

**Treasury Report: Parliamentary Service Cabinet paper**

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<b>Date:</b>	13 October 2006	<b>Treasury Priority:</b>	<b>High</b>
<b>Security Level:</b>	IN-CONFIDENCE	<b>Report No:</b>	T2006/1882

**Action Sought**

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	<b>Action Sought</b>	<b>Deadline</b>
Leader of the House of Representatives (Hon Dr Michael Cullen)	<b>Sign and submit</b> the attached Cabinet paper, CAB 100 form, draft validation bill and B.15 report.	Monday, 16 October 2006

**Contact for Telephone Discussion (if required)**

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<b>Name</b>	<b>Position</b>	<b>Telephone</b>	<b>1st Contact</b>
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**Enclosure:** Yes

13 October 2006

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## **Treasury Report: Parliamentary Service Cabinet paper**

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The Controller and Auditor General has reviewed expenses incurred by parliamentary parties and Members of Parliament that were charged against appropriations in Vote Parliamentary Service. This review focused on the period leading up to the 2005 election, though it has implications for expenditure since 1 July 1989.

In the view of the Controller and Auditor-General, expenses have been incurred that are outside the scope of Vote Parliamentary Service appropriations.

Expenses incurred without or outside appropriation are in breach of section 4 of the Public Finance Act 1989. Such a breach occurs notwithstanding any repayment of any money spent illegally or otherwise under the Parliamentary Service Act 2000.

In this case, the only legal remedy for such a breach of section 4 of the Public Finance Act 1989 is for these expenses to be validated by an Act of Parliament. As pointed out in the Speaker's response, without validating legislation, the unlawfulness remains. Therefore we recommend that these expenses be validated.

As a matter of course, unappropriated expenditure occurs every year in a number of votes. The validation of such expenditure is a usual part of the overall budget legislative cycle. For instance, last year's Financial Review Bill included validation of \$309.843 million in relation to the recognition of the forecast liability under the Kyoto Protocol.

As requested, we attach a Cabinet paper for submission that proposes legislating to:

- i. validate past expenses that may have been outside the scope of appropriations;
- ii. validate any breach of relevant Acts; and
- iii. provide an interim meaning of the term "funding entitlements for parliamentary purposes", in order that parties and members of parliament may continue to charge expenses in relation to activities that they have previously understood to be within the rules.

The Speaker is proposing a review to ensure a consistent long-term solution. The Cabinet paper proposes that you discuss this work with the Speaker and report back to Cabinet with details of the nature and timetable for the review.

We attach a copy of the *Appropriation (Parliamentary Expenditure Validation) Bill*. The Office of the Clerk has advised that they would very likely consider the bill to be an appropriation bill. This would mean it can be introduced and proceeded with as per Standing Order 281.

We also attach a draft B.15 report to accompany the Bill. When a Bill is introduced that seeks validation of expenses incurred without appropriation, a report needs to be presented to the House that sets out the amount of expenses so incurred, and an explanation of the Minister responsible for those expenses. As the Speaker has already tabled a report pursuant to the Controller and Auditor-General's direction, the B.15 report can simply cross-reference that report.

## Recommended Action

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We recommend that you:

- a **sign** the attached Cabinet paper and CAB 100 form; and
- b **submit** the attached Cabinet paper, CAB 100 form, draft validation bill and B.15 report to Cabinet Office on Monday 16 October 2006.

**Peter Bushnell**

Deputy Secretary to the Treasury

**Hon Dr Michael Cullen**

Leader of the House of Representatives