



Submission on Climate Change Response (Zero Carbon) Amendment Act

July 2019

Contents

Foreword	1
About OraTaiao	2
Introduction	3
Health and health equity harmed by our high emissions economy: co-benefits of mitigative action	4
Summary of Recommendations	6
1. Health and health equity to be embedded across the Bill	7
1(a) Purpose Statement	7
1(b) Obligations and functions of Commission and Minister	7
2. Benefits, costs, and risks of climate action of to be explicitly incorporated within the Bill	9
3. Te Tiriti o Waitangi: greater justice for Māori from benefits of early emissions reductions, and opportunities for leadership	11
4. Stronger domestic and international leadership on GHG reduction targets and emissions budgets	13
4(a) A stronger end-target for long-lived gases	13
4(b) Stronger and less risky biogenic methane targets	13
4(c) Clearer guidance on meeting emissions budgets	14
5. Greater enforceability needed to ensure that targets are met	15
5(a) Purpose Statement	15
5(b) Interpretation	15
5(c) Accountability through Judicial Review	16
5(d) Accountability among organisations and private companies	16
References	18

Foreword

13 July 2018
Ministry for the Environment
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Wellington 6143

Submission on the Climate Change Response (Zero Carbon) Amendment Bill

To the Committee Secretariat, Environment Committee,

Thank you for the opportunity to have input into the Climate Change Response (Zero Carbon) Amendment Bill. This submission was prepared by representative members of OraTaiao: The New Zealand Climate and Health Council.

As New Zealand's only climate change NGO focused on health and health-equity, we would greatly appreciate the opportunity to appear before the Committee. We would like a significant health-focused select committee hearing to take place, where we would be happy to appear in person alongside other health submitters.

We welcome the Bill, which is not only crucial to reducing New Zealand emissions, but is also among our generation's most important pieces of health legislation. OraTaiao, alongside other experts in climate change and health, strongly believes that tackling climate change is potentially the greatest global health opportunity of the century. Our submission is focused on the potential health gains and the other co-benefits that can result from well-designed strategies to reduce New Zealand's emissions.

Yours sincerely,



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About OraTaiao

OraTaiao: The New Zealand Climate and Health Council is an organisation calling for urgent, fair, and Tiriti-based climate action in Aotearoa; we recognise the important co-benefits to societal health, well-being and fairness that are possible via strong mitigative action.

OraTaiao is made up of more than 600 health professionals who are concerned with:

- The negative impacts of climate change on health, well-being, and fairness;
- The gains to health, well-being, and fairness that are possible through strong, health-centred climate action;
- Highlighting the impacts of climate change on those who already experience disadvantage or ill-health (i.e. equity impacts);
- Reducing the health sector's contribution to climate change.

In addition to individual members, we have the backing of 17 of New Zealand's leading health professional organisations with respect to our Health Professionals Joint Call to Action on Climate Change and Health, including the New Zealand Medical Association, the New Zealand Nurses Organisation and the Public Health Association, as well as a number of Specialist Colleges and leaders of both New Zealand Faculties of Medical and Health Sciences. Together, these organisations represent tens of thousands of New Zealand's health professional workforce.

As an organisational member of the Board of the Global Climate & Health Alliance, we are part of a worldwide movement of health professionals and health organisations urgently focusing on the health challenges of climate change and the health opportunities of climate action. OraTaiao signed the Doha Declaration on Climate, Health and Wellbeing of December 2012, which reflects an international perspective. OraTaiao is also a member of the Global Climate and Health Alliance.

We honour Māori aspirations, are committed to the principles of Te Tiriti o Waitangi, and strive to reduce inequities between Māori and other New Zealanders. We are guided in our practice by the concepts of kaitiakitanga (guardianship), kotahitanga (unity), manaakitanga (caring), and whakatipuranga (future generations).



Introduction

The current Climate Change Response Act 2002 (CCRA 2002) is grossly inadequate to address the urgency and seriousness of climate change. It fails to provide sufficient mechanisms for the New Zealand government and society to manage a just transition to a low emissions society and fulfil our obligations not only to New Zealand but also to our Pacific neighbours and the rest of the world.

The intent of the Climate Change Response (Zero Carbon) Amendment Bill (herein referred to as the Bill) is laudable. It aims to modify CCRA 2002 to provide a framework for New Zealand to assist in limiting global average temperature increase to 1.5° C above pre-industrial levels, while creating a productive, sustainable, and climate-resilient economy; and helping to build a just and inclusive society.

In particular, we support the intent to broaden the scope of the CCRA 2002, to introduce an independent Climate Commission to set a clear goal of contributing to international efforts to keep within 1.5° C average warming, to require targets for GHG reductions, and to develop adaptation plans.

We have major concerns, however, that the Bill:

- does not adequately embed health and health equity;
- does not adequately incorporate the benefits, costs, and risks of climate action;
- fails to make adequate provision for meeting the government's obligations under Te Tiriti o Waitangi;
- fails to demonstrate true domestic and international leadership on greenhouse gas (GHG) reduction targets;
- lacks enforceability mechanisms that are necessary to ensure that GHG targets are met.

Health and health equity harmed by our high emissions economy: co-benefits of mitigative action

Climate change poses a serious threat to health, well-being, and fairness, both globally and in Aotearoa.¹ Furthermore, its impacts are not distributed equally, with Māori, Pacific, and low-income groups at greater risk of experiencing poor health outcomes due to climate change.²

Policies aimed at mitigating, and adapting to, the impacts of climate change will play a major part in determining the extent to which the health and well-being of our society is affected, both now and in the future.² Research shows that early and concerted action against climate change can not only minimise harms, but can also offer opportunities to improve societal health.

Leading medical journal The Lancet reports that tackling climate change could, in fact, represent *“the greatest global health opportunity of the 21st century.”*³

Co-benefits to health, well-being, and fairness from climate change mitigation strategies are expected to be substantial, and may come about through various avenues (e.g. eating pattern changes; greater engagement in physical activity; reduced air pollution).⁴ Co-benefits may manifest, for instance, in the form of reductions in chronic disease (e.g. obesity, Type 2 diabetes, cardiovascular and respiratory disease, and certain cancers) and mental ill health, and via lessened financial pressures on the healthcare sector.

Co-benefit examples:

- Healthy eating, including increased intake of plant-based foods and less consumption of red meat and animal fat (particularly highly processed animal products), would, while helping to reduce agricultural GHG emissions, lead to significant improvements in health outcomes (e.g. by reducing rates of heart disease and bowel cancer).
- Active transport (walking, cycling, public transport), in addition to reducing CO₂ emissions, improves physical activity and can reduce air pollution and road traffic injuries. In addition, public transport is relatively inexpensive and is used more by those with lower incomes. Thus, supporting active transport and improving public transport infrastructure has the potential to benefit health, climate and equity.
- Improving indoor environments (eg. energy efficiency measures, such as home insulation) can reduce illnesses associated with cold, damp housing (eg. childhood asthma, chest infections, and rheumatic fever), which are leading causes of hospital admissions, particularly for Māori and Pacific children.

Such co-benefits will not occur on their own, however, and must be purposefully designed into plans and policies; it is important to recognise that mitigation and adaptation pathways and policies that are poorly designed may pose a substantial risk of co-harms to health, wellbeing, and fairness. There are numerous international examples of this, including food crop-based biofuels and the UK's Green Deal to increase the energy efficiency of housing, without accounting for negative unintended consequences.

We wish to emphasise that the health and well-being of our most precious resource, our human capital, is essential for a sustainable and productive economy. Investing in well-designed emissions reduction strategies will offer high returns in both the short and long term, along with immediate and enduring health-related co-benefits for New Zealanders.

As the Bill now stands, however, explicit and meaningful reference to health and related concepts are largely absent, with "health" being referred to only intermittently. Furthermore, there is no reference within the Bill to health, well-being or fairness-related co-benefits of climate action.

The Bill in its present form focuses on managing the costs of transitioning to a lower emissions economy. It does not recognise the current costs (including to health and health equity) of our high emissions economy, and that this burden falls disproportionately on NZ's most vulnerable and directly affected communities (i.e. those who are already disadvantaged, such as children, elderly, Māori, Pasifika, people living with low incomes and disabilities, and those who are ill). The Bill also fails to provide processes to account for the important co-benefits (including to health and health equity) that will arise from substantive and well-designed emissions reductions.

We believe that health and related concepts should be explicitly and consistently incorporated within the Bill; we further consider the communication of co-benefits to be fundamental in achieving the best possible net-zero NZ economy.

Our specific recommendations are summarised on the following page, and outlined in further detail within the sections that follow.

Summary of Recommendations

Recommendation 1

The Purpose Statement should be amended to include specific reference to health, well-being, and equity.

Recommendation 2

Stated obligations, functions, and powers of the Commission and Minister should be amended to include specific reference to health and health equity.

Recommendation 3:

Make explicit within the Bill the process of assessing benefits, costs and risks associated with transitioning to a low emissions economy.

Recommendation 4:

Strengthen the realisation of the elements of Te Tiriti o Waitangi throughout the Bill.

Recommendation 5:

Set stronger end-targets for long-lived gases: net zero by 2040.

Recommendation 6:

Set stronger biogenic methane reduction targets, in line with IPCC scenarios that take early and concerted climate action.

Recommendation 7

Commit to meeting emissions budgets through domestic efforts alone.

Recommendation 8

Amend the Purpose Statement so as to make explicit New Zealand's commitments to the Paris Agreement.

Recommendation 9

Clearly define New Zealand's commitments to the Paris Agreement within the Interpretation.

Recommendation 10

Allow for an application to be made for judicial review in the case that New Zealand is not on track to achieve its targets.

Recommendation 11

Strengthen accountability among organisations.

1. Health and health equity to be embedded across the Bill

From our perspective as health professionals, health and health equity must be placed at the heart of the Bill. The Bill must also be consistent in the use of these terms.

There are two major areas which require attention, if the excellent intent of the Bill is to be achieved. These include: a) the stated purpose of the CCRA, and b) the various functions and duties of the Commission and Minister.

1(a) Purpose Statement

As proposed in the Bill, the existing Purpose statement (s3) of the CCRA 2002 (concerning international obligations, GHG trading, and synthetic GHGs) is expanded by adding a framework. This framework, however, does not appear to reflect the intent of the Bill and should be expanded.

Recommendation 1: The purpose statement (s3) of the CCRA 2002 should be amended to include specific reference to health, well-being, and equity, as written below:

“provide a framework by which New Zealand can develop and implement clear, stable, and equitable climate change policies that contribute to the global effort under the Paris Agreement to limit the global average temperature increase to 1.5° Celsius above pre-industrial levels, and that protect and promote societal health and wellbeing, while giving effect to the principles of te Tiriti o Waitangi (Whanaungatanga (from the Preamble), Kāwanatanga (Article 1), Tino Rangatiratanga (Article 2), Ōritetanga (Article 3), and Wairuatanga (Article 4).”

1(b) Obligations and functions of Commission and Minister

Recommendation 2: Parts 1A, 1B and 1C, wherein various obligations, functions, and powers of the Commission and Minister are stated, should be amended to include specific reference to health and health equity.

For instance:

In reference to matters the Minister must have regard to before recommending the appointment of a member of the Commission:

- 5H(1)(d)(i): “Before recommending the appointment of a member of the Commission, the Minister must have regard to the need for the Commission to have members who, collectively, have—“technical and professional skills, experience, and expertise in, and an

understanding of innovative approaches relevant to, the ecological, social, economic, distributional, health, and health equity-related effects of climate change and climate change policy interventions;”

In reference to matters the Commission must consider:

- 5L(d): *“In performing its functions and duties and exercising its powers under this Act, the Commission must consider, where relevant, social, cultural, environmental, ecological, health and health equity-related circumstances, including differences between sectors and regions;”*

In reference to the requirement for an emissions reduction plan to be prepared:

- 5ZD(3): *We recommend adding the following sub-point to this section: The plan must include—“a strategy to mitigate health and health equity-related impacts of climate change;”*

We believe that expert advice on co-benefit opportunities of climate change mitigation in relation to health, well-being, and health equity must be taken into account in preparing an emissions reduction plan.

In reference to national climate change risk assessment:

- 5ZM(1)(a): *“A national climate change risk assessment must—assess the risks to New Zealand’s economy, society (including to societal health and health equity), environment, and ecology from the current and future effects of climate change;”*

In reference to a national adaptation plan:

- 5ZQ(4)(a): *“In preparing a national adaptation plan, the Minister must take into account the following: social, environmental, ecological, economic, cultural, health, and health equity-related effects of climate change, including effects on iwi and Māori;”*

We further believe that expert advice on co-benefit opportunities of climate change mitigation in relation to health, wellbeing, and health equity must be taken into account in preparing a national adaptation plan.

2. Benefits, costs, and risks of climate action of to be explicitly incorporated within the Bill

Our current high-emissions economy poses substantial burdens of injury, illness and early death that undermine our society and economy; these burdens are not distributed equitably. The Bill, however, fails to provide processes to account for the substantial current and future costs of our high emissions economy, and for the significant co-benefits that will arise from substantive emissions reductions.

More specifically, the Bill refers to current and future “effects” or “impacts” of climate change, with an overall emphasis on the burdensome aspects of reducing emissions. For instance, new 3A(ad)) and new 5ZD(3)(c) refer to the need for a strategy within an emissions reduction plan to recognise and mitigate the “impacts” of reducing emissions and/or increasing removals.

The bill also refers to the consideration of “distributional effects” and “distributional impacts” of climate change, as in new 5H(1)(d)(i) and 5Q(2)(a)(vi). “Distribution of benefits, costs, and risks” is stated only once in the bill, in 5L(e), wherein distributional impacts or effects are only referred to ‘between generations’.

We argue that the benefits, costs and risks associated with both mitigation and adaptation efforts (including to health and health-equity) must be fully recognised and accounted for within the Bill, in both the short and long term.

Recommendation 3: Make explicit within the Bill the process of assessing benefits, costs and risks associated with transitioning to a low emissions economy by:

- **providing clear interpretations of “impact” and “effect”;**
- **considering distributional impacts or effects in a wider sense than is currently done, including within generations and between populations and regions.**

For instance:

Amend CCRA 2002 Section 4 (Interpretation) by inserting:

Unless explicitly stated otherwise, effect means:

- consequences, including benefits, costs, and risks;
- climate change mitigation and adaptation efforts.

Unless explicitly stated otherwise, impact means:

- consequences, including benefits, costs, and risks;
- climate change mitigation and adaptation efforts.

Distributional impacts or distributional effects are considered:

- between and within generations;
- between populations and regions;
- with respect to iwi and hapū Māori;
- with respect to ethnicity, income, gender and ability.

3. Te Tiriti o Waitangi: greater justice for Māori from benefits of early emissions reductions, and opportunities for leadership

We believe that the Bill fails to make adequate provision for meeting the government's obligations under Te Tiriti o Waitangi. As a forward-looking piece of legislation, the Bill needs to consider the current mid-settlement context of inequities and need for compensation, while aiming for a post-settlement approach to Treaty partnership. This approach has been well-articulated in *Ko Aotearoa Tēnei*— the report of the WAI262 claim to the Waitangi Tribunal concerning NZ law and policies affecting Māori culture and identity.⁵ *Matike Mai*, the report of the Independent Working Group on Constitutional Transformation of the Iwi Chairs' Forum, promotes the importance of Māori values in their recommendations for fundamental shifts in the politico-legal basis of our society by 2040, and it would be highly appropriate for the Bill to orient to this prospect.⁶ We believe also that the Stage 1 report from the Waitangi Tribunal Health Services and Outcomes Inquiry (WAI 2575) is of high relevance here, given that health impacts from the climate disaster are disproportionately impacting vulnerable populations.⁷

We argue that taking such an approach would be an opportunity for the NZ government to demonstrate significant international leadership in addressing indigenous rights and values within climate change action. While the Bill currently emphasises the potential costs and harms to Māori of climate change itself and of climate action (focusing on notions of Protection from the English translation of the Treaty), the WAI262 report and *Matike Mai* emphasise the need for articulating mutual benefits of action, while upholding Māori tino rangatiratanga over taonga, as well as identifying opportunities for Māori leadership through the incorporation of Mātauranga Māori into innovation and successful climate change mitigation and adaptation.

The Bill includes “a strategy to recognise and mitigate the impacts on iwi and Māori of reducing emissions” (new [3A\(ad\)](#)). However, as noted above, current emissions and failure to reduce emissions pose a disproportionate burden on Māori. Furthermore, emissions reductions strategies have significant potential to contribute to hauora Māori and Māori health equity.

From a wellbeing perspective, we draw on the elements of the Māori translation and interpretation of Te Tiriti o Waitangi to make specific recommendations that would strengthen the Bill.⁸

Recommendation 4: Strengthen the realisation of the elements of Te Tiriti o Waitangi throughout the Bill

The following Articles and other elements of te Tiriti should be named within the Purpose Statement: Whanaungatanga (from the Preamble), Kāwanatanga (Article 1), Tino Rangatiratanga (Article 2), Ōritetanga (Article 3), and Wairuatanga (Article 4). See Page 7 (section 1(a)) for our suggested amendments to the wording of the purpose statement.

Te Tiriti should then be interpreted and realised in the remainder of the Act through the following amendments:

Section 3A

- 3(ab): with respect to **section 5G** (which relates to nominations for the Climate Change Commission), the nominating committee must ensure the Climate Change Commission reflects a te Tiriti-based partnership in its membership.
- 3(ad): with respect to **sections 5ZD and 5ZF** (which require the Minister to prepare and publish an emissions reduction plan), the Minister must include in an emissions reduction plan strategies that recognise and prioritise Māori values along with co-benefits for Māori wellbeing and social and health equity. The plan must mitigate the negative impacts on Māori values, wellbeing and social and health equity and must ensure that iwi and Māori involvement in the development of the plan meets the government's obligations under Te Tiriti o Waitangi.

Section 5H

- 5H(1)(d)(ii): te Tiriti o Waitangi and te ao Māori (including tikanga Māori, te reo Māori, mātauranga Māori, hauora Māori, Māori social and health equity and decolonisation.

We recommended an additional clause to address issues of likely gaps in leadership, skills, experience and resources, particularly with regard to the important requirements under section 5H(d)(ii):

- 5H(1)(e): where there is a recognised gap in skills, experience, resources and capacity, the Minister must make provision for, and investment in, the nurturing of leadership to ensure those gaps are met as soon as possible, with particular regard to meeting the need for members meeting (d)(ii)

Section 5L

We recommend the following amendments and additional clauses:

- 5L(a) current available scientific and community knowledge and Mātauranga Māori
- new 5L(x) Māori aspirations, values and leadership
- 5L(e) the equitable distribution of benefits, costs and risks

4. Stronger domestic and international leadership on GHG reduction targets and emissions budgets

In both global and historical terms, New Zealand is a high-emitting country. Although our actions alone cannot protect us from the effects of unmitigated climate change, all countries, including New Zealand, must do their fair share in order to rapidly transition to net zero emissions on a global scale. We cannot expect others to protect us and our Pacific neighbours unless we too demonstrate genuine leadership and act fairly in the international arena.

According to the Explanatory Note, showing “leadership at home and abroad” is one of three guiding principles that underpin the Bill’s overarching purpose. We argue that, in reference to target-setting, the Bill in its current form is not ambitious enough, and does not demonstrate our intent as a developed country to truly lead the way on climate action. To that end, it is also unfair.

4(a) A stronger end-target for long-lived gases

As a developed country with high per-capita emissions, New Zealand has a clear responsibility to take strong and concerted action in the global effort against climate change.

OraTaiao has consistently argued for an early target of net zero emissions across all GHGs by 2040. The Bill has instead opted to pursue a tardy target date (2050), and a split-gas target for long- and short-lived gases.

Recommendation 5: Set a stronger end-target for long-lived gases: in light of the government’s decision to pursue a split-gas target, we recommend a 2040 net zero emissions target for GHGs other than biogenic methane.

4(b) Stronger and less risky biogenic methane targets

Setting a 2050 biogenic methane target within the central (interquartile) range of IPCC’s global scenarios to limit warming to 1.5°C, as the government has chosen to do, fails to show leadership— either at home, or abroad. We argue that the Bill’s proposed reductions in biogenic methane emissions by 2030 (10%) and 2050 (24-47%) are inconsistent with IPCC scenarios that are most likely to limit warming to 1.5°C with no or limited overshoot.⁹

We call for reductions in biogenic methane that align with IPCC scenarios for no or limited overshoot that are not heavily reliant on negative emissions technologies (e.g. bioenergy with carbon capture and storage, or BECCS), which have not yet been deployed at scale.⁹

These two scenarios (referred to as ‘P1’ and ‘P2’ in the IPCC Global Warming of 1.5°C Summary for Policymakers) are instead focussed on measures to reduce the production of GHGs in the first place and, therefore, they carry less risk of exceeding 1.5 degrees of warming. Importantly, both of these scenarios take early and concerted mitigative action against climate change, with cuts to agricultural methane emissions occurring mainly via land-use change.

A stronger biogenic methane target would also provide an opportunity to lower the burden of a number of diseases (e.g. cardiovascular disease, certain cancers, and diabetes) by reducing population-level intake of red and processed meat, while also future-proofing our primary industries through market diversification.

Recommendation 6: Set stronger and less risky biogenic methane reduction targets, in line with IPCC scenarios that take early and concerted climate action:

- 24-48% by 2030 (relative to 2010), and
- 33-69% by 2050 (relative to 2010).

4(c) Clearer guidance on meeting emissions budgets

New Zealand must also show strong leadership in the international arena by fully meeting its emissions budgets through domestic reductions and removals, instead of relying on international credits, and therefore on other countries, to meet our goals. The Bill in its current form does not place any limits on the use of such credits, and uses vague language to refer to the proportion of the emissions budget that will be met through domestic efforts.

Recommendation 7: Commit to meeting emissions budgets through domestic efforts alone. We argue that “as far as possible” should be removed from section 5W(1): “Emissions budgets must be met, as far as possible, through domestic emissions reductions and domestic removals.”

5. Greater enforceability is needed to ensure that targets are met

The proposed The Bill, as it currently stands, lacks enforceability mechanisms that are necessary to ensure emissions reduction targets are met. There is a clear need for additional provisions to state what is to happen if emission budgets are surpassed. We recommend making the following changes to the Bill in order to embed the appropriate enforceability mechanisms.

5(a) Purpose Statement

Section 3(1)(a) of the current legislation states that its purpose is to enable New Zealand to meet its obligations under the UNFCCC Convention and the Kyoto Protocol. Although the proposed amendment now includes reference to the Paris agreement within the purpose statement, it is not made explicit that New Zealand's commitments in particular are being referred to.

Recommendation 8: the Purpose Statement (s3) of the CCRA 2002 should be amended to state:

“provide a framework by which New Zealand can develop and implement clear, stable, and equitable climate change policies that ~~contribute to the global effort~~ fulfil New Zealand's obligations under the Paris Agreement to limit the global average temperature increase to 1.5° Celsius above pre-industrial levels, and that protect and promote societal health and wellbeing, while giving effect to the principles of te Tiriti o Waitangi (Whanaungatanga (from the Preamble), Kāwanatanga (Article 1), Tino Rangatiratanga (Article 2), Ōritetanga (Article 3), and Wairuatanga (Article 4).”

5(b) Interpretation

Section 4 amended (Interpretation) does not provide a clear definition that makes explicit New Zealand's commitments under the Paris Agreement (including our current 2030 NDC); this can be referred to in later operative provisions in the Bill.

Recommendation 9: In section 4(1), insert:

“Paris Agreement Commitments means any commitments that New Zealand has made towards emissions reductions under the Paris Agreement, and will include any Nationally Determined Contribution (NDC) pledged by New Zealand inclusive of the 2030 Nationally Determined Contribution to the reduction of emissions between 2021-2030.”

5(c) Accountability through Judicial Review

The Minister and government need to be made accountable for not meeting the targets through judicial review. Application for judicial review would be unlikely to succeed given the current wording of the relevant clauses: 5ZJ (effects of failure to meet 2050 target and emissions budgets) and 5ZK (2050 target and emissions budget are permissive considerations).

Recommendation 10: Amend the relevant clauses (5ZJ and 5ZK) to allow for an application to be made for judicial review in the case that a report or review, as required in the Act, indicates that New Zealand is not on track to achieve its targets. Wording within clauses 5ZJ and 5ZK that seemingly aims to prevent judicial review should also be removed.

For instance,

- ~~5ZJ(1): No remedy or relief is available for failure to meet the 2050 target or an emissions budget, and the 2050 target and emissions budgets are not enforceable in a court of law, except as set out in this section.~~
- ~~5ZK(1): A person or body must may, if they think fit, take the 2050 target or an emissions budget into account in the exercise or performance of a public function, power, or duty conferred on that person or body by or under law (subject to other requirements that apply by or under law).~~
- ~~5ZK(2): However, a failure by any person or body to take the 2050 target, an emissions budget, or guidance issued under section 5ZL into account does not invalidate anything done by that person or body.~~

5(d) Accountability among organisations and private companies

The Bill should establish duties relevant to a greater number of organisations, specifically those companies in the private sector which contribute significantly to emissions. Clause 5ZV currently provides that the Minister may request *certain organisations* ‘to provide information on climate change adaptation’. The phrase ‘certain organisations’ includes companies which are defined in a very limited way (i.e. those listed in Schedule 4A of the Companies Act 1993).

Recommendation 11: Strengthen accountability among organizations by amending Clause 5ZV in the following ways:

- The phrase ‘certain organisations’ should be defined so as to include any company registered under the Companies Act.**
- The Minister should be able to require information not just on climate change adaptation, but on all matters relevant to the Act.**

- iii. The Bill should state that non-compliance with a request to provide information is an offence, for which a penalty is attached.**
- iv. The Bill should allow the Minister to require further action (e.g. impose economic instruments) if requested information indicates that emissions targets are not being met.**

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