

Appropriation (2004/05 Financial Review) 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 liabilities only in accordance with appropriations made by an Act of Parliament.

However, Parliament has, in the Public Finance Act 1989, 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, or without, appropriation by Parliament.

Section 5 of the Public Finance Act 1989 authorises the Governor-General by Order in Council to direct that an amount appropriated in a Vote for one class of outputs be transferred to another class of outputs in that Vote. There are 3 restrictions. First, the transfer must not increase the appropriation for the financial year for a class of outputs by more than 5%. Secondly, there must have been no other transfer under section 5 of the Public Finance Act 1989 to the class of outputs during the financial year. Thirdly, the total amount appropriated for all classes of outputs in the Vote for the financial year must remain unchanged. These Orders in Council must be sanctioned in an Appropriation Bill for the next financial year.

Section 12 of the Public Finance Act 1989 authorises the Minister of Finance to approve the spending of public money or the incurring of expenses or liabilities in excess of, or without, appropriation by Parliament. This is subject to a limit for each Vote of 1% of the total amount appropriated for that Vote 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. Money spent and the expenses and liabilities incurred under the approval must be confirmed in an Appropriation Bill for the next financial year.

Any spending of public money and any incurring of expenses and liabilities in excess of, or without, appropriation by Parliament that is not approved by the Minister of Finance under section 12 of the Public Finance Act 1989 is unlawful and requires validation by Parliament.

This Appropriation Bill—

- sanctions the Public Finance (Transfers Between Outputs) Order 2005 (SR 2005/178) which was made under section 5 of the Public Finance Act 1989 (as continued in force by section 32 of the amendment Act) (*clause 5*);
- confirms expenses incurred for the 2004/05 financial year in excess of, or without, appropriation by Parliament but in accordance with the approval of the Minister of Finance under section 12 of the Public Finance Act 1989 (*clause 6*);
- validates unappropriated expenses incurred for the 2004/05 financial year (*clauses 7 and 8*).

Section 12(3) of the Public Finance Act 1989 requires the Minister of Finance, on the introduction of this Bill, to lay before the House of Representatives a report setting out for each instance of unappropriated expenditure, expenses, or liabilities, the explanation of the Minister responsible for the financial performance of the department concerned.

The Public Finance Act 1989 was substantially amended by the Public Finance Amendment Act 2004 (“the amendment Act”) on 25 January 2005. However, the effect of the transitional provisions in section 32 of the amendment Act is that the Public Finance Act 1989 continues to apply to the 2004/05 financial year as if it had not been amended by the amendment Act. For this reason, all references in this Bill to the Public Finance Act 1989 are references to that Act as in force immediately before the commencement of the amendment Act.

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 that the Bill sanctions, confirms, and validates financial matters relating to the financial year ended on 30 June 2005.

Clause 4 is an interpretation clause. It also provides that references in the Bill to the Public Finance Act 1989 are references to that Act as in force immediately before the commencement of the Public Finance Amendment Act 2004. This provision reflects the effect of section 32 of the Public Finance Amendment Act 2004.

Clause 5 sanctions the Public Finance (Transfers Between Outputs) Order 2005 (SR 2005/178). That order, which came into force on 30 June 2005, directed that fiscally neutral transfers be made decreasing the amounts appropriated for 34 classes of outputs in 11 Votes and increasing the amounts appropriated for 22 classes of outputs in the same 11 Votes.

Clause 6 confirms the incurring of expenses and liabilities for the 2004/05 financial year in excess of, or without, appropriation by Parliament in accordance with the approval of the Minister of Finance under section 12 of the Public Finance Act 1989. There are 44 instances in 19 Votes administered by 15 departments of approved unappropriated expenses and liabilities. These are set out in the *Schedule*.

Clause 7 validates unappropriated expenses of \$309,843,000 incurred by the Ministry for the Environment without appropriation for the Kyoto Protocol—Forecast Liability output in Vote Climate Change and Energy Efficiency for the 2004/05 financial year.

Clause 8 validates unappropriated expenses of \$208,000 incurred by the Police in excess of the amount appropriated for the Police Primary Response Management output in Vote Police for the 2004/05 financial year and the amount in excess of appropriation approved for that output by the Minister of Finance under section 12 of the Public Finance Act 1989.

Hon Dr Michael Cullen

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Appropriation (2004/05 Financial Review) Act **2005**.
- 2 Commencement**
This Act comes into force on the day after the date on which it receives the Royal assent.
- 3 Purpose**
This Act sanctions, confirms, and validates financial matters relating to the financial year ended on 30 June 2005.

4 Interpretation

- (1) In this Act, unless the context otherwise requires, the terms **capital contribution, class of outputs, expenses, financial year, liability, Mode B, other expenses, outputs, and Vote** have the meanings given to them by section 2(1) of the Public Finance Act 1989.
- (2) A reference in this Act to a provision of the Public Finance Act 1989 is a reference to that provision as in force immediately before the commencement of the Public Finance Amendment Act 2004.

5 Sanctioning of Order in Council directing transfer of resources between classes of outputs

The Public Finance (Transfers Between Outputs) Order 2005 (SR 2005/178) is sanctioned.

6 Confirmation of unappropriated expenses and liabilities approved by Minister of Finance

- (1) The incurring of expenses and liabilities approved by the Minister of Finance under section 12 of the Public Finance Act 1989 for the financial year ended 30 June 2005 and described in **subsections (2) and (3)** is confirmed.
- (2) The expenses and liabilities are the expenses and liabilities incurred in excess of, or without, appropriation by Parliament on the classes of outputs, categories of benefit expenses, categories of other expenses, categories of capital contributions to other persons or organisations, and the category of purchase or development of capital assets by the Crown shown in **column 3** of the **Schedule**.
- (3) The approved expenses are shown in each case in **column 4** of the **Schedule** against the class of outputs, the category of benefit expense, or the category of other expenses for which the approval was given, and the approved liabilities are shown in each case in **column 5** of the **Schedule** against the category of capital contribution or the category of purchase or development of capital assets for which the approval was given.

7 Validation of unappropriated expenses incurred by Ministry for the Environment in respect of Kyoto Protocol—Forecast Liability output in Vote Climate Change and Energy Efficiency

- (1) The incurring of expenses of \$309,843,000 by the Ministry for the Environment for the financial year ended 30 June 2005 in the circumstances set out in **subsection (2)** is validated.
- (2) The circumstances were that,—
 - (a) for the year ended 30 June 2005, the Ministry for the Environment incurred expenses of \$309,843,000 against the output Kyoto Protocol—Forecast Liability in Vote Climate Change and Energy Efficiency; and
 - (b) that amount is a sum incurred without appropriation by Parliament.

8 Validation of unappropriated expenses incurred by Police in respect of Police Primary Response Management output in Vote Police

- (1) The incurring of expenses of \$208,000 by the Police for the financial year ended 30 June 2005 in the circumstances set out in **subsection (2)** is validated.
- (2) The circumstances were that,—
 - (a) for the year ended 30 June 2005, the Police incurred expenses of \$622,000 against the appropriation for the output Police Primary Response Management in Vote Police; and
 - (b) that amount exceeded by \$208,000 the aggregate of the following amounts for expenses to be incurred for that year by the Police on that output:
 - (i) the amount appropriated by Parliament;
 - (ii) the amount in excess of appropriation approved by the Minister of Finance under section 12 of the Public Finance Act 1989.

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Schedule Unappropriated expenses and liabilities for the year ended 30 June 2005 confirmed

Column 1	Column 2	Column 3	Column 4	Column 5
Administering department	Vote	Appropriation	Expenses \$'(000)	Liabilities \$'(000)
Ministry of Agriculture and Forestry	Biosecurity - Agriculture and Forestry	<i>Departmental output class (Mode B) — Control of and Response to Pests and Diseases</i>	886	
Department of Conservation	Conservation	<i>Non-departmental output class — Management Services - Natural and Historic Places</i>	632	
Crown Law Office	Attorney-General	<i>Departmental output class (Mode B) — Conduct of Criminal Appeals</i>	108	
Ministry for Culture and Heritage	Arts, Culture and Heritage	<i>Other expenses to be incurred by the Crown — New Zealand Memorial in London</i>	104	
Ministry of Economic Development	Commerce	<i>Other expenses to be incurred by the Crown — Securities Commission Litigation Fund</i>	298	
Ministry of Education	Education	<i>Departmental output class (Mode B) — Provision of Teacher and Caretaker Housing</i>	556	
		<i>Other expenses to be incurred by the Crown —</i>		
		Primary Education	614	
		Residual Management Unit Payments	55	
		Secondary Education	2,689	
		<i>Capital contributions to other persons or organisations —</i>		
		Schools Furniture and Equipment		143
		Te Wananga o Aotearoa		12,000
Department of Internal Affairs	Emergency Management	<i>Other expenses to be incurred by the Crown —</i>		
		Joint Mayoral Relief Fund	175	
		Tauranga Mayoral Relief Fund	25	
		Western Bay of Plenty Mayoral Relief Fund	25	
		Whakatane Mayoral Relief Fund	25	
Ministry of Justice	Courts	<i>Departmental output class (Mode B) — Waitangi Tribunal Services</i>	181	
		<i>Other expenses to be incurred by the Crown —</i>		
		Lawyers as Visiting Justices to Prisons	18	
		Medical and Other Professional Services	170	
		Youth Court Professional Fees	170	
	Treaty Negotiations	<i>Departmental output class (Mode B) — Representation - Waitangi Tribunal</i>	943	
		<i>Other expenses to be incurred by the Crown —</i>		
		Crown Contribution to Taranaki Whanui's (Wellington) Waitangi Tribunal Costs	900	

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Schedule

Column 1 Administering department	Column 2 Vote	Column 3 Appropriation	Column 4 Expenses \$(000)	Column 5 Liabilities \$(000)
Department of Labour	ACC	<i>Non-departmental output classes —</i>		
		Case Management and Supporting Services	7,100	
		Claim Entitlements and Services	5,466	
		Public Health Acute Services	400	
	<i>Benefits and other unrequited expenses —</i>			
		Other Compensation	4,734	
	Employment	<i>Departmental output class (Mode B) —</i>		
		Transition Management	102	
Land Information New Zealand	Lands	<i>Purchase or development of capital assets by the Crown —</i>		
		Crown Obligatory Acquisitions		490
New Zealand Defence Force	Defence Force	<i>Departmental output class (Mode B) —</i>		
		Land Combat Service Support Forces	411	
	Veterans' Affairs - Defence	<i>Departmental output class (Mode B) —</i>		
		Policy and Administration	11	
		Services to Veterans	6	
The Police	Police	<i>Departmental output classes (Mode B) —</i>		
		Police Primary Response Management	414	
		Road Safety Programme	968	
Ministry of Social Development	Social Development	<i>Benefits and other unrequited expenses —</i>		
		Accommodation Supplement	1,639	
		Childcare Assistance	1,541	
		Disability Allowance Telephone Support	5	
		New Zealand Superannuation	1,166	
		Orphan's/Unsupported Child's Benefit	201	
		Unemployment Benefit	565	
		Widows' Benefit	62	
		<i>Capital contributions to other persons or organisations —</i>		
			Community Services Card Reimbursements	
	Veterans' Affairs - Social Development	<i>Benefits and other unrequited expenses —</i>		
		Veterans' Pension	46	
		War Disablement Pensions	470	
Ministry of Transport	Transport	<i>Non-departmental output class —</i>		
		Reporting on Accident or Incident Investigations	281	
The Treasury	Finance	<i>Other expenses to be incurred by the Crown —</i>		
		New Zealand Railways Corporation		
		Operating and Maintenance Costs	6,900	