

Appropriation (2019/20 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 2020

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%. Second, there must not have been any other transfer under section 26A of the Act to that appropriation during the financial year. Third, 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 2020, which was made under section 26A of the Act (*clause 5*).

Confirming approved 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 2019/20 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 2019/20 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*, as follows:

- *Schedule 2* contains details of expenses incurred in excess, but within the scope, of 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 and capital expenditure 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.

The Bill also validates expenses and capital expenditure incurred in the 2015/16, 2016/17, 2017/18, and 2018/19 financial years by the following departments in excess of any existing appropriation and without the authority of an Imprest Supply Act:

- Ministry for the Environment, in respect of Vote Environment (*clause 9*):
- Ministry of Education, in respect of Vote Tertiary Education (*clause 10*):
- Ministry of Foreign Affairs and Trade, in respect of Vote Foreign Affairs and Trade (*clause 11*).

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 2019/20 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 2019/20 financial year and to validate matters relating to the 2015/16, 2016/17, 2017/18, and 2018/19 financial years.

Clause 4 is an interpretation clause.

Clause 5 confirms the Public Finance (Transfers Between Outputs) Order 2020. That order, which came into force on 30 June 2020, 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 2019/20 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 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 2019/20 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 a capital injection made in the 2019/20 financial year for the purposes of section 26CA of the Act.

Clause 9 validates expenses incurred by the Ministry for the Environment in the 2015/16, 2016/17, 2017/18, and 2018/19 financial years without appropriation, or other authority, by or under an Act.

Clause 10 validates expenses incurred by the Ministry of Education in the 2015/16, 2016/17, 2017/18, and 2018/19 financial years without appropriation, or other authority, by or under an Act.

Clause 11 validates capital expenditure incurred by the Ministry of Foreign Affairs and Trade in the 2015/16, 2016/17, 2017/18, and 2018/19 financial years without appropriation, or other authority, by or under an Act.

Hon Grant Robertson

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The Parliament of New Zealand enacts as follows:

- 1 Title**
- This Act is the Appropriation (2019/20 Confirmation and Validation) Act **2021**.
- 2 Commencement** 5
- 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 to—
- (a) confirm and validate matters relating to the 2019/20 financial year; and 10
- (b) validate matters relating to the 2015/16, 2016/17, 2017/18, and 2018/19 financial years.
- 4 Interpretation**
- (1) In this Act,—
- 2015/16 financial year** means the financial year ending with 30 June 2016 15
- 2016/17 financial year** means the financial year ending with 30 June 2017
- 2017/18 financial year** means the financial year ending with 30 June 2018
- 2018/19 financial year** means the financial year ending with 30 June 2019
- 2019/20 financial year** means the financial year ending with 30 June 2020.

- (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** 5
The Public Finance (Transfers Between Outputs) Order 2020 is confirmed.
- 6 Confirmation of expenses incurred in excess of existing appropriation 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 2019/20 financial year and described in **subsections (2) and (3)** is confirmed. 10
- (2) The expenses are the expenses incurred in excess, but within the scope, of the existing appropriation set out in **column 3 of Schedule 1**.
- (3) The amount of the approved expenses is shown in **column 4 of Schedule 1** alongside the existing appropriation for which the approval was given. 15
- 7 Validation of unappropriated expenses and capital expenditure for 2019/20 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. 20
- (2) The circumstances in this subsection are that,—
- (a) for the 2019/20 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 incurred under the authority of an Imprest Supply Act. 25
- (3) The circumstances in this subsection are that,—
- (a) for the 2019/20 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 30
- (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 2019/20 financial year, the department incurred expenses or capital expenditure, not within the scope of any existing appropriation, against the categories of expenses or capital expenditure set out in **column 3 of Schedule 4** alongside that department; and 35

- (b) the expenses or capital expenditure 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 2019/20 financial year, the department incurred expenses in advance of the appropriations set out in **column 3 of Schedule 5** alongside that department; and 5
- (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 10
- 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. 15
- 8 Validation of unauthorised capital injection for 2019/20 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 \$139,000 that—
- (a) was made to the New Zealand Customs Service in the 2019/20 financial year; and 20
- (b) was made without authority under an Appropriation Act; and
- (c) was not made under the authority of an Imprest Supply Act.
- 9 Validation of unappropriated expenses incurred by Ministry for the Environment for 2015/16 to 2018/19 financial years** 25
- (1) The incurring of expenses by the Ministry for the Environment for Vote Environment in the circumstances set out in **subsection (2)** is validated.
- (2) The circumstances are that—
- (a) the amount of the expenses is,—
- (i) for the 2015/16 financial year, \$14,000: 30
- (ii) for the 2016/17 financial year, \$14,000:
- (iii) for the 2017/18 financial year, \$51,000:
- (iv) for the 2018/19 financial year, \$1,707,000; and
- (b) the expenses were incurred in paying part of a Waste Disposal Levy to territorial local authorities other than in accordance with the statutory eligibility requirements; and 35
- (c) the expenses—

- (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 Education for 2015/16 to 2018/19 financial years

- (1) The incurring of expenses by the Ministry of Education for Vote Tertiary Education in the circumstances set out in **subsection (2)** is validated. 5
- (2) The circumstances are that—
 - (a) the amount of the expenses is,—
 - (i) for the 2015/16 financial year, \$9,000:
 - (ii) for the 2016/17 financial year, \$908,000: 10
 - (iii) for the 2017/18 financial year, \$3,214,000:
 - (iv) for the 2018/19 financial year, \$816,000; and
 - (b) the expenses were incurred in making payments from the Export Education Levy Fund relating to international students following the collapse of private training establishments; and 15
 - (c) the expenses—
 - (i) were not within the scope of any existing appropriation; and
 - (ii) were not incurred under the authority of an Imprest Supply Act.

11 Validation of unappropriated capital expenditure incurred by Ministry of Foreign Affairs and Trade for 2015/16 to 2018/19 financial years 20

- (1) The incurring of capital expenditure by the Ministry of Foreign Affairs and Trade for Vote Foreign Affairs and Trade in the circumstances set out in **subsection (2)** is validated.
- (2) The circumstances are that—
 - (a) the amount of the capital expenditure is,— 25
 - (i) for the 2015/16 financial year, \$4,000:
 - (ii) for the 2016/17 financial year, \$12,000:
 - (iii) for the 2017/18 financial year, \$1,000:
 - (iv) for the 2018/19 financial year, \$12,000; and
 - (b) the capital expenditure was incurred in providing recoverable financial assistance to New Zealanders in distress overseas; and 30
 - (c) the capital expenditure—
 - (i) was not within the scope of any existing appropriation; and
 - (ii) was not incurred under the authority of an Imprest Supply Act.

Schedule 1
Confirmation of expenses incurred in excess, but within scope, of
existing appropriation for 2019/20 financial year with approval of
Minister of Finance

Column 1	Column 2	Column 3	Column 4
Administering department	Vote	Appropriation	Amount \$(000)
Crown Law Office	Attorney-General	Departmental Output Expenses Legal Advice and Representation	449

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Schedule 2

**Validation of expenses incurred in excess, but within scope, of
existing appropriations and with authority of Imprest Supply Act for
2019/20 financial year**

Column 1 Administering department	Column 2 Vote	Column 3 Appropriation	Column 4 Amount \$(000)
Conservation, Department of	Conservation	Non-Departmental Other Expenses Payment of Rates on Properties for Concessionaires	32
Inland Revenue Department	Revenue	Non-Departmental Other Expenses Initial Fair Value Write-Down Relating to Student Loans	15,118

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Schedule 3
Validation of expenses incurred in excess, but within scope, of
existing appropriations and without authority of Imprest Supply Act
for 2019/20 financial year

Column 1 Administering department	Column 2 Vote	Column 3 Appropriation	Column 4 Amount \$(000)
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Business, Innovation and Employment, Ministry of	Building and Construction	Multi-Category Policy Advice and Related Outputs	558
Conservation, Department of	Conservation	Departmental Output Expenses Management of Historic Heritage	344
		Non-Departmental Other Expenses Payment to Facilitate the Transfer of Assets as Part of a Treaty of Waitangi Settlement	2,000
Culture and Heritage, Ministry for	Arts, Culture and Heritage	Non-Departmental Other Expenses Depreciation on Crown Owned Assets	2,275
		Development and Maintenance of War Graves, Historic Graves and Monuments	6,713
Environment, Ministry for the	Environment	Non-Departmental Other Expenses Environmental Legal Assistance	158
Inland Revenue Department	Revenue	Benefits or Related Expenses Paid Parental Leave Payments	5,146
		Non-Departmental Other Expenses Impairment of Debt and Debt Write-Offs	676,751
Justice, Ministry of	Justice	Non-Departmental Other Expenses Impairment of Legal Aid Debt	2,510

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Schedule 3

Column 1 Administering department	Column 2 Vote	Column 3 Appropriation	Column 4 Amount \$(000)
New Zealand Defence Force	Defence Force	Benefits or Related Expenses	
		Assessments, Treatment and Rehabilitation	136
		Veterans Support Entitlement	1,523
Prime Minister and Cabinet, Department of the	Prime Minister and Cabinet	Non-Departmental Other Expenses	
		COVID-19: Civil Defence Emergency Management Group	3,794
		Welfare Costs	

Schedule 4
Validation of expenses and capital expenditure incurred not within
scope of existing appropriations and without authority of Imprest
Supply Act for 2019/20 financial year

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Column 1 Administering department	Column 2 Vote	Column 3 Category of expenses or capital expenditure	Column 4 Amount \$(000)
Business, Innovation and Employment, Ministry of	Business, Science and Innovation	Non-Departmental Output Expenses Promotion of New Zealand within the domestic tourism market, using an appropriation limited to overseas markets	2,043
Culture and Heritage, Ministry for	Arts, Culture and Heritage	Multi-Category COVID-19: Media Sector Response and Recovery	121
Defence, Ministry of	Defence	Non-Departmental Other Expenses Expenses incurred on capital infrastructure projects	1,354
Environment, Ministry for the	Environment	Non-Departmental Other Expenses Waste Disposal Levy Disbursements to Territorial Local Authorities	1,347
Foreign Affairs and Trade, Ministry of	Foreign Affairs and Trade	Non-Departmental Capital Expenditure Consular Loans	2,179
Housing and Urban Development, Ministry of	Housing and Urban Development	Non-Departmental Capital Expenditure Deferred settlement terms constituting lending	14,843
Prime Minister and Cabinet, Department of the	Prime Minister and Cabinet	Non-Departmental Output Expenses Publicity campaign: “Unite against COVID-19”	18,000

Schedule 5
**Validation of expenses incurred in advance of appropriation and
without authority of Imprest Supply Act for 2019/20 financial year**

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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 Output Expenses	
		Energy and Resources: Oil Field Decommissioning	151,841
		Science and Innovation: Repayable Grants for Start-Ups	669
Corrections, Department of	Corrections	Departmental Other Expenses	
		Transfer of Auckland Prison Wastewater Assets	9,077