

Hon Kiri Allan
Minister of Justice

Proactive release – Human Rights (Disability Assist Dogs Non-Discrimination) Amendment Bill

Date of issue: 21 July 2022

The following documents have been proactively released in accordance with Cabinet Office Circular CO (18) 4.

No information has been withheld.

No.	Document	Comments
1	Government Response to the Social Services and Community Committee's Report on the Human Rights (Disability Assist Dogs Non-Discrimination) Amendment Bill <i>Cabinet paper</i> Office of the Minister of Justice	Released in full
2	Government Response to the Social Services and Community Committee's Report on the Human Rights (Disability Assist Dogs Non-Discrimination) Amendment Bill <i>The Government response</i> 9 June 2022	Released in full
	Government Response to the Social Services and Community Committee's Report on the Human Rights (Disability Assist Dogs Non-Discrimination) Amendment Bill <i>Cabinet Minute</i> 9 June 2022	Released in full

In Confidence

Office of the Minister Justice

Chair, Cabinet Legislation Committee

Government Response to the Social Services and Community Committee's report on the Human Rights (Disability Assist Dogs Non-Discrimination) Amendment Bill

Proposal

1. This paper seeks agreement to the attached Government response to the Social Services and Community Committee's recommendation to the Government in its report on the Human Rights (Disability Assist Dogs Non-Discrimination) Amendment Bill.

Background

2. The Human Rights (Disability Assist Dogs Non Discrimination) Amendment Bill (the Bill) is a Member's Bill in the name of Ricardo Méndez March MP. The Bill completed its Committee of the whole House stage on 13 April 2022. I note that all parties have voted in favour of the Bill.
3. The Bill seeks to amend the Human Rights Act 1993 to prohibit discrimination against a person having or using a disability assist dog by replacing reference to "guide dog" with reference to the broader term of "disability assist dog". The Bill uses the same definition of "disability assist dog" as in the Dog Control Act 1996.
4. There is an extensive range of disabilities and conditions with which people require the support of disability assist dogs to complete crucial tasks in their daily lives. Under the Human Rights Act 1993, disability is a prohibited ground of discrimination and currently is defined to include reliance on a guide dog. Discrimination on the basis of reliance on a guide dog is therefore unlawful when it occurs in various aspects of a person's daily life such as accessing employment, public places and vehicles, goods and services, and public education and health services.
5. By replacing "guide dog" with "disability assist dog" the Bill would clarify that refusal to grant access to goods, services, public transport, housing and so on is unlawful discrimination if the refusal is on the basis of a person's reliance on a disability assist dog.

The report of the Social Services and Community Committee on the Bill

6. The Committee's report on the Human Rights (Disability Assist Dogs Non-Discrimination) Amendment Bill was tabled in the House on 16 March 2022. The Committee recommends to the House that the Bill be passed without amendment.
7. The Committee wishes to bring to the House's attention the inconsistent use of terms "guide dog," "companion dog," and "hearing ear dog" across primary and secondary

legislation, which allows these dogs to accompany persons in need to places where the entry of dogs is prohibited.

8. The Committee notes that this bill would result in the term “disability assist dog” being used in the Human Rights Act 1993 and by reference the New Zealand Bill of Rights Act 1990. The Committee notes that this may raise doubt as to whether other legislation covers all disability assist dogs. The Committee notes that this may raise questions about the consistency of this legislation with the Human Rights Act 1993 and the New Zealand Bill of Rights Act 1990.
9. The Committee recommends to the Government that it review the statutory uses of the terms “guide dog,” “companion dog,” and “hearing ear dog,” and consider whether they should be updated.

Government response to the Social Services and Community Committee report on the Bill

10. I note that select committees rarely make recommendations to the government when considering a member’s bill, compared to when conducting an inquiry or considering a petition. Although a Government response is not required under Standing Orders to select committee reports on bills (Standing Order 256(2)), I consider it is appropriate to provide one in this instance.
11. I propose that the Government response acknowledge the Committee’s recommendation for the Government to review all statutory uses of the terms “guide dog,” “companion dog,” and “hearing ear dog” and consider whether these terms should be updated to “disability assist dog”.
12. Although, on the face of it, it may be desirable that all legislation incorporates the same term in reference to “disability assist dog,” I note that each use and context of these terms needs to be carefully considered individually according to the regulatory settings in which they are used.
13. The proposed Government response therefore also states that each agency should consider the use of these terms at the time the relevant legislation comes up for review. This would occur as determined by Government priorities and the individual agency’s policy work programme.
14. There are only a small range of agencies that are responsible for primary and secondary legislation which includes the terms “guide dog,” “companion dog,” and “hearing ear dog.” The Ministry of Primary Industries and Department of Conservation have indicated that they are already in the process of reviewing their relevant legislation and will be updating their terms.
15. As agencies review the relevant primary and secondary legislation, they will be able to consider the terminology that should be used in the relevant regulatory settings. This will include consideration of whether any apparent inconsistency with the New Zealand Bill of Rights Act 1990 or Human Rights Act 1993 arises, and whether it is justified in the particular circumstances. Any reviews of the terms would also need to consider any relevant Treaty of Waitangi implications.

Timing of the government response

16. The Government response must be presented to the House by 14 June 2022.

Consultation

17. The following agencies have been consulted on this paper: Department of Conservation, Department of Internal Affairs, Ministry of Health, Ministry of Primary Industries, Ministry of Transport, Office for Disability Issues and the Treasury. The Department of the Prime Minister and Cabinet has been informed.

Financial Implications

18. There are no financial implications arising from the recommendations in this paper.

Proactive Release

19. I intend to proactively release this Cabinet paper and related Minutes on the Ministry of Justice website, subject to any redactions justified in accordance with the Official Information Act 1982.

Recommendations

20. The Minister of Justice recommends that Cabinet:
 1. **note** the Human Rights (Disability Assist Dogs Non-Discrimination) Amendment Bill aims to make clear that any discrimination against a person because they have a disability assist dog would be considered discrimination on the basis of disability, by replacing “guide dog” with the broader term “disability assist dog” in the list of prohibited grounds of discrimination in the Human rights Act 1993
 2. **note** in its report on the Human Rights (Disability Assist Dogs Non-Discrimination) Amendment Bill, the Social Services and Community Committee recommended that:
 - 2.1. the Human Rights (Disability Assist Dogs Non-Discrimination) Amendment Bill be passed without amendment; and
 - 2.2. the Government consider a review of the statutory uses of “guide dog,” “companion dog,” and “hearing ear dog,” and consider whether these terms should be updated to “disability assist dog”
 3. **agree** to the attached Government response to the Committee’s recommendation, which says that the use and context of each term in legislation should be carefully considered individually, and each relevant agency should consider the use of “guide dog,” “companion dog,” and “hearing ear dog,” and consider whether these terms should be updated to “disability assist dog” if the specific legislation comes up for review
 4. **note** that the Government response must be presented to the House of Representatives no later than 14 June 2022; and

5. **invite** the Minister of Justice to present the Government response to the House of Representatives as soon as is practicable.

Authorised for lodgement

Hon Kris Faafoi

Minister of Justice

Proactive Release

**Government Response to the
Report of the Social Services and Community Committee
on
Human Rights (Disability Assist Dogs Non-Discrimination)
Amendment Bill**

Presented to the House of Representatives

Introduction

The Government has carefully considered the recommendation of the Social Services and Community Committee (the Committee) in its report on the Human Rights (Disability Assist Dogs Non-Discrimination) Amendment Bill (the Bill).

The Government is grateful for the work of the Committee on possible improvements to the Human Rights Act 1993.

The Committee's report was presented to the House on 16 March 2022. The government responds to the Committee's recommendation despite Standing Order 256(2).

The Human Rights (Disability Assist Dogs Non-Discrimination) Amendment Bill

The Bill is a Member's bill in the name of Ricardo Menéndez March MP that seeks to amend the Human Rights Act 1993 to prohibit discrimination against a person having or using a disability assist dog. This is done by replacing the reference to "guide dog" with reference to a broader term of "disability assist dog," as defined in the Dog Control Act 1996.

There are an extensive range of disabilities and conditions with which people require the assistance of disability assist dogs to complete critical tasks in their daily lives. Under the Human Rights Act 1993, disability is a prohibited ground of discrimination and is currently defined to include reliance on a guide dog. Discrimination on the basis of reliance on a guide dog is therefore unlawful when it occurs in various aspects of a person's daily life such as accessing employment, public places and vehicles, goods and services, and public education and health services.

The Social Services and Community Committee's recommendations

In its report, the Committee recommended to the House that the Bill be passed without amendment. This would result in the term "disability assist dog" being used in the Human Rights Act 1993 as a prohibited ground of discrimination.

By replacing "guide dog" with "disability assist dog" the Bill would clarify that refusal to grant access to goods, services, public transport, housing and so on is unlawful discrimination if the refusal is on the basis of a person's reliance on a disability assist dog.

The Committee noted that the terms "guide dog," "companion dog," and "hearing ear dog" are used across various statutes and regulations which may create doubt as to whether the relevant legislation covers the wider range of disability assist dogs. Consequently, the Committee noted this may raise questions about the consistency of this legislation with the Human Rights Act 1993 and the New Zealand Bill of Rights Act 1990.

The Committee therefore also recommended to the Government that it review the statutory uses of the terms "guide dog," "companion dog," and "hearing ear dog," and consider whether these terms should be updated.

Government response

The Government acknowledges the Committee's recommendation to review all statutory uses of the terms "guide dog," "companion dog," and "hearing ear dog" and consider whether these terms should be updated to "disability assist dog."

The Government considers that each of these terms needs to be carefully considered individually according to the regulatory settings in which it is used.

There are a small range of agencies that are responsible for administering legislation that contains the terms identified by the Committee. Each agency will consider the use of these terms at the time the relevant legislation comes up for review, as determined by the Government's priorities and the agency's policy work programme.

Two agencies are currently reviewing their legislation and are considering implementing this change to the terminology.



Cabinet Legislation Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Government Response to the Social Services and Community Committee's report on the Human Rights (Disability Assist Dogs Non-Discrimination) Amendment Bill

Portfolio Justice

On 9 June 2022, the Cabinet Legislation Committee:

- 1 **noted** that the Human Rights (Disability Assist Dogs Non Discrimination) Amendment Bill aims to make clear that any discrimination against a person because they have a disability assist dog would be considered discrimination on the basis of disability, by replacing “guide dog” with the broader term “disability assist dog” in the list of prohibited grounds of discrimination in the Human rights Act 1993;
- 2 **noted** that in its report on the Human Rights (Disability Assist Dogs Non-Discrimination) Amendment Bill, the Social Services and Community Committee recommended that:
 - 2.1 the Human Rights (Disability Assist Dogs Non-Discrimination) Amendment Bill be passed without amendment;
 - 2.2 the government consider a review of the statutory uses of “guide dog,” “companion dog,” and “hearing ear dog,” and consider whether these terms should be updated to “disability assist dog”;
- 3 **approved** the government response attached to the submission under LEG-22-SUB-0102 to the Social Services and Community Committee’s recommendation, which says that the use and context of each term in legislation should be carefully considered individually, and each relevant agency should consider the use of “guide dog,” “companion dog,” and “hearing ear dog” and consider whether these terms should be updated to “disability assist dog” if the specific legislation comes up for review;
- 4 **noted** that the government response must be presented to the House of Representatives by 14 June 2022;
- 5 **invited** the Minister of Justice to present the government response to the House of Representatives as soon as is practicable.

Rebecca Davies
Committee Secretary

Attendance: see over

Present:

Hon Andrew Little (Chair)
Hon David Parker
Hon Poto Williams
Hon Kris Faafoi
Hon Dr Ayesha Verrall
Kieran McAnulty, MP (Senior Government Whip)

Officials present from:

Office of the Prime Minister
Officials Committee for LEG

Proactive Release