

Appropriation (2008/09 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.

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 2008/09 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 2007/08 financial year, Te Puni Kōkiri incurred some expenses without appropriation and the Ministry of Justice incurred some expenses outside the scope of an existing appropriation. During the 2004/05, 2005/06, 2006/07, and 2007/08 financial years the Ministry of Transport incurred some expenses outside the scope of existing appropriations.

During or at the end of the 2008/09 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 2009, which was made under section 26A of the Public Finance Act 1989 (*clause 5*);
- confirms expenses incurred for the 2008/09 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 2008/09 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 for the 2007/08 financial year by Te Puni Kōkiri in respect of Vote Māori Affairs without an appropriation (*clause 8*):
- validates expenses incurred for the 2004/05, 2005/06, 2006/07, and 2007/08 financial years by the Ministry of Transport outside the scope of the existing appropriation International Memberships in Vote Transport (*clause 9*):
- validates expenses incurred for the 2007/08 financial year by the Ministry of Justice outside the scope of the existing appropriation Historical Treaty of Waitangi Settlements in Vote Treaty Negotiations (*clause 10*):
- validates excess net asset holdings in 2 departments during or at the end of the 2008/09 financial year (*clause 11*). 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 2009; and
- to validate other financial matters relating to the financial year ended 30 June 2009 and previous financial years.

Clause 4 is an interpretation clause.

Clause 5 confirms the Public Finance (Transfers Between Outputs) Order 2009. That order, which came into force on 30 June 2009, directed that fiscally neutral transfers be made decreasing the amounts appropriated for 16 output expense appropriations in 6 Votes and in-

creasing the amounts appropriated for 19 other output expense appropriations in the same 6 Votes.

Clause 6 confirms the incurring of expenses for the 2008/09 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 16 instances in 6 Votes administered by 6 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 2008/09 financial year in excess of existing appropriations or without appropriation, or other authority, by or under an Act.

The expenses that were incurred in excess of an existing appropriation are set out in *Schedule 2*. There are 22 instances in 14 Votes administered by 13 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 11 instances in 7 Votes administered by 6 departments.

Clause 8 validates expenses incurred in the 2007/08 financial year by Te Puni Kōkiri for the management of land administered under Part 2 of the Maori Affairs Restructuring Act 1989 in respect of Vote Māori Affairs without appropriation, or other authority, by or under an Act.

Clause 9 validates expenses incurred for the 2004/05, 2005/06, 2006/07, and 2007/08 financial years by the Ministry of Transport outside the scope of the existing appropriation International Memberships in Vote Transport.

Clause 10 validates expenses incurred for the 2007/08 financial year by the Ministry of Justice outside the scope of the existing appropriation Historical Treaty of Waitangi Settlements in Vote Treaty Negotiations.

Clause 11 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 Simon William English

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Appropriation (2008/09 Financial Review) Act **2009**.
- 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 2009; and
 - (b) validate other financial matters relating to the financial year ended 30 June 2009 and previous financial years.
- 4 Interpretation**
In this Act, unless the context otherwise requires, the terms **capital expenditure, department, expenses, financial year, other expenses, output expenses, outputs**, 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 2009 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 2009 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 4 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 2009, the department incurred—
 - (a) expenses in excess of the existing appropriations set out in **column 3 of Schedule 2** alongside that department; or
 - (b) expenses or capital expenditure 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 Schedule 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, as appropriate, **column 4 of Schedule 2** or **column 5 of Schedule 3** alongside the relevant department.

8 Validation of expenses incurred in respect of Vote Māori Affairs

- (1) The incurring of expenses by Te Puni Kōkiri in the circumstances set out in **subsection (2)** is validated.
- (2) The circumstances are that for the financial year ended 30 June 2008, Te Puni Kōkiri incurred expenses of \$13,000 for the management of land administered under Part 2 of the Maori Affairs Restructuring Act 1989 in respect of Vote Māori Affairs without appropriation, or other authority, by or under an Act.

9 Validation of expenses incurred in respect of Vote Transport

- (1) The incurring of expenses by the Ministry of Transport in the circumstances set out in **subsection (2)** is validated.
- (2) The circumstances are that—
 - (a) the Ministry of Transport incurred expenses of—
 - (i) \$7,000 for the financial year ended 30 June 2005; and
 - (ii) \$14,000 for the financial year ended 30 June 2006; and
 - (iii) \$14,000 for the financial year ended 30 June 2007; and
 - (iv) \$14,000 for the financial year ended 30 June 2008; and
 - (b) each of those amounts was outside the scope of the existing appropriation International Memberships in Vote Transport.

10 Validation of expenses incurred in respect of Vote Treaty Negotiations

- (1) The incurring of expenses by the Ministry of Justice in the circumstances set out in **subsection (2)** is validated.
- (2) The circumstances are that for the financial year ended 30 June 2008, the Ministry of Justice incurred expenses of \$1,026,000 outside the scope of the existing appropriation Historical Treaty of Waitangi Settlements in Vote Treaty Negotiations.

11 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 2008/09 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 2008/09 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 incurred in excess of existing appropriation during year ended 30 June
2009 and approved by Minister of Finance confirmed

s 6

Column 1	Column 2	Column 3	Column 4
Administering department	Vote	Appropriation	Expenses approved in excess of appropriation \$(000)
Crown Law Office	Attorney-General	Departmental output expenses Supervision and Conduct of Crown Prosecutions	556
Economic Development, Ministry of	Commerce	Departmental output expenses Administration of Insolvencies	158
Education, Ministry of	Education	Non-departmental output expenses School Transport	892
Fisheries, Ministry of	Fisheries	Non-departmental other expenses Contributions to International Organisations	9

Schedule 1

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Column 1	Column 2	Column 3	Column 4
Administering department	Vote	Appropriation	Expenses approved in excess of appropriation \$(000)
New Zealand Defence Force	Defence Force	Departmental output expenses	
		Land Combat Forces	3,417
		Land Combat Support Forces	435
		Maritime Patrol Forces	1,830
		Mine Countermeasures (MCM) and MCM Diving Forces	232
		Naval Combat Forces	2,818
		Naval Helicopter Forces	1,341
		Naval Support Forces	1,218
		Rotary Wing Transport Forces	87
		Special Operations Forces	584
Social Development, Ministry of	Social Development	Benefits and other unrequited expenses	
		Independent Youth Benefit	25
		Sickness Benefit	645
		Student Allowances	5,023

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Schedule 1

Schedule 2 **s 7(2)(a), (3)**
Expenses incurred in excess of appropriation during year ended 30 June 2009
validated

Column 1	Column 2	Column 3	Column 4
Administering department	Vote	Appropriation	Expenses in excess of appropriation \$(000)
Agriculture and Forestry, Ministry of	Agriculture and Forestry	Non-departmental output expenses Management of Crown Forestry Assets	1,583
Defence, Ministry of	Defence	Departmental output expenses Management of Equipment Procurement	1,116
Economic Development, Ministry of	Economic Development	Non-departmental other expenses Large Budget Screen Production Fund	12,313
Environment, Ministry for the	Climate Change	Non-departmental other expenses Framework Convention on Climate Change	25

Column 1	Column 2	Column 3	Column 4
Administering department	Vote	Appropriation	Expenses in excess of appropriation \$(000)
Foreign Affairs and Trade, Ministry of	Foreign Affairs and Trade	Departmental output expenses	
		Policy Advice and Representation - International Institutions	929
Inland Revenue Department	Revenue	Benefits and other unrequited expenses	
		KiwiSaver: Interest	1,411
		Non-departmental other expenses	
		Impairment of Debt Relating to Child Support	29,258
		Impairment of Debt Relating to General Tax and Family Support	456,319
		Impairment of Debt Relating to Student Loans	392,100
Justice, Ministry of	Courts	Departmental output expenses	
		Higher Court Services	741

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Schedule 2

Column 1	Column 2	Column 3	Column 4
Administering department	Vote	Appropriation	Expenses in excess of appropriation \$(000)
		Non-departmental other expenses	
		Costs in Criminal Cases	446
		Family Court Professional Services	1,514
		Witness Fees and Expenses	270
		Youth Court Professional Fees	266
	Justice	Non-departmental output expenses	
		Legal Aid	5,520
Land Information New Zealand	Lands	Departmental output expenses	
		Land and Seabed Data Capture and Processing	670
New Zealand Police	Police	Departmental output expenses	
		Case Resolution and Support to Judicial Process	1,691
		Specific Crime Prevention Services and Maintenance of Public Order	271

Column 1	Column 2	Column 3	Column 4
Administering department	Vote	Appropriation	Expenses in excess of appropriation \$(000)
Pacific Island Affairs, Ministry of	Pacific Island Affairs	Departmental output expenses Communications	1,589
Prime Minister and Cabinet, Department of the	Prime Minister and Cabinet	Non-departmental other expenses Depreciation Expenses on Crown Assets	3,395
Social Development, Ministry of	Social Development	Benefits and other unrequited expenses Family Start/NGO Awards	9
Transport, Ministry of	Transport	Departmental output expenses Land Transport Revenue Forecasting and Strategy	195

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Schedule 2

Schedule 3 **s 7(2)(b), (3)**

Expenses and capital expenditure incurred without appropriation or other authority during year ended 30 June 2009 validated

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)
Agriculture and Forestry, Ministry of	Agriculture and Forestry	Benefits and other unrequited expenses		
		Rural Veterinarians Bonding Scheme	Without appropriation	99
Justice, Ministry of	Justice	Non-departmental other expenses		
		Contribution to Foreshore and Seabed Negotiation Costs	Outside scope	250
	Treaty Negotiations	Non-departmental other expenses		
		Historical Treaty of Waitangi Settlements	Outside scope	3,036
		Māori Authorities (FoMA) Appeal	Without appropriation	472

Schedule 3

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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)
		Non-departmental capital expenditure		
		Advance Payment Against Notionally Accrued Interest	Without appropriation	1,000
National Library of New Zealand	National Library	Departmental other expenses		
		Asset Write-Offs	Without appropriation	2,584
New Zealand Defence Force	Veterans' Affairs - Defence Force	Benefits and other unrequited expenses		
		War Disablement Pensions	Outside scope	27
		Non-departmental other expenses		
		Ex-Gratia Payments	Without appropriation	243

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Schedule 3

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)
Te Puni Kōkiri	Māori Affairs	Non-departmental other expenses Management of Land Administered Under Part 2 of the Maori Affairs Restructuring Act 1989	Without appropriation	7
Transport, Ministry of	Transport	Non-departmental other expenses Motor Vehicle Registration/Licenses and Road User Charges Bad Debt Provision	Without appropriation	257
		Non-departmental capital expenditure New Zealand Transport Agency	Outside scope	6,990

Schedule 4

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**Excess departmental net asset holding
during year ended 30 June 2009 validated**

Column 1	Column 2	Column 3
Department	Most recent projected balance of net assets at 30 June 2009 at time when exceeded \$(000)	Amount of net assets in excess of projected balance \$(000)
Clerk of the House of Representatives, Office of the	5,527	223
Labour, Department of	66,370	1,711