

Appropriation (2015/16 Confirmation and Validation) Bill

Government Bill

Explanatory note

General policy statement

It is a basic constitutional principle that the Government can spend public money and incur expenses and capital expenditure only in accordance with appropriations made by an Act of Parliament and in an otherwise lawful manner.

However, Parliament has, in the Public Finance Act 1989 (the **Act**), conferred limited authority on the Governor-General by Order in Council to vary appropriations made by Parliament and on the Minister of Finance to approve expenditure in excess of an existing appropriation by Parliament. Any other unappropriated expenditure must be validated by an Appropriation Act.

Confirming Public Finance (Transfers Between Outputs) Order 2016

Section 26A of the Act authorises the Governor-General by Order in Council to direct that an amount appropriated in a Vote for an output expense be transferred to another output expense appropriation in that Vote. There are 3 restrictions. First, the transfer must not increase that appropriation for the financial year by more than 5%. Secondly, there must not have been any other transfer under section 26A of the Act to that appropriation during the financial year. Thirdly, the total amount appropriated for all output expense appropriations for that Vote for the financial year must remain unaltered. A clause that confirms those Orders in Council must be included in an Appropriation Bill that applies to that financial year.

This Bill confirms the Public Finance (Transfers Between Outputs) Order 2016, which was made under section 26A of the Act (*clause 5*).

Confirming unappropriated expenditure

Section 4 of the Act prohibits the incurring of expenses or capital expenditure, except as expressly authorised by an appropriation, or other authority, by or under an Act.

Sections 8 and 9 of the Act require appropriations to be limited to a specified amount and limited to the scope of the appropriation.

Section 26B of the Act authorises the Minister of Finance to approve the incurring of expenses or capital expenditure in the last 3 months of the financial year in excess, but within the scope, of an existing appropriation by Parliament. This is subject to a limit that is the greater of \$10,000 and 2% of the total amount appropriated for that appropriation by all Appropriation Acts for that financial year. The approval must be given not later than 3 months after the end of the financial year concerned. Expenses and capital expenditure incurred under the approval must be confirmed in an Appropriation Bill that applies to that financial year.

This Bill confirms capital expenditure incurred for the 2015/16 financial year with the approval of the Minister of Finance under section 26B of the Act (*clause 6*). Details of this confirmation are set out in *Schedule 1*.

Validating unappropriated expenditure

Section 26C of the Act requires the incurring of expenses or capital expenditure without appropriation, or other authority, by or under an Act to be validated by an Act of Parliament.

For the 2015/16 financial year, certain expenses were incurred that require validation by this Bill in accordance with section 26C of the Act. *Clause 7* validates these expenses, the details of which are set out in *Schedules 2 to 5*.

Schedule 2 contains details of expenses that were incurred not within the scope of any existing appropriations and with the authority of an Imprest Supply Act. *Schedule 3* contains details of expenses incurred in excess, but within the scope, of existing appropriations and without the authority of an Imprest Supply Act. *Schedule 4* contains details of expenses that were incurred not within the scope of any existing appropriations and without the authority of an Imprest Supply Act. *Schedule 5* contains details of expenses incurred in advance of appropriation and without the authority of an Imprest Supply Act.

Clauses 8 to 10 validate certain expenses that were incurred by the Ministry of Education for the 2014/15 financial year, the Ministry of Health for the 2013/14 and 2014/15 financial years, and the Ministry of Justice for the 2010/11 financial year and that require validation in accordance with section 26C of the Act and that have not been previously validated.

Departmental disclosure statement

A departmental disclosure statement is not required for this Bill.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause. The Bill comes into force on the day after the date on which it receives the Royal assent.

Clause 3 states the purpose of the Bill, which is to confirm and validate matters relating to the 2015/16 financial year and to validate matters relating to the 2014/15, 2013/14, and 2010/11 financial years.

Clause 4 is an interpretation clause.

Clause 5 confirms the Public Finance (Transfers Between Outputs) Order 2016. That order, which came into force on 30 June 2016, directed that fiscally neutral transfers be made decreasing the amounts appropriated for certain output expense appropriations and increasing the amounts appropriated for certain other output expense appropriations.

Clause 6 confirms the incurring of capital expenditure for the 2015/16 financial year in excess, but within the scope, of an existing appropriation in accordance with the approval of the Minister of Finance under section 26B of the Public Finance Act 1989. The capital expenditure confirmed by this clause is set out in *Schedule 1*.

Clause 7 validates, for the purposes of section 26C of the Public Finance Act 1989, the incurring of expenses by departments for the 2015/16 financial year without appropriation, or other authority, by or under an Act. The expenses validated by this clause are set out in *Schedules 2 to 5*.

Clause 8 validates, for the purposes of section 26C of the Public Finance Act 1989, the incurring of expenses by the Ministry of Education for the 2014/15 financial year without appropriation, or other authority, by or under an Act. The expenses relate to early childhood education.

Clause 9 validates, for the purposes of section 26C of the Public Finance Act 1989, the incurring of expenses by the Ministry of Health for the 2013/14 and 2014/15 financial years without appropriation, or other authority, by or under an Act. The expenses relate to health sector projects.

Clause 10 validates, for the purposes of section 26C of the Public Finance Act 1989, the incurring of expenses by the Ministry of Justice for the 2010/11 financial year without appropriation, or other authority, by or under an Act. The expenses relate to the recovery from the February 2011 Christchurch earthquake.

Hon Steven Joyce

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Appropriation (2015/16 Confirmation and Validation) Act **2016**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Purpose

The purpose of this Act is—

- (a) to confirm and validate matters relating to the 2015/16 financial year; and
- (b) to validate matters relating to the 2014/15 financial year, the 2013/14 financial year, and the 2010/11 financial year.

4 Interpretation

(1) In this Act,—

2010/11 financial year means the financial year ending with 30 June 2011

2013/14 financial year means the financial year ending with 30 June 2014

2014/15 financial year means the financial year ending with 30 June 2015

2015/16 financial year means the financial year ending with 30 June 2016.

(2) Terms or expressions used and not defined in this Act but defined in the Public Finance Act 1989 have, in this Act, the same meanings as in the Public Finance Act 1989.

5 Confirmation of Order in Council directing transfer of amounts between output expense appropriations

The Public Finance (Transfers Between Outputs) Order 2016 is confirmed.

6 Confirmation of capital expenditure incurred in excess of existing appropriations and approved by Minister of Finance

- (1) The incurring of capital expenditure approved by the Minister of Finance under section 26B of the Public Finance Act 1989 for the 2015/16 financial year and described in **subsections (2) and (3)** is confirmed.
- (2) The capital expenditure is the capital expenditure incurred in excess, but within the scope, of the existing appropriations set out in **column 3 of Schedule 1**.
- (3) The amounts of the approved capital expenditure are shown in **column 4 of Schedule 1** alongside the existing appropriation for which the approval was given.

7 Validation of unappropriated expenses for 2015/16 financial year

- (1) The incurring of expenses by a department in the circumstances set out in **subsection (2), (3), (4), or (5)** is validated for the purposes of section 26C of the Public Finance Act 1989.
- (2) The circumstances in this subsection are that,—
 - (a) for the 2015/16 financial year, the department incurred expenses, not within the scope of any existing appropriation, against the categories of expenses set out in **column 3 of Schedule 2** alongside that department; and
 - (b) the expenses referred to in **paragraph (a)** were incurred under the authority of an Imprest Supply Act.
- (3) The circumstances in this subsection are that,—
 - (a) for the 2015/16 financial year, the department incurred expenses in excess, but within the scope, of the existing appropriations set out in **column 3 of Schedule 3** alongside that department; and
 - (b) the expenses referred to in **paragraph (a)** were not incurred under the authority of an Imprest Supply Act.
- (4) The circumstances in this subsection are that,—
 - (a) for the 2015/16 financial year, the department incurred expenses, not within the scope of any existing appropriation, against the categories of expenses set out in **column 3 of Schedule 4** alongside that department; and
 - (b) the expenses referred to in **paragraph (a)** were not incurred under the authority of an Imprest Supply Act.
- (5) The circumstances in this subsection are that,—

- (a) for the 2015/16 financial year, the department incurred expenses in advance of the appropriations set out in **column 3 of Schedule 5** alongside that department; and
 - (b) the expenses referred to in **paragraph (a)** were not incurred under the authority of an Imprest Supply Act.
- (6) In this section,—
- department** means a department specified in **column 1** of, as appropriate, **Schedule 2, 3, 4, or 5**
- expenses** means the amount of expenses set out in **column 4** of, as appropriate, **Schedule 2, 3, 4, or 5** alongside the relevant department.

8 Validation of unappropriated expenses incurred by Ministry of Education for 2014/15 financial year

- (1) The incurring of expenses by the Ministry of Education in the circumstances set out in **subsection (2)** is validated for the purposes of section 26C of the Public Finance Act 1989.
- (2) The circumstances are that,—
 - (a) for the 2014/15 financial year, the Ministry of Education incurred expenses of \$23,391,000 in excess, but within the scope, of the appropriation authorised by section 6 of the Appropriation (2014/15 Estimates) Act 2014 for Vote Education for the category of non-departmental other expenses “Early Childhood Education” (as varied by section 6 of the Appropriation (2014/15 Supplementary Estimates) Act 2015); and
 - (b) the expenses referred to in **paragraph (a)**—
 - (i) were not incurred under the authority of an Imprest Supply Act; and
 - (ii) are in addition to the expenses confirmed in relation to the appropriation referred to in **paragraph (a)** by section 6 of the Appropriation (2014/15 Confirmation and Validation) Act 2016.

9 Validation of unappropriated expenses incurred by Ministry of Health for 2013/14 and 2014/15 financial years

- (1) The incurring of expenses by the Ministry of Health in the circumstances set out in **subsection (2) or (3)** is validated for the purposes of section 26C of the Public Finance Act 1989.
- (2) The circumstances in this subsection are that,—
 - (a) for the 2013/14 financial year, the Ministry of Health incurred expenses of \$6,380,000 for Vote Health against the category of non-departmental other expenses “Health Sector Projects”; and
 - (b) the expenses referred to in **paragraph (a)**—
 - (i) were not within the scope of any existing appropriation; and

- (ii) were not incurred under the authority of an Imprest Supply Act.
- (3) The circumstances in this subsection are that,—
 - (a) for the 2014/15 financial year, the Ministry of Health incurred expenses of \$1,221,000 for Vote Health against the category of non-departmental other expenses “Health Sector Projects”; and
 - (b) the expenses referred to in **paragraph (a)**—
 - (i) were not within the scope of any existing appropriation; and
 - (ii) were not incurred under the authority of an Imprest Supply Act.

10 Validation of unappropriated expenses incurred by Ministry of Justice for 2010/11 financial year

- (1) The incurring of expenses by the Ministry of Justice in the circumstances set out in **subsection (2)** is validated for the purposes of section 26C of the Public Finance Act 1989.
- (2) The circumstances are that,—
 - (a) for the 2010/11 financial year, the Ministry of Justice incurred expenses of \$10,814,000 for Vote Justice against the category of departmental other expenses “Recovery from February 2011 Christchurch Earthquake”; and
 - (b) the expenses referred to in **paragraph (a)**—
 - (i) were not within the scope of any existing appropriation; and
 - (ii) were not incurred under the authority of an Imprest Supply Act.

Schedule 1
Confirmation of capital expenditure incurred in excess, but within
scope, of existing appropriations for 2015/16 financial year with
approval of Minister of Finance

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Column 1	Column 2	Column 3	Column 4
Administering department	Vote	Appropriation	Amount \$(000)
Social Development, Ministry of	Social Development	Non-Departmental Capital Expenditure Recoverable Assistance	2,158

Schedule 2
Validation of expenses incurred not within scope of existing
appropriations and with authority of Imprest Supply Act for 2015/16
financial year

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Column 1	Column 2	Column 3	Column 4
Administering department	Vote	Category of expenses	Amount \$(000)
Justice, Ministry of	Justice	Non-Departmental Other Expenses Compensation for Wrongly Convicted Individuals	2,521

Schedule 3
Validation of expenses incurred in excess, but within scope, of
existing appropriations and without authority of Imprest Supply Act
for 2015/16 financial year

Column 1	Column 2	Column 3	Column 4
Administering department	Vote	Appropriation	Amount \$(000)
Business, Innovation and Employment, Ministry of	Business, Science and Innovation	Non-Departmental Other Expenses Impairment of Crown Assets	66
Conservation, Department of	Conservation	Non-Departmental Other Expenses Vesting of Reserves	4,747
Culture and Heritage, Ministry for	Arts, Culture and Heritage	Non-Departmental Output Expenses Protection of Taonga Tūturu	254
Social Development, Ministry of	Social Development	Benefits or Related Expenses Accommodation Assistance	23,195
Treasury, The	Finance	Non-Departmental Other Expenses Crown Residual Liabilities	4

Schedule 4
Validation of expenses incurred not within scope of existing
appropriations and without authority of Imprest Supply Act for
2015/16 financial year

Column 1	Column 2	Column 3	Column 4
Administering department	Vote	Category of expenses	Amount \$(000)
Health, Ministry of	Health	Non-Departmental Other Expenses	
		Health Sector Projects	726
		Write off of costs on transfer of Burwood Hospital	1,557

Schedule 5
**Validation of expenses incurred in advance of appropriation and
without authority of Imprest Supply Act for 2015/16 financial year**

Column 1	Column 2	Column 3	Column 4
Administering department	Vote	Appropriation	Amount \$(000)
Business, Innovation and Employment, Ministry of	Business, Science and Innovation	Non-Departmental Other Expenses Energy and Resources: The Pike River Mine Site	125