

Imprest Supply (Second for 2011/12) Bill

Government Bill

Explanatory note

General policy statement

Imprest supply is the statutory mechanism that allows Parliament to provide the Government with the authority to incur expenses and capital expenditure in advance of appropriation by way of an Appropriation Act.

The Imprest Supply (First for 2011/12) Act 2011 provides the sole financial authority from the start of the 2011/12 financial year until the Appropriation (2011/12 Estimates) Bill is passed. In contrast, the Imprest Supply (Second for 2011/12) Bill seeks financial authority additional to that sought in the Appropriation (2011/12 Estimates) Bill.

This Bill is required to ensure the Government has sufficient supply to implement decisions taken after the Appropriation (2011/12 Estimates) Bill is passed and to meet any increases in demand-driven expenses or other risks or contingencies in excess of the amounts provided in that Bill.

The amounts this Bill seeks are intended to be sufficient to provide supply until 30 June 2012 for the incurring of expenses and capital expenditure in excess of the amounts being appropriated in the Appropriation (2011/12 Estimates) Bill.

This Bill is repealed at the end of the 2011/12 financial year on 30 June 2012. Appropriations for expenses and capital expenditure incurred under the authority of this Bill must be sought in an Appropriation Act that comes into force on or before 30 June 2012. If this is not done, those expenses and capital expenditure will require validation in an Appropriation (Financial Review) Act in accordance with section 26C of the Public Finance Act 1989. Appropriations will be sought for most of the expenses and capital expenditure that are incurred under this Bill in the Appropriation (2011/12 Supplementary Estimates) Bill. Anything else will be validated in the Appropriation (2011/12 Financial Review) Bill.

In this Bill, imprest is calculated separately for expenses and capital expenditure, except in relation to intelligence and security departments. The expenses and capital expenditure to be incurred by those departments are included within the imprest sought for expenses in this Bill.

Imprest sought for expenses in this Bill covers the following appropriation types:

- output expenses:
- benefits or other unrequited expenses:
- borrowing expenses:
- other expenses:
- expenses and capital expenditure to be incurred by an intelligence and security department.

Imprest sought for capital expenditure in this Bill covers the appropriations for capital expenditure.

The amounts of supply for expenses and capital expenditure are calculated to include an allowance for Cabinet decisions after the Appropriation (2011/12 Estimates) Bill is passed and before the end of the financial year, provisions for increases in appropriations relating to fiscally neutral transfers (these require an appropriation and imprest supply authority but are matched by decreases in other appropriations), expense and capital transfers from 2010/11, and a general contingency provision to cover risks that may eventuate.

The main components of the \$9,500 million additional authority sought this year for expenses are—

- allowance for Cabinet decisions after the Appropriation (2011/12 Estimates) Bill is passed and before the end of the financial year; and
- fiscally neutral adjustments, expense transfers from 2010/11, and demand-driven expense changes that may be required between appropriations, particularly in relation to changes in Votes Canterbury Earthquake Recovery, Conservation, Education, Foreign Affairs and Trade, and Transport; and
- a contingency provision of around \$1,792 million for currently unforeseen expenses.

The main components of the \$5,500 million additional authority sought this year for capital expenditure are—

- allowance for Cabinet decisions after the Appropriation (2011/12 Estimates) Bill is passed and before the end of the financial year; and
- provision for increases in appropriations relating to fiscally neutral adjustments and capital transfers from 2010/11, particularly in relation to changes in Votes Labour, Transport, and Treaty Negotiations; and
- a contingency provision of around \$3,003 million for currently unforeseen capital expenditure.

In addition, this Bill seeks approval for the net asset holdings of departments (other than intelligence and security departments) and Offices of Parliament to exceed the amounts confirmed in Schedule 5 of the Appropriation (2011/12 Estimates) Bill by no more than \$950 million in aggregate. The main components are—

- allowance for Cabinet decisions after the Appropriation (2011/12 Estimates) Bill is passed and before the end of the financial year; and
- a contingency provision of around \$325 million for currently unforeseen increases in net asset holdings.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 states that the Bill comes into force on the day after the date on which it receives the Royal assent.

Clause 3 provides that the Bill is repealed on the close of 30 June 2012.

Clause 4 is a purpose provision. The purposes of the Bill are—

- to authorise expenses and capital expenditure to be incurred by the Crown and Offices of Parliament during the 2011/12 financial year in advance of appropriation by way of an Appropriation Act; and
- to enable the net asset holdings of departments (other than intelligence and security departments) and Offices of Parliament to exceed the amounts confirmed in the Appropriation (2011/12 Estimates) Act 2011.

Clause 5 is an interpretation provision.

Clause 6 seeks authority to incur expenses (including expenses and capital expenditure to be incurred by an intelligence and security department) of up to \$9,500 million in advance of appropriation.

Clause 7 seeks authority to incur capital expenditure of up to \$5,500 million in advance of appropriation.

Clause 8 provides that all expenses and capital expenditure incurred under *clauses 6 and 7* must be appropriated in an Appropriation Act that comes into force on or before 30 June 2012. Until that Act comes into force, those expenses or that capital expenditure may be incurred as if they had been incurred in accordance with one of the separate appropriations specified in section 7(1) of the Public Finance Act 1989.

Appropriations for amounts included in this Bill will be sought in the Appropriation (2011/12 Supplementary Estimates) Bill, or (if need be) the amounts will be validated in the Appropriation (2011/12 Financial Review) Bill.

Clause 9(1) provides that the authority given by this Act to incur expenses or capital expenditure in advance of appropriation is an authority under an Act for the purposes of sections 4(1) and 26C(1) of the Public Finance Act 1989. If this clause did not provide for this, then incurring expenses or capital expenditure in advance of appropriation, even though it would be done in accordance with this Act, would be a breach of section 4(1) of the Public Finance Act 1989 and

would be unlawful and would require validation under section 26C of that Act.

Clause 9(2) goes on to provide, however, that the authority provided under *subclause (1)* ceases to apply if expenses or capital expenditure that are incurred under this Act are not appropriated in an Appropriation Act that comes into force on or before 30 June 2012 (as is required by *clause 8(1)*). In these circumstances (as noted above), the expenses or capital expenditure in question will have been incurred in breach of section 4(1) of the Public Finance Act 1989 and will be unlawful and will require validation under section 26C of that Act.

Clause 10 seeks approval for the net asset holdings of departments and Offices of Parliament to exceed the amounts confirmed in the Appropriation (2011/12 Estimates) Act 2011 (as those amounts are set out in accordance with section 23(1)(c) of the Public Finance Act 1989).

The aggregate of the net asset holdings of departments and Offices of Parliament that exceed the projected balance of net assets for those departments or Offices of Parliament at the end of the 2011/12 financial year (as set out in the Appropriation (2011/12 Estimates) Act 2011) together with the total net asset holding of any department that is not listed in that Act must not exceed the aggregate of the projected balance of net asset holdings of those departments and Offices of Parliament by more than \$950 million.

Clause 10 also specifies that, for the purposes of that clause, the amount of net asset holding in a department or an Office of Parliament does not include any operating surplus retained in accordance with section 22(1) of the Public Finance Act 1989 or any remeasurement as set out in section 22(2) of that Act.

Nothing in *clause 10* applies to intelligence and security departments because sections 22(3) and 23 of the Public Finance Act 1989 do not apply to those departments.

Section 22(3) of the Public Finance Act 1989 states that the amount of net asset holding in a department must not exceed the most recent projected balance of net assets for that department as set out in an Appropriation Act in accordance with section 23(1)(c) of the Public Finance Act 1989. Section 26E(1)(b) and (4) of the Public Finance Act 1989 means that section 22(3) of that Act also applies to Offices

of Parliament. *Clause 10* overrides section 22(3) of the Public Finance Act 1989.

Hon Bill English

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Imprest Supply (Second for 2011/12) Act **2011**.
- 2 Commencement**
This Act comes into force on the day after the date on which it receives the Royal assent.

3 Repeal of this Act

This Act is repealed on the close of 30 June 2012.

4 Purposes

The purposes of this Act are—

- (a) to authorise expenses and capital expenditure to be incurred by the Crown and Offices of Parliament during the 2011/12 year in advance of appropriation by way of an Appropriation Act; and
- (b) to enable the net asset holdings of departments and Offices of Parliament to exceed the amounts confirmed in the **Appropriation (2011/12 Estimates) Act 2011**.

5 Interpretation

- (1) In this Act, unless the context otherwise requires,—

2011/12 year means the financial year ending with 30 June 2012

department has the meaning given to it by section 2(1) of the Public Finance Act 1989, but does not include an intelligence and security department

expenses has the meaning given to it by section 2(1) of the Public Finance Act 1989, but also includes expenses and capital expenditure incurred by an intelligence and security department.

- (2) In this Act, unless the context otherwise requires, **asset, capital expenditure, financial year, intelligence and security department, Minister, Office of Parliament, operating surplus, remeasurements, Responsible Minister, and Vote** have the meanings given to them by section 2(1) of the Public Finance Act 1989.

6 Authority to incur expenses

- (1) Expenses may, during the 2011/12 year, be incurred in advance of appropriation in relation to any Vote.
- (2) Expenses incurred under **subsection (1)** during the 2011/12 year must not exceed in the aggregate the sum of \$9,500 million.

7 Authority to incur capital expenditure

- (1) Capital expenditure may, during the 2011/12 year, be incurred in advance of appropriation in relation to any Vote.
- (2) Capital expenditure incurred under **subsection (1)** during the 2011/12 year must not exceed in the aggregate the sum of \$5,500 million.

8 Appropriation required

- (1) All expenses incurred under **section 6(1)** and all capital expenditure incurred under **section 7(1)** must be appropriated in an Appropriation Act that comes into force on or before 30 June 2012.
- (2) Until the coming into force of that Appropriation Act, those expenses and that capital expenditure may be incurred during the 2011/12 year as if they had been incurred in accordance with one of the separate appropriations specified in section 7(1) of the Public Finance Act 1989.

9 Authority under this Act is authority for purposes of sections 4(1) and 26C(1) of Public Finance Act 1989

- (1) The authority given by this Act to incur expenses or capital expenditure in advance of appropriation is an authority under an Act for the purposes of sections 4(1) and 26C(1) of the Public Finance Act 1989.
- (2) However, **subsection (1)** does not apply to expenses or capital expenditure for which no appropriation is made in accordance with **section 8(1)**.

10 Authority to exceed net assets confirmed in Appropriation Act

- (1) In this section,—
excess amount means the amount by which the net asset holding of a department or an Office of Parliament, during the 2011/12 year, exceeds the projected balance for that department or Office of Parliament
projected balance means the projected balance of net assets at 30 June 2012 set out in **column 9 of Schedule 5 of the Appropriation (2011/12 Estimates) Act 2011**.

- (2) The amount of net asset holding in a department or an Office of Parliament during the 2011/12 year may exceed the projected balance for that department or Office of Parliament.
 - (3) However, the aggregate of the excess amounts for all departments and Offices of Parliament together with the total net asset holding of any department that is not listed in **Schedule 5** of the **Appropriation (2011/12 Estimates) Act 2011** must not exceed \$950 million.
 - (4) For the purposes of **subsections (1) and (2)**, the amount of net asset holding in a department or an Office of Parliament does not include—
 - (a) any operating surplus retained as agreed between the Minister and the Responsible Minister for a department or an Office of Parliament in accordance with section 22(1) of the Public Finance Act 1989 that is not reflected in **Schedule 5** of the **Appropriation (2011/12 Estimates) Act 2011**; or
 - (b) any remeasurement of a department's or an Office of Parliament's reported net asset holding as set out in section 22(2) of the Public Finance Act 1989 that is not reflected in **Schedule 5** of the **Appropriation (2011/12 Estimates) Act 2011**.
 - (5) **Subsections (2) and (3)** apply despite section 22(3) of the Public Finance Act 1989.
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