awareness of current systems-level accessibility barriers in New Zealand; and
 - (b) to enhance the accountability of specified entities in relation to accessibility barriers.
 - (3) The Committee must ensure that the report includes an assessment of the known systems-level accessibility barriers in New Zealand, including by—
 - (a) identifying the aspects of life in which the accessibility barrier exists and describing the nature and scale of the accessibility barrier; and
 - (b) identifying the specified entity (or specified entities) responsible for the aspects of life in which the accessibility barrier exists; and
 - (c) indicating how the accessibility barrier interacts with any statutory functions, duties, requirements, or restrictions (as applicable); and
 - (d) reporting on the views and the experiences of disabled people, tāngata whaikaha Māori, and their families or whānau, and others with accessibility needs in relation to the accessibility barrier; and
 - (e) reporting on the progress made by the specified entity (or specified entities) in preventing or removing the accessibility barrier, including any action that the specified entity has taken, or intends to take, in preventing or removing the barrier.
 - (4) The Minister must present a copy of the report to the House of Representatives as soon as practicable after receiving it.
 - (5) The report must be published on an Internet site maintained by or on behalf of the Ministry in a way that is accessible.
- 17 Annual monitoring report**
 - (1) The Committee must, on an annual basis, provide the Minister with a written monitoring report that contains an assessment of the progress made by specified entities in implementing its recommendations in the 12 months before the date of the report.
 - (2) The Committee must ensure that the report includes an assessment of the progress made in addressing accessibility barriers and growing accessibility practices for tāngata whaikaha Māori, and their families or whānau.
 - (3) The Minister must present a copy of the report to the House of Representatives as soon as practicable after receiving it.
- 17A Collaboration with specified agencies**
 - (1) The Committee must collaborate with specified entities when the Committee is performing its functions.
 - (2) To assist the Committee in performing its functions, the Committee may request a specified entity to supply it with any information that is necessary or desirable to enable the Committee to perform those functions.

- (3) A request under this section must be in writing and state the date by which, and the manner in which, the information is to be provided.
- (4) A request for information under this section may only be refused if—
- (a) the information requested can be properly withheld under the Official Information Act 1982 or the Local Government Official Information and Meeting Act 1987, as the case may be; or 5
 - (b) the supply of the information would limit the ability of the specified entity, or of any of its employees, members, or office holders, to act judicially, or to carry out the statutorily independent functions of the specified entity, in relation to a particular matter. 10
- (5) Nothing in this section limits or affects the ability of the Committee to make a request for information under the Official Information Act 1982 or the Local Government Official Information and Meeting Act 1987 for information to which this section applies.
- (6) However, before making a request referred to in **subsection (5)**, the Committee must consult the chief executive to determine if the information can be obtained through a request made under this section. 15

Compare: 2020 No 32 s 14(1), 15(2); 2019 No 51 s 23

17B Restrictions on requests for certain information

The Committee may not request, and a specified entity must not supply, information under **section 17A** that is— 20

- (a) personal information within the meaning of section 7 of the Privacy Act 2020; or
- (b) information held by the Government Statistician that was collected under the Data and Statistics Act 2022; or 25
- (c) information that a revenue officer must keep confidential under section 18 of the Tax Administration Act 1994.

Compare: 2020 No 32 s 15(1); 2019 No 51 s 23(7)

Power to obtain information

18 Power of Committee to obtain information 30

- (1) ~~The Committee may request a specified entity to supply it with any information that the Committee considers necessary or desirable for the purpose of enabling it to perform its functions under **section 15(1)(c) and (d)**.~~
- (2) ~~A request —~~
- (a) ~~must be in writing; and~~ 35
 - (b) ~~may state the date by which, and the manner in which, the information must be provided.~~
- (3) ~~If a date is specified, that date must be reasonable.~~

(4) ~~A specified entity that receives a request under this section must comply with the request, subject to **sections 19 and 20**.~~

(5) ~~Before making a request under this section, the Committee must consult the chief executive.~~

~~Compare: 2020 No 32 s 14; 2019 No 51 s 23~~

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19 ~~Restriction on requests for certain information~~

~~The Committee may not request, and a specified entity must not supply, information under **section 18** that is —~~

(a) ~~personal information (as defined in section 7(1) of the Privacy Act 2020); or~~

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(b) ~~information held by the Government Statistician that was collected under the Statistics Act 1975; or~~

(c) ~~information that a revenue officer must keep confidential under section 18 of the Tax Administration Act 1994.~~

~~Compare: 2020 No 32 s 15; 2019 No 51 ss 24, 25(1)(b)~~

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20 ~~Grounds for refusing to supply requested information~~

(1) ~~A request for information under **section 18** may be refused if —~~

(a) ~~the information requested can be properly withheld under the Official Information Act 1982; or~~

(b) ~~the supply of the information would limit the ability of the specified entity, or of any of its employees, members, or office holders, to act judicially, or to carry out the statutorily independent functions of the specified entity, in relation to a particular matter; or~~

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(c) ~~the document alleged to contain the information requested does not exist or, despite reasonable efforts to locate it, cannot be found; or~~

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(d) ~~the information requested cannot be made available without substantial research.~~

(2) ~~If a request is likely to be refused under **subsection (1)(c) or (d)**, the specified entity must, before refusing the request, consider whether consulting the Committee would assist the Committee to make the request in a form that would remove the reason for the refusal.~~

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~~Compare: 2020 No 32 s 15; 2019 No 51 s 25(1)(b); 1982 No 156 s 18(e)~~

21 ~~Restriction on publication or disclosure of information~~

~~The Committee must not publish or disclose any information obtained under **section 18** unless 1 or more of the following apply:~~

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(a) ~~the information is available to the public under any enactment or is otherwise publicly available;~~

(b) ~~the information is in a statistical or summary form;~~

- ~~(e) the publication or disclosure is with the consent of the specified entity from which the information was obtained;~~
- ~~(d) the publication or disclosure is made under the Official Information Act 1982 or is otherwise required by law.~~

~~Compare: 2020 No 32 s 16; 2019 No 51 s 26~~

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Subpart 3—Other matters

Role of Minister and chief executive

22 Role of Minister

The role of the Minister in relation to the Committee includes (without limitation)—

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- (a) approving the Committee's work programme after making any necessary amendments;
- (b) presenting recommendations made by the Committee to the House of Representatives as soon as practicable after receiving a recommendation;
- (c) advising the Committee, within a reasonable time frame and after collaborating with other relevant Ministers, about how the Committee's recommendations have been, or will be, considered by the Government;
- (d) arranging for independent reviews of the operation and effectiveness of this Act to be carried out as required.

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23 Role of chief executive

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The role of the chief executive in relation to the Committee includes (without limitation)—

- (a) assisting the Committee to develop its recommendations;
- (b) supporting the Committee in making information requests ~~under section 48~~ under this Act or any other Act;
- (c) establishing 1 or more technical advisory committees under **section 24**;
- (d) providing the administrative and analytical support that is necessary to enable the Committee to perform and exercise its functions, duties, and powers;
- (da) providing advice and support to the chairperson of the Committee in relation to any reasonable accommodations to be provided to Committee members;
- (e) publishing the Government's response to the Committee's recommendations on an Internet site maintained by or on behalf of the Ministry.

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Technical advisory committees

24 Technical advisory committees

- (1) The chief executive may, on the recommendation of the Committee, establish 1 or more technical advisory committees to advise the Committee on the performance of the Committee's functions and duties under this Act. 5
- (2) The chief executive may—
 - (a) appoint members of a technical advisory committee on any terms and conditions that the chief executive thinks fit; and
 - (b) specify terms of reference for the technical advisory committee's work.
- (3) A technical advisory committee must comply with any terms of reference specified by the chief executive. 10
- (4) A technical advisory committee may, subject to any provision of this Act and any terms of reference, determine its own procedure.

Information obtained by Committee

24A Restriction on publication or disclosure of information obtained by Committee 15

The Committee must not publish or disclose any information obtained by the Committee unless 1 or more of the following apply:

- (a) the information is available to the public under any enactment or is otherwise publicly available; 20
- (b) the information is in a statistical or summary form;
- (c) the publication or disclosure is with the consent of the specified entity from which the information was obtained;
- (d) the publication or disclosure is made under the Official Information Act 1982 or is otherwise required by law. 25

Compare: 2020 No 32 s 16; 2019 No 51 s 26

Review of Act

25 Review of Act

- (1) The Minister must arrange for an independent review of the operation and effectiveness of this Act— 30
 - (a) no later than 5 years after the commencement of this section; and
 - (b) at 5-yearly intervals after completion of the first review.
- (2) The person (or persons) conducting the review must prepare a report on the review and provide it to the Minister.
- (3) The review must consider— 35

- (a) whether the functions, duties, and powers set out in this Act adequately give effect to the purpose of this Act; and
- (b) whether any amendments to this Act are necessary or desirable.
- (4) The Minister must present a copy of the report on the review to the House of Representatives as soon as practicable after receiving it. 5

Amendment to Ombudsmen Act 1975

26 Principal Act

Section 27 amends the Ombudsmen Act 1975.

27 Schedule 1 amended

In Schedule 1, Part 2, insert in its appropriate alphabetical order: 10
Accessibility Committee established under the **Accessibility for New Zealanders Act 2022**

Schedule 1
Transitional, savings, and related provisions

s 7

Part 1
Provisions relating to this Act as enacted

5

There are no transitional, savings, or related provisions in this Act as enacted.

Schedule 2

Further provisions relating to Committee

s 14

1 Term of office

- (1) A person holds office as a Committee member for a term not exceeding 3 years specified in the person's notice of appointment. 5
- (2) A person who holds office as a Committee member—
 - (a) may be reappointed for 1 or more further terms; and
 - (b) continues in office, unless they earlier vacate office by reason of death, resignation, or removal, until either of the following occurs: 10
 - (i) the person is reappointed:
 - (ii) the person's successor is appointed.
- (3) A person who holds office as a Committee member may at any time resign by written notice to the Minister.
- (4) A notice of resignation under **subclause (3)** must state the date on which the resignation takes effect. 15

2 Removal from office

- (1) The Minister may remove a Committee member from office if—
 - (a) the Minister is satisfied there is just cause to remove the member; and
 - ~~(b) reasonable accommodations have been provided to the member before the removal; and~~ 20
 - (c) the Minister has consulted the Committee and had regard to its views.
- (2) The removal must be made by written notice to the member (with a copy to the Committee).
- (3) The notice must— 25
 - (a) state the date on which the removal takes effect, which must not be earlier than the date on which the notice is received; and
 - (b) state the reasons for the removal.
- (4) The Minister must notify the removal in the *Gazette* as soon as practicable after the notice is given. 30
- (5) In this clause, **just cause** includes misconduct, inability to perform the functions of office, neglect of duty, and breach of any of the collective duties of Committee members (depending on the seriousness of the breach).

2A Reasonable accommodations

The chairperson of the Committee must ensure that any reasonable accommodations that are required in the circumstances are provided to a Committee member to enable the member to carry out their office as a member.

3 Remuneration and expenses

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(1) A Committee member is entitled—

- (a) to receive remuneration not within **paragraph (b)** for services as a member at a rate and of a kind determined by the Minister in accordance with the fees framework; and
- (b) in accordance with the fees framework, to be reimbursed for actual and reasonable travelling and other expenses incurred in carrying out their office as a member.

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(2) In **subclause (1)**, **fees framework** means the framework determined by the Government from time to time for the classification and remuneration of statutory and other bodies in which the Crown has an interest.

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4 Protection from liability

A Committee member is not personally liable for any act done or omitted by the member or the Committee in good faith in the course of the operations of the Committee.

5 Procedure

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The Committee may determine its own procedure for the performance or exercise of its functions, duties, or powers.

Legislative history

28 July 2022
2 August 2022

Introduction (Bill 153–1)
First reading and referral to Social Services and Community
Committee