

# **Appropriation (Parliamentary Expenditure Validation) Bill**

Government Bill

## **Explanatory note**

### **General policy statement**

Appropriation is the statutory mechanism by which Parliament authorises the Government to incur expenses and capital expenditure. Other than permanent appropriations provided for in other legislation, appropriations are provided by Appropriation (Estimates) and Appropriation (Supplementary Estimates) Bills.

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.

During the 1989/90 to 2006/07 financial years (up to the day on which this Bill comes into force) some costs and expenses and some public money may have been incurred or spent under Vote Parliamentary Service outside the scope or purpose of the relevant appropriation. The Controller and Auditor-General has reviewed expenses incurred and public money spent by members of Parliament and parliamentary parties that were charged against appropriations in Vote Parliamentary Service. In order to ascertain whether the expenses incurred or public money spent were within the scope or purpose of the relevant appropriations, the Controller and Auditor-General formed a view on the definition of parliamentary purposes. The definition applied by the Controller and Auditor-General was

narrower than what has generally been understood by members of Parliament and parliamentary parties to be within the rules relating to current and past appropriations, with the implication that a portion of the costs and expenses incurred and public money spent may have been unlawfully charged to those appropriations.

This Appropriation Bill validates the costs and expenses incurred and the public money spent under Vote Parliamentary Service for the 1989/90 to 2006/07 financial years, up to the day on which this Bill comes into force, that may have been outside the scope or purpose of the relevant appropriation.

In relation to any costs and expenses incurred and public money spent under Vote Parliamentary Service in the 1989/90 to 2006/07 financial years, up to the day on which this Bill comes into force, that may have been outside the scope or purpose of the relevant appropriation, *clause 5*—

- validates the expenditure; and
- deems the expenditure not to constitute a breach of certain Acts including any instruments made under those Acts.

This Appropriation Bill has no effect on the criminal liability of any person.

This Bill also provides an interim meaning of the term “funding entitlements for parliamentary purposes” until 31 December 2007. This is to allow time for the long term reviews the Minister responsible for Vote Parliamentary Service has initiated to be completed, and for any resulting legislation that may be necessary to be introduced and passed. *Clause 7* restores the meaning of this term to what members of Parliament and parliamentary parties generally understood it to be prior to the Controller and Auditor-General’s recent report on his inquiry into advertising expenditure incurred by the Parliamentary Service in the 3 months before the 2005 general election and the opinion of the former Solicitor-General on which that report was based.

The interim meaning of the term “funding entitlements for parliamentary purposes” includes funding for—

- a member of Parliament performing his or her role and functions as a member of Parliament;
- a parliamentary party performing its role and functions as a parliamentary party;

- providing travel, accommodation, and attendance services available to members of Parliament and their families in accordance with a determination under the Civil List Act 1979;
- providing communications services available to members of Parliament and their families in accordance with a determination under the Civil List Act 1979, provided that those services do not include electioneering (which is defined to mean any communication that explicitly seeks votes for particular persons or political parties, encourages people to join particular political parties, or solicits subscriptions or other financial support);
- providing existing benefits or privileges to former members of Parliament and members of their families.

### 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.

*Clause 4* is the interpretation clause. The term expenditure covers the spending of public money and the incurring of any cost or expense. Those terms mirror the terms that are, or have been, used in the relevant sections of the Public Finance Act 1989. The cut-off point of the validation under the Bill is the day on which this Bill comes into force and expenditure is defined so that it excludes any expenses incurred on or after that date.

*Clause 5* is the key clause of the Bill containing the validation of expenditure under Vote Parliamentary Service that may have been outside the scope of an appropriation or not in relation to an appropriation. It also clarifies that such expenditure does not amount to a breach of the Acts listed in *clause 5(b)* or of any instruments (such as regulations, determinations, or directions) made under them.

*Clause 6* clarifies that the Bill is not intended to affect the criminal liability of any person.

*Clause 7* defines the term “funding entitlements for parliamentary purposes” as used in sections 4(a) and (d), 7(b), 14(1)(b), and 20(1)(b) of the Parliamentary Service Act 2000. Determinations made under section 20A of the Civil List Act 1979, Speaker’s

Directions, and certain specified scope statements in The Estimates of Appropriations for the Government of New Zealand for the year ending 30 June 2007 (B.5) must, as far as possible, also be interpreted consistently with this definition. This definition applies only until 31 December 2007.

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*Hon Dr Michael Cullen*

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## **Contents**

	Page
1 Title	1
2 Commencement	1
<b>Part 1</b>	
<b>Preliminary provisions</b>	
3 Purposes	2
4 Interpretation	2
<b>Part 2</b>	
<b>Validation of expenditure and interim meaning of “funding entitlements for parliamentary purposes”</b>	
5 Validation of expenditure under Vote Parliamentary Service	2
6 Act does not affect criminal liability	3
7 Interim meaning of “funding entitlements for parliamentary purposes”	3

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

- 1 Title**  
This Act is the Appropriation (Parliamentary Expenditure Validation) Act **2006**.
- 2 Commencement**  
This Act comes into force on the day after the date on which it receives the Royal assent.

## Part 1

### Preliminary provisions

#### 3 Purposes

The purposes of this Act are to—

- (a) validate expenditure under Vote Parliamentary Service that may have been outside the scope or purpose of an appropriation or other enactment; and
- (b) provide an interim meaning of the term “funding entitlements for parliamentary purposes” as used in the Parliamentary Service Act 2000.

#### 4 Interpretation

In this Act, unless the context otherwise requires,—

**appropriation** means any of the appropriations under Vote Parliamentary Service that were authorised by or under an appropriation Act for any of the financial years 1989/90 to 2006/07

**expenditure**—

- (a) includes the spending of public money and the incurring of any expense or cost; but
- (b) excludes any expenses incurred on or after the day on which this Act comes into force.

## Part 2

### Validation of expenditure and interim meaning of “funding entitlements for parliamentary purposes”

#### 5 Validation of expenditure under Vote Parliamentary Service

To the extent that any expenditure under Vote Parliamentary Service was outside the scope of an appropriation or was not made in relation to an appropriation,—

- (a) the expenditure is validated; and
- (b) the expenditure is deemed not to constitute or to have constituted a breach of any of the following Acts or any instruments made under those Acts:
  - (i) the Civil List Act 1979;
  - (ii) the Parliamentary Service Act 1985;
  - (iii) the Parliamentary Service Act 2000.

- 6 Act does not affect criminal liability**  
Nothing in this Act affects the criminal liability of any person.
- 7 Interim meaning of “funding entitlements for parliamentary purposes”**
- (1) The term “funding entitlements for parliamentary purposes” in the Parliamentary Service Act 2000 includes funding for any or all of the following purposes:
- (a) a member of Parliament performing his or her role and functions as a member of Parliament;
  - (b) a recognised party performing its role and functions as a recognised party;
  - (c) providing travel, accommodation, and attendance services available to members of Parliament and their families in accordance with any determination made by the Speaker of the House of Representatives under section 20A of the Civil List Act 1979;
  - (d) providing communications services available to members of Parliament and their families in accordance with any determination made by the Speaker of the House of Representatives under section 20A of the Civil List Act 1979, provided that those services do not include electioneering;
  - (e) providing benefits or privileges of a specified kind for former members of Parliament and members of their families in accordance with an appropriation by Parliament of money for that purpose.
- (2) In **subsection (1), electioneering** means any communication that explicitly—
- (a) seeks support for the election of a particular person or persons;
  - (b) seeks support for the casting of a party vote for a particular political party or political parties;
  - (c) encourages any person to become a member of a particular political party or political parties;
  - (d) solicits subscriptions or other financial support.
- (3) The following must, as far as possible, be interpreted consistently with **subsections (1) and (2)**—
- (a) all determinations made under section 20A of the Civil List Act 1979; and

- (b) all directions given by the Speaker of the House of Representatives under the Parliamentary Service Act 2000; and
- (c) the scope of each of the following categories of other expenses to be incurred by the Crown set out under the column headed “Scope of 2006/07 Appropriations” in Part B1 - Details of Appropriations set out in Part B - Statement of Appropriations for Vote Parliamentary Service in The Estimates of Appropriations for the Government of New Zealand for the year ending 30 June 2007 (B.5):
  - (i) Members’ Communications:
  - (ii) Party and Member Support - ACT:
  - (iii) Party and Member Support - Green:
  - (iv) Party and Member Support - Labour:
  - (v) Party and Member Support - Māori:
  - (vi) Party and Member Support - National:
  - (vii) Party and Member Support - New Zealand First:
  - (viii) Party and Member Support - Progressive Coalition:
  - (ix) Party and Member Support - United:
  - (x) Travel of Members and Others.
- (4) This section expires on the close of 31 December 2007.

