

Appropriation (2005/06 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 capital expenditure 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 appropriation by Parliament.

Section 26A of the Public Finance Act 1989 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 have been no other transfer under section 26A of the Public Finance Act 1989 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 these Orders in Council must be included in an Appropriation Bill that applies to that financial year.

Section 26B of the Public Finance Act 1989 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 or 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.

Sections 8 and 9 of the Public Finance Act 1989 require appropriations to be limited to a specified amount and limited to the scope of the appropriation. Similarly, prior to the amendments made to the Public Finance Act 1989 in 2005 by the Public Finance Amendment Act 2004, section 4 of the Public Finance Act 1989 required that costs or expenses or public money appropriated under that Act be incurred or spent only in relation to that appropriation and for no other purpose.

Section 26C of the Public Finance Act 1989 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.

During the 2005/06 financial year some expenses and capital expenditure were incurred that were in excess, or outside the scope, of the relevant appropriation or were incurred without appropriation, or other authority, by or under an Act of Parliament.

Some additional instances of unappropriated expenses, liabilities, and capital expenditure have been identified relating to Votes Finance and Housing in the 2002/03, 2003/04, and 2004/05 financial years that have not been validated in the Appropriation (Financial Review) Acts relating to those years.

During the 1989/90 to 2003/04 financial years some costs and expenses were incurred in Votes Finance, Treasurer, and Treasury that may have been outside the purpose of the relevant appropriation, and were therefore incurred without appropriation, or other authority, by or under an Act of Parliament.

During or at the end of the 2005/06 financial year, the net asset holdings in some departments exceeded the most recent projected balance of net assets for those departments as set out in an Appropriation Act. Those excess net asset holdings require validation.

This Appropriation Bill—

- confirms the Public Finance (Transfers Between Outputs) Order 2006 (SR 2006/162), which was made under section 26A of the Public Finance Act 1989 (*clause 5*):

- confirms expenses and capital expenditure incurred for the 2005/06 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 (*clause 6*). Details of these confirmations are set out in *Schedule 1*;
- validates unappropriated expenses and capital expenditure incurred for the 2005/06 financial year that were in excess of an existing appropriation, or without appropriation, or other authority, by or under an Act of Parliament (*clause 7*). Details of these validations are set out in *Schedules 2 and 3*;
- validates unappropriated expenses incurred for the 2004/05 and 2005/06 financial years that were outside the scope or purpose of the appropriation for a particular departmental output class in Vote Finance, and also validates any expenses that may have been incurred outside the purpose of the appropriation for that, or the corresponding, departmental output class in Votes Finance, Treasurer, and Treasury for the 1989/90 to 2003/04 financial years (*clause 8*);
- validates unappropriated liabilities and capital expenditure incurred without appropriation in Votes Finance and Housing for the 2002/03 to 2005/06 financial years for a particular category of capital expenditure (*clause 9*);
- validates excess net asset holdings in 4 departments during or at the end of the 2005/06 financial year (*clause 10*). Details of these validations are set out in *Schedule 4*.

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 purposes of the Bill, which are—

- to confirm financial matters relating to the financial year ended 30 June 2006; and
- to validate other financial matters relating to the financial year ended 30 June 2006 and previous financial years.

Clause 4 is an interpretation clause.

Clause 5 confirms the Public Finance (Transfers Between Outputs) Order 2006 (SR 2006/162). That order, which came into force on 30 June 2006, directed that fiscally neutral transfers be made

decreasing the amounts appropriated for 19 output expense appropriations in 7 Votes and increasing the amounts appropriated for 28 output expense appropriations in the same 7 Votes.

Clause 6 confirms the incurring of expenses and capital expenditure for the 2005/06 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. There are 20 instances in 8 Votes administered by 7 departments of approved unappropriated expenses and capital expenditure. These are set out in *Schedule 1*.

Clauses 7 to 9 validate unappropriated expenses, capital expenditure, and liabilities.

Clause 7 validates expenses and capital expenditure that were incurred by departments in the financial year ended 30 June 2006 in excess of existing appropriations or without appropriation, or other authority, by or under an Act.

The expenses and capital expenditure that were incurred in excess of an existing appropriation are set out in *Schedule 2*. There are 30 instances in 16 Votes administered by 14 departments.

The expenses and capital expenditure that were incurred without appropriation, or other authority, by or under an Act are set out in *Schedule 3*. There are 7 instances in 7 Votes administered by 7 departments.

Clause 8 validates expenses that were incurred by the Treasury over a number of financial years outside the scope of, or not only in relation to, the relevant appropriation. Those expenses were therefore incurred without appropriation, or other authority, by or under an Act. The expenses were incurred in Votes Finance, Treasurer, and Treasury, and some of the expenses are unquantifiable.

Clause 9 validates liabilities and capital expenditure that were incurred by the Crown in Votes Finance and Housing over a number of financial years. These liabilities and capital expenditure were incurred either in advance of appropriation or other authority, or without appropriation or other authority, by or under an Act.

Clause 10 validates the amount of net asset holding in 4 departments that exceeded the most recent projected balance of net assets for those departments. The relevant departments and their net asset holdings are set out in *Schedule 4*.

Hon Dr Michael Cullen

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Contents

	Page
1 Title	2
2 Commencement	2
3 Purposes	2
4 Interpretation	2
5 Confirmation of Order in Council directing transfer of amounts between output expense appropriations	2
6 Confirmation of expenses and capital expenditure incurred in excess of existing appropriations and approved by Minister of Finance	3
7 Validation of unappropriated expenses and capital expenditure	3
8 Validation of unappropriated expenses incurred in respect of Votes Finance, Treasurer, and Treasury	4
9 Validation of unappropriated liabilities and capital expenditure incurred in respect of Votes Finance and Housing	4
10 Validation of departmental net asset holding	5
Schedule 1	6
Expenses and capital expenditure incurred in excess of existing appropriation during year ended 30 June 2006 and approved by Minister of Finance confirmed	
Schedule 2	8
Expenses and capital expenditure incurred in excess of appropriation during year ended 30 June 2006 validated	
Schedule 3	13
Expenses and capital expenditure incurred without appropriation or other authority during year ended 30 June 2006 validated	

Schedule 4

15

**Excess departmental net asset holding during ended
30 June 2006 validated**

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Appropriation (2005/06 Financial Review) Act **2006**.

2 Commencement

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

3 Purposes

The purposes of this Act are to—

- (a) confirm financial matters relating to the financial year ended 30 June 2006; and
- (b) validate other financial matters relating to the financial year ended 30 June 2006 and previous financial years.

4 Interpretation

In this Act, unless the context otherwise requires,—

- (a) the terms **capital expenditure, department, expenses, financial year, other expenses, output expenses,** and **Vote** have the meanings given to them by section 2(1) of the Public Finance Act 1989; and
- (b) **liabilities** means, in relation to appropriation, a liability measured in accordance with generally accepted accounting practice.

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

The Public Finance (Transfers Between Outputs) Order 2006 (SR 2006/162) is confirmed.

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

- (1) The incurring of expenses and capital expenditure approved by the Minister of Finance under section 26B of the Public Finance Act 1989 for the financial year ended 30 June 2006 and described in **subsections (2) to (4)** is confirmed.
- (2) The expenses and capital expenditure are the expenses and capital expenditure incurred in excess, but within the scope, of the existing appropriations set out in **column 3 of Schedule 1**.
- (3) The approved expenses are shown in each case in **column 5 of Schedule 1** alongside the existing appropriation for which the approval was given.
- (4) The approved capital expenditure is shown in each case in **column 6 of Schedule 1** alongside the existing appropriation for which the approval was given.

7 Validation of unappropriated expenses and capital expenditure

- (1) The incurring of expenses and capital expenditure by a department in the circumstances set out in **subsection (2)** is validated.
- (2) The circumstances were that for the financial year ended 30 June 2006, the department incurred expenses or capital expenditure—
 - (a) in excess of the existing appropriations set out in **column 3 of Schedule 2** alongside that department; or
 - (b) without appropriation, or other authority, by or under an Act (as specified in **column 4 of Schedule 3** alongside the department) against the categories of expenses or capital expenditure set out in **column 3 of Schedule 3** alongside that department.

- (3) In this section,—

capital expenditure means the capital expenditure set out in **column 6** of, as appropriate, **Schedule 2** or **Schedule 3** alongside the relevant department

department means a department set out in **column 1** of, as appropriate, **Schedule 2** or **Schedule 3**

expenses means the expenses set out in **column 5** of, as appropriate, **Schedule 2** or **Schedule 3** alongside the relevant department.

8 Validation of unappropriated expenses incurred in respect of Votes Finance, Treasurer, and Treasury

- (1) The incurring of expenses by the Treasury in the circumstances set out in **subsection (2)** is validated.
- (2) The circumstances were that—
 - (a) the Treasury incurred expenses against the output class Debt and Related Financial Asset Management in Vote Finance of—
 - (i) \$785,000 for the financial year ended 30 June 2005; and
 - (ii) \$482,000 for the financial year ended 30 June 2006; and
 - (b) those amounts were incurred outside the scope of, or were not incurred only in relation to, the appropriations for that output class, and were therefore incurred without appropriation, or other authority, by or under an Act.
- (3) To the extent that any expenses incurred by the Treasury against the output classes in the Votes and for the financial years set out in **subsection (4)** were not incurred only in relation to the appropriations for those output classes, the expenses are validated.
- (4) The output classes, Votes, and financial years are—
 - (a) Liabilities Management in Vote Treasury for the financial years ended 30 June 1990, 1991, 1992, 1993, 1994, 1995, 1996, and 1997;
 - (b) Debt and Financial Asset Management in Vote Treasurer for the financial years ended 30 June 1998, 1999, and 2000;
 - (c) Debt and Related Financial Asset Management in Vote Finance for the financial years ended 30 June 2001, 2002, 2003, and 2004.

9 Validation of unappropriated liabilities and capital expenditure incurred in respect of Votes Finance and Housing

- (1) The incurring of liabilities and capital expenditure by the Crown in the circumstances set out in **subsection (2)** is validated.
- (2) The circumstances were that—

- (a) the Crown incurred liabilities in Vote Finance of \$156,751,000 for the financial year ended 30 June 2003 for loans to Housing New Zealand Corporation to refinance maturing Crown debt; and
- (b) the Crown incurred liabilities in Vote Housing of \$11,778,000 for the financial year ended 30 June 2004 for loans to Housing New Zealand Corporation to refinance maturing Crown debt; and
- (c) the Crown incurred liabilities in Vote Housing of \$101,350,000 for the financial year ended 30 June 2005 for loans to Housing New Zealand Limited to refinance maturing Crown debt; and
- (d) the Crown incurred capital expenditure in Vote Housing of \$30,000,000 for the financial year ended 30 June 2006 for loans to Housing New Zealand Limited to refinance maturing Crown debt; and
- (e) the amounts in **paragraphs (a), (b), and (c)** were incurred without appropriation, or other authority, by or under an Act; and
- (f) the amount in **paragraph (d)** was incurred in advance of appropriation, or other authority, by or under an Act.

10 Validation of departmental net asset holding

- (1) The excess amount of net asset holding described in **subsection (2)** in a department is validated.
- (2) The excess amount of net asset holding is the amount of net asset holding, as set out in **column 3 of Schedule 4**, in the department that, during or at the end of the 2005/06 financial year, exceeded the most recent projected balance of net assets for that department.
- (3) In this section,—

department means a department set out in **column 1 of Schedule 4**

most recent projected balance of net assets means the most recent projected balance of net assets for a department at the end of the 2005/06 financial year—

- (a) at the time when that projected balance was exceeded; and
- (b) as set out in **column 2 of Schedule 4**.

Schedule 1
Expenses and capital expenditure incurred in excess of existing appropriation during year ended 30 June 2006 and approved by Minister of Finance confirmed

s 6

6

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Administering department	Vote	Appropriation	Amount appropriated \$(000)	Expenses approved in excess of appropriation \$(000)	Capital expenditure approved in excess of appropriation \$(000)
Agriculture and Forestry, Ministry of	Biosecurity	<i>Departmental output expenses—</i> Quarantine Services	50,779	812	
Building and Housing, Department of	Housing	<i>Benefits and other unrequited expenses—</i> Income Related Rental Subsidy	395,233	258	
Conservation, Department of	Conservation	<i>Departmental output expenses—</i> Conservation with the Community	12,653	238	
Education, Ministry of	Education	<i>Departmental output expenses—</i> Provision of School Sector Property <i>Non-departmental output expenses—</i> School Transport	1,102,244	5,951	
Internal Affairs, Department of	Local Government	<i>Other expenses to be incurred by the Crown—</i> Depreciation	160	7	
National Library of New Zealand	National Library	<i>Departmental output expenses—</i> Library and Information Services to Schools	12,259	69	

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6		
Administering department	Vote	Appropriation	Amount appropriated \$(000)	Expenses approved in excess of appropriation \$(000)	Capital expenditure approved in excess of appropriation \$(000)		
Social Development, Ministry of	Social Development	<i>Benefits and other unrequited expenses—</i>					
		Child Disability Allowance	69,754	118			
		Childcare Assistance	109,543	72			
		Disability Allowance Telephone Support	6,722	13			
		Orphan's/Unsupported Child's Benefit	64,194	189			
		Relocation Assistance	124	3			
		Residential Social Rehabilitation Assistance	1,496	5			
		Sickness Benefit	540,164	979			
		Student Allowances	350,654	3,478			
		<i>Capital expenditure—</i>					
		Community Services Card Reimbursements	216		1		
		Student Loans	1,034,403		11,140		
		Veterans' Affairs		<i>Benefits and other unrequited expenses—</i>			
				Medical Treatment	14,757	91	
Veterans' Pension	128,079			89			
		War Disablement Pensions	112,791	562			

s 7(2)(a)

Schedule 2
Expenses and capital expenditure incurred in excess of appropriation
during year ended 30 June 2006 validated

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Administering department	Vote	Appropriation	Amount appropriated at time breach occurred \$(000)	Expenses in excess of appropriation \$(000)	Capital expenditure in excess of appropriation \$(000)
Crown Law Office	Attorney-General	<i>Departmental output expenses—</i> Conduct of Criminal Appeals	1,933	531	
		The Exercise of Principal Law Officer Functions	1,278	64	
Culture and Heritage, Ministry for	Arts, Culture and Heritage	<i>Other expenses to be incurred by the Crown—</i> New Zealand Memorial in Korea	60	45	
Economic Development, Ministry of	Economic, Industry and Regional Development	<i>Non-departmental output expenses—</i> Enabling Services - Promotion of New Zealand Business and Development of Investment Opportunities	26,160	261	
		Foundation Services - Business Information and Advice	7,342	1	
		Growth Services - Customised Information and Advice	20,056	1,366	

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Administering department	Vote	Appropriation	Amount appropriated at time breach occurred \$(000)	Expenses in excess of appropriation \$(000)	Capital expenditure in excess of appropriation \$(000)
Economic Development, Ministry of— <i>continued</i>	Economic, Industry and Regional Development— <i>continued</i>	Growth Services - Identifying and Leveraging New Business Opportunities New Zealand's Participation At Expo 2005 Aichi, Japan <i>Other expenses to be incurred by the Crown—</i> Large Budget Screen Production Fund	29,167 971 35,556	1,519 689 9,126	
	Energy	<i>Departmental output expenses—</i> Energy and Resource Information Services	1,003	477	
Foreign Affairs and Trade, Ministry of	Foreign Affairs and Trade	<i>Departmental output expenses—</i> Services for Other New Zealand Agencies Overseas	11,739	179	
Health, Ministry of	Health	<i>Other expenses to be incurred by the Crown—</i> Legal Expenses <i>Capital expenditure—</i> Health Sector Projects	5,459 1,112	26,322	2,202

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Administering department	Vote	Appropriation	Amount appropriated at time breach occurred \$(000)	Expenses in excess of appropriation \$(000)	Capital expenditure in excess of appropriation \$(000)
Internal Affairs, Department of	Community and Voluntary Sector	<i>Other expenses to be incurred by the Crown—</i>			
		Community Organisation Grants Scheme	11,394	336	
Justice, Ministry of	Emergency Management	<i>Other expenses to be incurred by the Crown—</i>			
		Emergency Expenses	48	7,269	
Justice, Ministry of	Courts	<i>Other expenses to be incurred by the Crown—</i>			
		Abortion Supervisory Committee - Certifying Consultants Fees	4,334	433	
		Care of Children Act Costs	3,315	1,194	
		Fines Provisions and Remittals	5,725	1,337	
		Fines Writedowns	37,585	1,129	
		Judicial Review Costs	413	148	
Labour, Department of	Immigration	<i>Departmental output expenses—</i>			
		Services to Increase the Capacity of New Zealand Through Immigration	147,973	1,087	

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Administering department	Vote	Appropriation	Amount appropriated at time breach occurred \$(000)	Expenses in excess of appropriation \$(000)	Capital expenditure in excess of appropriation \$(000)
New Zealand Police	Police	<i>Departmental output expenses—</i> Case Resolution and Support to Judicial Process	60,812	2,746	
		Police Primary Response Management	299,472	16,034	
		Police Advice and Ministerial Servicing	1,512	69	
Prime Minister and Cabinet, Department of the	Prime Minister and Cabinet	<i>Departmental output expenses—</i> Policy Advice and Secretariat and Coordination Services	7,270	448	
Research, Science and Technology, Ministry of	Research, Science and Technology	<i>Departmental output expenses—</i> Contract Management	643	48	
Social Development, Ministry of	Social Development	<i>Benefit and other unrequited expenses—</i> Defence Force Allowance Transition to Work	10,020 2,835	133 204	
State Services Commission	State Services	<i>Other expenses to be incurred by the Crown—</i> State Sector Employment-Based Superannuation	76,057	1,091	

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Administering department	Vote	Appropriation	Amount appropriated at time breach occurred \$(000)	Expenses in excess of appropriation \$(000)	Capital expenditure in excess of appropriation \$(000)
Transport, Ministry of	Transport	<i>Departmental output expenses—</i> Sector Leadership and Support	424	2	

s 7(2)(b)

Schedule 3
Expenses and capital expenditure incurred without appropriation or other authority
during year ended 30 June 2006 validated

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Administering department	Vote	Category of expenses or capital expenditure	Nature of breach	Expenses \$(000)	Capital expenditure \$(000)
Crown Law Office	Attorney-General	<i>Departmental output expenses—</i> Awarding of costs against the Crown	Without appropriation	100	
Culture and Heritage, Ministry for	Arts, Culture and Heritage	<i>Capital expenditure—</i> National Memorial Park in Wellington	Incurred prior to authorisation		4,952
Economic Development, Ministry of	Energy	<i>Capital expenditure—</i> Development of Reserve Electricity Generation Capacity	Incurred prior to authorisation		9
Education, Ministry of	Education	<i>Benefits and other unrequited expenses—</i> Assistance to at-risk secondary-school aged students	Outside scope and without appropriation	18	
Health, Ministry of	Health	<i>Capital expenditure—</i> Response to Significant Health Emergencies	Incurred prior to authorisation		16,512

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Administering department	Vote	Category of expenses or capital expenditure	Nature of breach	Expenses \$(000)	Capital expenditure \$(000)
Justice, Ministry of	Justice	<i>Other expenses to be incurred by the Crown—</i> Contribution to Foreshore and Seabed Negotiation Costs	Incurred prior to authorisation	90	
Labour, Department of	Labour	<i>Other expenses to be incurred by the Crown—</i> Bad Debt Expense	Incurred prior to authorisation	2	

Schedule 4 s 10(2)
Excess departmental net asset holding during ended
30 June 2006 validated

Column 1	Column 2	Column 3
Department	Most recent projected balance of net assets at 30 June 2006 at time when exceeded \$(000)	Amount of net assets in excess of projected balance \$(000)
Building and Housing, Department of	9,481	909
Foreign Affairs and Trade, Ministry of	325,779	3,504
Internal Affairs, Department of	31,175	4,046
New Zealand Police	308,307	10