

Appropriation (2016/17 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 and make capital injections only in accordance with appropriations or other authorities by or under 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 or unauthorised capital injection must be validated by an Appropriation Act.

Confirming Public Finance (Transfers Between Outputs) Order 2017

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 2017, 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 expenses incurred for the 2016/17 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 2016/17 financial year, certain expenses and capital expenditure were incurred that require validation by this Bill in accordance with section 26C of the Act. *Clause 7* validates these expenses and capital expenditure, the details of which are set out in *Schedules 2 to 5*.

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

Clause 9 validates certain expenses that were incurred by the Department of Internal Affairs for the 2015/16 financial year and that require validation in accordance with section 26C of the Act and that have not been previously validated.

Validating unauthorised capital injections

Section 12A of the Act prohibits the making of capital injections to a department (other than an intelligence and security department) or an Office of Parliament unless the capital injection is authorised under an Appropriation Act (subject to section 25A of the Act which permits the Minister of Finance to approve unauthorised capital injections to meet emergencies). Section 26CA of the Act requires a capital injection that is made in contravention of section 12A to be validated by an Act of Parliament.

Clause 8 validates a capital injection made in the 2016/17 financial year for the purposes of section 26CA of the Act.

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 2016/17 financial year and to validate a matter relating to the 2015/16 financial year.

Clause 4 is an interpretation clause.

Clause 5 confirms the Public Finance (Transfers Between Outputs) Order 2017. That order, which came into force on 30 June 2017, 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 expenses for the 2016/17 financial year in excess, but within the scope, of existing appropriations in accordance with the approval of the Minister of Finance under section 26B of the Public Finance Act 1989. The expenses confirmed by this clause are set out in *Schedule 1*.

Clause 7 validates, for the purposes of section 26C of the Public Finance Act 1989, the incurring of expenses and capital expenditure by departments for the 2016/17 financial year without appropriation, or other authority, by or under an Act. The expenses and capital expenditure validated by this clause are set out in *Schedules 2 to 5*.

Clause 8 validates, for the purposes of section 26CA of the Public Finance Act 1989, a capital injection that was made to the Department of Conservation in the 2016/17 financial year without authority under an Appropriation Act or an approval under section 25A of the Public Finance Act 1989.

Clause 9 validates, for the purposes of section 26C of the Public Finance Act 1989, the incurring of expenses by the Department of Internal Affairs for the 2015/16 financial year without appropriation, or other authority, by or under an Act. The expenses relate to travel by staff of members of the Executive.

Hon Grant Robertson

Appropriation (2016/17 Confirmation and Validation) Bill

Government Bill

Contents

	Page
1 Title	2
2 Commencement	2
3 Purpose	2
4 Interpretation	2
<i>2016/17 financial year</i>	
5 Confirmation of Order in Council directing transfer of amounts between output expense appropriations	2
6 Confirmation of expenses incurred in excess of existing appropriations and approved by Minister of Finance	3
7 Validation of unappropriated expenses and capital expenditure for 2016/17 financial year	3
8 Validation of unauthorised capital injection for 2016/17 financial year	4
<i>2015/16 financial year</i>	
9 Validation of unappropriated expenses for 2015/16 financial year	4
Schedule 1	
Confirmation of expenses incurred in excess, but within scope, of existing appropriations for 2016/17 financial year with approval of Minister of Finance	
Schedule 2	
Validation of expenses incurred in excess, but within scope, of existing appropriations and without authority of Imprest Supply Act for 2016/17 financial year	

Schedule 3	7
Validation of expenses incurred not within scope of existing appropriations and without authority of Imprest Supply Act for 2016/17 financial year	
Schedule 4	8
Validation of capital expenditure incurred not within scope of existing appropriations and with authority of Imprest Supply Act for 2016/17 financial year	
Schedule 5	9
Validation of expenses incurred in advance of appropriation and without authority of Imprest Supply Act for 2016/17 financial year	

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Appropriation (2016/17 Confirmation and Validation) Act **2018**.

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 2016/17 financial year; and
- (b) to validate a matter relating to the 2015/16 financial year.

4 Interpretation

(1) In this Act,—

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

2016/17 financial year means the financial year ending with 30 June 2017.

(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.

2016/17 financial year

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

The Public Finance (Transfers Between Outputs) Order 2017 is confirmed.

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

- (1) The incurring of expenses approved by the Minister of Finance under section 26B of the Public Finance Act 1989 for the 2016/17 financial year and described in **subsections (2) and (3)** is confirmed.
- (2) The expenses are the expenses 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 expenses are shown in **column 4 of Schedule 1** alongside the existing appropriation for which the approval was given.

7 Validation of unappropriated expenses and capital expenditure for 2016/17 financial year

- (1) The incurring of expenses or capital expenditure 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 2016/17 financial year, the department incurred expenses in excess, but within the scope, of the existing appropriations set out in **column 3 of Schedule 2** alongside that department; and
 - (b) the expenses referred to in **paragraph (a)** were not incurred under the authority of an Imprest Supply Act.
- (3) The circumstances in this subsection are that,—
 - (a) for the 2016/17 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 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 2016/17 financial year, the department incurred capital expenditure, not within the scope of any existing appropriation, against the categories of capital expenditure set out in **column 3 of Schedule 4** alongside that department; and
 - (b) the capital expenditure referred to in **paragraph (a)** was incurred under the authority of an Imprest Supply Act.
- (5) The circumstances in this subsection are that,—
 - (a) for the 2016/17 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,—

capital expenditure means the amount of capital expenditure set out in **column 4** of **Schedule 4** alongside the relevant department

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, or 5** alongside the relevant department.

8 Validation of unauthorised capital injection for 2016/17 financial year

(1) The making of the capital injection set out in **subsection (2)** is validated for the purposes of section 26CA of the Public Finance Act 1989.

(2) The capital injection is the capital injection of \$2,050,000 that—

(a) was made to the Department of Conservation in the 2016/17 financial year; and

(b) was made without authority under an Appropriation Act; and

(c) was not made under the authority of an Imprest Supply Act.

2015/16 financial year

9 Validation of unappropriated expenses for 2015/16 financial year

(1) The incurring of expenses by the Department of Internal Affairs 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 2015/16 financial year, the Department of Internal Affairs incurred expenses of \$2,584,000 for Vote Internal Affairs against the category of non-departmental other expenses “Members of the Executive - Travel”; 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 expenses incurred in excess, but within scope, of
existing appropriations for 2016/17 financial year with approval of
Minister of Finance

s 6

Column 1	Column 2	Column 3	Column 4
Administering department	Vote	Appropriation	Amount \$(000)
Police, New Zealand	Police	Departmental Output Expenses	
		Case Resolution and Support to Judicial Process	483
		General Crime Prevention Services	251
		Investigations	1,283
		Police Primary Response Management	1,469
		Specific Crime Prevention Services and Maintenance of Public Order	531
		Multi-Category	
		Policy Advice and Ministerial Services (Departmental Output Expenses)	10

Schedule 2
Validation of expenses incurred in excess, but within scope, of
existing appropriations and without authority of Imprest Supply Act
for 2016/17 financial year

Column 1	Column 2	Column 3	Column 4
Administering department	Vote	Appropriation	Amount \$(000)
Business, Innovation and Employment, Ministry of	Building and Housing	Departmental Output Expenses Residential Tenancy and Unit Title Services	597
	Labour Market	Non-Departmental Output Expenses Workplace Relations and Safety - Employment Relations Education Contestable Fund	223
Culture and Heritage, Ministry for	Arts, Culture and Heritage	Departmental Output Expenses First World War Centenary	8,584

Schedule 3
Validation of expenses incurred not within scope of existing
appropriations and without authority of Imprest Supply Act for
2016/17 financial year

s 7

Column 1 Administering department	Column 2 Vote	Column 3 Category of expenses	Column 4 Amount \$(000)
Internal Affairs, Department of	Internal Affairs	Non-Departmental Other Expenses Members of the Executive - Travel	2,511
Transport, Ministry of	Transport	Non-Departmental Output Expenses Restoration of State Highway 1 between Picton and Christchurch - Operating	72,651

Schedule 4
Validation of capital expenditure incurred not within scope of
existing appropriations and with authority of Imprest Supply Act for
2016/17 financial year

s 7			
Column 1	Column 2	Column 3	Column 4
Administering department	Vote	Category of capital expenditure	Amount \$(000)
Transport, Ministry of	Transport	Non-Departmental Capital Expenditure Restoration of Main North Line between Picton and Christchurch	30,000

Schedule 5
**Validation of expenses incurred in advance of appropriation and
without authority of Imprest Supply Act for 2016/17 financial year**

s 7

Column 1	Column 2	Column 3	Column 4
Administering department	Vote	Appropriation	Amount \$(000)
Business, Innovation and Employment, Ministry of	Building and Housing	Non-Departmental Output Expenses Canterbury Earthquakes: Emergency and Temporary Accommodation	245