

Appropriation (2006/07 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 and in an otherwise lawful manner.

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 2006/07 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.

During the 2003/04 to 2006/07 financial years some expenses were unlawfully incurred by the Office of the Clerk.

During or at the end of the 2006/07 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 2007, which was made under section 26A of the Public Finance Act 1989 (*clause 5*);
- confirms expenses incurred for the 2006/07 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 2006/07 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 expenses incurred in the 2003/04 to 2006/07 financial years by the Office of the Clerk against the output class Inter-Parliamentary Relations in Vote Office of the Clerk without the authority of a determination made under section 20A of the Civil List Act 1979 (*clause 8*);
- validates excess net asset holdings in 2 departments during or at the end of the 2006/07 financial year (*clause 9*). 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 2007; and
- to validate other financial matters relating to the financial year ended 30 June 2007 and previous financial years.

Clause 4 is an interpretation clause.

Clause 5 confirms the Public Finance (Transfers Between Outputs) Order 2007. That order, which came into force on 30 June 2007, directed that fiscally neutral transfers be made decreasing the amounts appropriated for 11 output expense appropriations in 3 Votes and increasing the amounts appropriated for 12 output expense appropriations in the same 3 Votes.

Clause 6 confirms the incurring of expenses for the 2006/07 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 14 instances in 10 Votes administered by 9 departments of approved unappropriated expenses. These are set out in *Schedule 1*.

Clause 7 validates expenses and capital expenditure that were incurred by departments in the financial year ended 30 June 2007 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 23 instances in 13 Votes administered by 11 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 5 Votes administered by 5 departments.

Clause 8 validates expenses incurred in the 2003/04 to 2006/07 financial years by the Office of the Clerk against the output class Inter-Parliamentary Relations in Vote Office of the Clerk without the authority of a determination made under section 20A of the Civil List Act 1979.

Clause 9 validates the amount of net asset holding in 2 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

Appropriation (2006/07 Financial Review) Bill

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The Parliament of New Zealand enacts as follows:**1 Title**

This Act is the Appropriation (2006/07 Financial Review) Act **2007**.

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 2007; and
- (b) validate other financial matters relating to the financial year ended 30 June 2007 and previous financial years.

4 Interpretation

In this Act, unless the context otherwise requires, the terms **capital expenditure, department, expenses, financial year, output expenses, and Vote** have the meanings given to them by section 2(1) of 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 2007 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 financial year ended 30 June 2007 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 approved expenses are shown in each case in **column 5 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 are that for the financial year ended 30 June 2007, 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 5** of, as appropriate, **Schedule 2** or **3** alongside the relevant department

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

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

8 Validation of expenses incurred in respect of Vote Office of the Clerk

- (1) The incurring of expenses by the Office of the Clerk in the circumstances set out in **subsection (2)**—
 - (a) is validated; and
 - (b) is deemed not to have constituted a breach of the Civil List Act 1979.
- (2) The circumstances are that—
 - (a) the Office of the Clerk incurred expenses against the output class Inter-Parliamentary Relations in Vote Office of the Clerk of—
 - (i) \$501,331 for the financial year ended 30 June 2004; and
 - (ii) \$341,095 for the financial year ended 30 June 2005; and
 - (iii) \$396,421 for the financial year ended 30 June 2006; and

- (iv) \$460,842 for the financial year ended 30 June 2007; and
- (b) those amounts were incurred without the authority of a determination made under section 20A of the Civil List Act 1979 and were therefore incurred unlawfully.

9 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 2006/07 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 2006/07 financial year—
 - (a) at the time when that projected balance was exceeded; and
 - (b) as set out in **column 2 of Schedule 4**.
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Schedule 1
Expenses incurred in excess of existing appropriation during year
ended 30 June 2007 and approved by Minister of Finance confirmed

Column 1	Column 2	Column 3	Column 4	Column 5
Administering department	Vote	Appropriation	Amount appropriated \$(000)	Expenses approved in excess of appropriation \$(000)
Crown Law Office	Attorney-General	Departmental output expenses Supervision and Conduct of Crown Prosecutions	31,510	609
Education, Ministry of	Education	Departmental output expenses Provision of Teacher and Caretaker Housing Special Education Services	18,857 175,147	89 823
		Other expenses to be incurred by the Crown Primary Education	2,069,445	4,628
Fisheries, Ministry of	Fisheries	Departmental output expenses Fisheries Operations	23,714	266
Health, Ministry of	Health	Departmental output expenses DHB Funding and Performance Information Services	16,206 61,873	136 720

Column 1	Column 2	Column 3	Column 4	Column 5
Administering department	Vote	Appropriation	Amount appropriated \$'(000)	Expenses approved in excess of appropriation \$'(000)
Internal Affairs, Department of	Emergency Management	Other expenses to be incurred by the Crown Emergency Expenses	7,681	19
New Zealand Customs Service	Customs	Departmental output expenses Clearance of International Passengers, Crew and Craft Surveillance, Search and Containment	35,847 6,042	98 36
Ombudsmen, Office of the	Ombudsmen	Departmental output expenses Investigation and Resolution of Complaints About Government Administration	5,055	39
Parliamentary Service	Parliamentary Service	Other expenses to be incurred by the Crown Member Support - Independent	24	3
Social Development, Ministry of	Child, Youth and Family Services Veterans' Affairs	Departmental output expenses Care and Protection Services Benefits and other unrequited expenses War Disablement Pensions	293,974 122,187	666 249

Schedule 2

s 7(2)(a)

Expenses and capital expenditure incurred in excess of appropriation during year ended 30 June 2007 validated

Column 1	Column 2	Column 3	Column 4	Column 5
Administering department	Note	Appropriation	Amount appropriated at time breach occurred \$(000)	Expenses or capital expenditure in excess of appropriation \$(000)
Crown Law Office	Attorney-General	Departmental output expenses Conduct of Criminal Appeals	1,963	218
Economic Development, Ministry of	Economic, Industry and Regional Development	Non-departmental output expenses Foundation Services - Business Information and Advice Growth Services - Customised Information and Advice Growth Services - Identifying and Leveraging New Business Opportunities	9,083 12,430 26,946	25 140 1,985
Education, Ministry of	Education	Departmental output expenses Provision of School Sector Property	1,121,429	21,472
Inland Revenue Department	Revenue	Other expenses to be incurred by the Crown Special Needs Support Other expenses to be incurred by the Crown Child Support Doubtful Debt Provision General Tax Doubtful Debt Provision	261,258 58,171 22,230	1,577 6,335 513,776

Column 1	Column 2	Column 3	Column 4	Column 5
Administering department	Vote	Appropriation	Amount appropriated at time breach occurred \$(000)	Expenses or capital expenditure in excess of appropriation \$(000)
Justice, Ministry of	Courts	Other expenses to be incurred by the Crown		
		Fines Writedowns	49,302	4,370
		Judicial Review Costs	650	75
	Treaty Negotiations	Departmental output expenses	5,745	280
		Property Portfolio Management		
Land Information New Zealand	Lands	Capital expenditure		
		Crown Obligatory Acquisitions	267	329
New Zealand Defence Force	Defence Force	Departmental output expenses		
		Land Combat Service Support Forces	121,629	751
		Maritime Patrol Forces	159,898	100
		Naval Combat Forces	417,686	578
	Veterans' Affairs	Departmental output expenses		
		Policy and Administration	2,783	30
		Services to Veterans	2,190	34

Column 1	Column 2	Column 3	Column 4	Column 5
Administering department	Vote	Appropriation	Amount appropriated at time breach occurred \$(000)	Expenses or capital expenditure in excess of appropriation \$(000)
Pacific Island Affairs, Ministry of	Pacific Island Affairs	Departmental output expenses		
		Communications	626	49
		Policy Advice	5,289	81
Parliamentary Service	Parliamentary Service	Other expenses to be incurred by the Crown		
		Travel of Members and Others	9,854	660
Social Development, Ministry of	Youth Development	Departmental output expenses		
		Youth Development Policy Advice	2,548	53
Te Puni Kōkiri	Māori Affairs	Departmental output expenses		
		Services to the Māori Trustee	4,689	92
		Other expenses to be incurred by the Crown		
		Provision for Māori Trustee Debt	4,649	92

Schedule 3
Expenses and capital expenditure incurred without appropriation or other authority
during year ended 30 June 2007 validated

s 7(2)(b)

Column 1	Column 2	Column 3	Column 4	Column 5
Administering department	Vote	Category of expenses or capital expenditure	Nature of breach	Expenses or capital expenditure \$(000)
Inland Revenue Department	Revenue	Other expenses to be incurred by the Crown Tax Receivable Write-off	Without appropriation	811,055
Labour, Department of	Immigration	Departmental output expenses Services to Increase the Capacity of New Zealand Through Immigration	Outside scope and without appropriation	882
Social Development, Ministry of	Social Development	Services to Position New Zealand as an International Citizen with Immigration-Related Interests and Obligations Non-departmental output expenses Capacity Building Initiatives	Outside scope and without appropriation Outside scope and without appropriation	935 260
		Benefits and other unrequited expenses Transition to Work	Outside scope and without appropriation	655

Column 1	Column 2	Column 3	Column 4	Column 5
Administering department	Vote	Category of expenses or capital expenditure	Nature of breach	Expenses or capital expenditure \$(000)
State Services Commission	State Services	Departmental output expenses Government Shared Network	Without appropriation	1,772
Transport, Ministry of	Transport	Capital expenditure New Zealand Railway Corporation	Outside scope and without appropriation	500

s 9(2)

Schedule 4
Excess departmental net asset holding during year
ended 30 June 2007 validated

Column 1	Column 2	Column 3
Department	Most recent projected balance of net assets at 30 June 2007 at time when exceeded \$(000)	Amount of net assets in excess of projected balance \$(000)
Foreign Affairs and Trade, Ministry of	337,208	4,368
State Services Commission	22,663	2,159

