

## IN-CONFIDENCE

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Directors of Finance/Chief Accountants

Contact for Enquiries: Treasury Vote Teams or Vote Managers

### UNAPPROPRIATED EXPENDITURE 2006/07

This circular provides the information and templates for the 2006/07 unappropriated expenditure process. For simplicity, this circular uses the term 'unappropriated expenditure' to mean expenses or capital expenditure in excess, or outside the scope, of existing appropriations; and breaches of projected net asset balances, except where stated otherwise.

Last year saw significant changes to the unappropriated expenditure process as a result of amendments to the Public Finance Act 1989 (the PFA). The amendments to the PFA tightened up the Controller and Auditor-General's controller function in respect of unappropriated expenditure. Specifically, approval must be obtained to incur expenditure in excess of appropriation either under section 26B of the Public Finance Act or under Imprest Supply **before** the expenditure is incurred.

Under section 26B of the PFA, the Minister of Finance's can approve expenditure in excess of appropriation to the greater of \$10,000 or 2% of the amount appropriated. Unappropriated expenditure in excess of those limits needs to be validated by Parliament in an Appropriation (Financial Review) Act. Where unappropriated expenditure in excess of those limits is anticipated, and the situation cannot be resolved through a fiscally neutral transfer between output expenses by Order in Council under section 26A of the PFA, Cabinet approval for interim authority under Imprest Supply will need to be sought.

Any anticipated expenditure outside the scope of a current appropriation would require Cabinet approval for interim authority under Imprest Supply **before** the expenditure is incurred.

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The Controller and Auditor-General has powers under the PFA where breaches occur including directing the responsible Minister to report to the House of Representatives on a breach or stopping payments out of a Crown or Departmental Bank Account.

Where unappropriated expenditure has occurred (either during the year or at year end), departments should submit the relevant template. (Templates are attached to this circular). This includes an explanation from the responsible Minister, in that Minister's voice. The explanation is included in the *Report on Unappropriated Expenses and Capital Expenditure*, which is tabled in the House of Representatives alongside the Appropriation (Financial Review) Act. The text must be suitable for inclusion in a parliamentary publication.

A statement of unappropriated expenditure under sections 26B and 26C of the PFA is included in the financial statements of the Government for that financial year. Departments must include a similar statement in their annual financial statements.

The following table outlines the provisions for unappropriated expenditure:

Type of approval	
Order in Council	Section 26A of the PFA provides for <b>fiscally neutral transfers of up to 5% between output expenses within a vote</b> . These transfers are approved by way of an Order in Council to be made prior to 30 June.
Minister of Finance approval	Section 26B of the PFA allows the Minister of Finance to approve expenses or capital expenditure up to the greater of <b>\$10,000 or 2% in excess of an appropriation</b> , but within scope of that appropriation. The approval must then be confirmed by Parliament in the Appropriation (Financial Review) Act.
Interim Authority under Imprest Supply	Interim authority under Imprest Supply for <b>unappropriated expenditure</b> may be sought from Cabinet, <b>in advance</b> of the expenses being incurred. The approval will then be confirmed by Parliament in the Appropriation (Financial Review) Act <sup>1</sup> .
Validating legislation	Section 26C of the PFA states that any expenditure incurred in excess of or without appropriation, or other authority, is unlawful unless it is subsequently validated by Parliament in an Appropriation Act. Any breach of the projected balance of net assets can also be approved in validating legislation.

This circular is set out as follows:

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<sup>1</sup> Excludes the use of Imprest Supply where that use has subsequently been covered by section 26A or Supplementary Estimates.

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### Timetable

Date	Process
Friday 8 June	<b>Last date for section 26A requests to be signed by Joint Ministers</b>
<b>1pm Monday 11 June</b>	<b>Departments to submit to Treasury section 26A and section 26B approvals to date</b>
Thursday 14 June	Report by Treasury to the Minister of Finance asking him to <b>note</b> any section 26B or Imprest Supply authorities approved to date and <b>agree</b> to an Order in Council for section 26A items that have been approved by Joint Ministers
Monday 18 June	Order in Council submitted to Cabinet Office
Thursday 21 June	Order in Council considered by LEG and submitted to Executive Council
Monday 25 June	Submission to Executive Council of the Order in Council for section 26A proposals
<b>1pm Thursday 26 July</b>	<b>All departments to submit to Treasury Certification of Unappropriated Expenditure:</b> <ul style="list-style-type: none"> <li>• <b>Departments to submit details and explanations of all unappropriated expenditure not included in the 12 June return</b></li> <li>• <b>Or a Nil return signed by the CFO (required)</b></li> </ul>
<b>30 September</b>	<b>Last date the Minister of Finance can make section 26B approvals</b>
3 October	Omnibus report prepared by Treasury setting out the contents of the Appropriation (Financial Review) Bill: <ul style="list-style-type: none"> <li>• Unappropriated expenditure requiring validation; and</li> <li>• Approvals under section 26A, section 26B or Imprest Supply for confirmation</li> </ul>

Submissions can be uploaded to CFISnet Info module (in Word or PDF format); or faxed to Alex Harrington (Fiscal Management) on (04) 471-5956. For simplicity, please put completed templates into a single document.

### **Section 26A – Transfer of resources between output expense appropriations**

It is preferable to have expected unappropriated expenditure met from within existing resources in the vote. Section 26A provides that:

- an Order in Council may transfer resources between output expense appropriations within a single vote;
- the total of such transfers may not increase the recipient output expense appropriation by more than 5%; and
- the Order in Council must be made by 30 June.

Departments must obtain authority to incur expenses in advance. Because the Order in Council will not be made until near the end of June, departments will need to seek

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interim authority under Imprest Supply (similar to seeking authority prior to passing of Supplementary Estimates during the year).

While the increase sought should be in relation to the Supplementary Estimates (i.e. the total authority for expenditure), the 5% threshold relates to the Appropriation Act in force at the time of the approval. As both the Appropriation (Supplementary Estimates) Act and the Order in Council that gives effect to the section 26A transfers come into force in late June, it is not clear whether the Mains or the Supplementary Estimates will be in force when the section 26A transfer takes place. For this reason, a conservative approach should be taken in calculating the 5% threshold:

- If the appropriation is either **unchanged** or **increased** in the Supplementary Estimates, the **Main Estimates** figure should be used as the base for calculation, as follows:

		\$ million
Main Estimates Appropriation	A	100.000
Supplementary Estimates Addition		50.000
<b>Cumulative Appropriation</b>		<b>150.000</b>
Actual Expenditure		155.000
Value of Section 26A transfer sought	B	5.000
Percentage of Main Estimates	B/A =	5.00%

- If the appropriation is **reduced** in the Supplementary Estimates, the **Supplementary Estimates** figure should be used as the base for calculation, as follows:

		\$ million
Main Estimates Appropriation		100.000
Supplementary Estimates Addition		(50.000)
<b>Cumulative Appropriation</b>	A	<b>50.000</b>
Actual Expenditure		52.500
Value of Section 26A transfer sought	B	2.500
Percentage of Supplementary Estimates	B/A =	5.00%

Transfers cannot be made from multi-year appropriations and permanent legislative authorities.

### *Process for Section 26A*

Where the potential for unappropriated expenditure is identified *and* it meets the criteria for a section 26A transfer, the Vote/Portfolio Minister should write to the Minister of Finance:

- outlining the reason for the proposed transfer, including why it was not in the Supplementary Estimates;
- including any Treasury comment (please discuss with your Vote Team); and
- including the following recommendations:

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**agree** [details of transfers]; and

**agree** that the changes to output expenses above be included in an Order in Council under section 26A of the Public Finance Act, and that, in the interim, these expenses be met from Imprest Supply.

To prepare the Order in Council, all approvals will need to be signed by Friday 8 June 2007. Departments then need to:

- complete a section 26A return for all approved items (see attachment);
- attach signed copies of approvals; and
- ***submit to Treasury prior to 1pm Monday 11 June 2007.***

### **Section 26B – Minister of Finance approval of expenses or capital expenditure incurred in excess of an existing appropriation**

The Minister of Finance may approve expenses or capital expenditure in excess of appropriation, within certain limits:

- Expenditure must be within the scope of an existing appropriation;
- The expenditure in excess of appropriation must be incurred in the last three months of the fiscal year; and
- The cumulative total of such approvals for a single appropriation may only be up to the greater of \$10,000 or 2% of the appropriation.

Section 26B does not apply to net assets.

Where possible, section 26B approvals should be sought in advance of expenditure. Unlike section 26A, Imprest Supply is not required, as the Minister of Finance's approval provides sufficient authority.

If a department is seeking a section 26B approval for expenditure already incurred, as well as discussing the circumstances with the Treasury Vote Team, the department should outline why it was not possible to identify the overspend in advance. Based on these discussions, Treasury will recommend that the Minister of Finance either:

- approves the request, where there is adequate justification; or
- declines the request for a section 26B approval, and instead approve the overspend for inclusion in validating legislation under section 26C.

Retrospective approvals should be avoided, as the expenditure will be unlawful when it is being incurred.

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As is the case for section 26A transfers, in different circumstances it will be appropriate to use different bases for calculating the \$10,000/2% thresholds.

- For section 26B approvals to be approved **after** the Appropriation (Supplementary Estimates) Act and the Order in Council giving effect to the section 26A transfers have come into force in late June, the **Supplementary Estimates** figure as amended by any section 26A transfers should be used as the base for calculation;
- For section 26B approvals to be approved **before** the Appropriation (Supplementary Estimates) Act has been passed in late June:
  - If the net effect of the Supplementary Estimates and/or any section 26A transfer is to either **increase** the appropriation or **leave it unchanged**, the **Main Estimates** figure should be used as the base for calculation;
  - If the net effect of the Supplementary Estimates and/or any section 26A transfer is to **reduce** the appropriation, the **Supplementary Estimates** figure as amended by any section 26A transfers should be used as the base for calculation.

Where a breach of greater than 2% has been identified, the whole breach should be remedied through means other than section 26B (i.e. interim authority under Imprest Supply and/or validation, as outlined below). This change was introduced last year; previous practice was to approve the initial portion of a breach under the equivalent of section 26B and validate the remainder.

### *Process for section 26B*

Where (the potential for) unappropriated expenditure is identified *and* it meets the criteria for a section 26B approval, the Vote/Portfolio Minister should write to the Minister of Finance:

- outlining the reason for the (proposed) additional spend, including why it was not in the Supplementary Estimates;
- including any Treasury comment (please discuss with your Vote Team); and
- including the following recommendations:

**note** [details of additional spend]; and

**approve** the additional expenditure above under section 26B of the Public Finance Act 1989.

*Where Treasury does not support the section 26B approval, include the following alternative recommendation:*

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*or [Treasury preferred option]*

**agree** that the additional expenditure above be included for validation in the Appropriation (2006/07 Financial Review) Act under section 26C of the Public Finance Act 1989.

The last date the Minister of Finance can make section 26B approvals is 30 September. However, as approvals made after 30 June will be for expenditure already incurred, Treasury will recommend that these be approved only in exceptional circumstances. In general, validation under section 26C will be more suitable for unappropriated expenditure identified after 30 June.

As with previous years, there are two reporting processes for this type of approval. For approvals given up to Friday 8 June 2007:

- complete a section 26B return for all approved items (see attachment);
- attach signed copies of approvals; and
- ***submit to Treasury prior to 1pm Monday 11 June 2007.***

For approvals not included in the 11 June return:

- complete the section 26B return (see attachment);
- attach signed copies of approvals; and
- ***submit to Treasury prior to 1pm Thursday 26 July 2007.***

If there are changes to the details in the return subsequent to July 26, departments should:

- advise their Treasury Vote Team contact;
- notify Alex Harrington (Fiscal Management) by email ([alex.harrington@treasury.govt.nz](mailto:alex.harrington@treasury.govt.nz)); and
- update CFISnet actuals on one of the following dates: 17 August, or 1-4 October.

Changes cannot be made after 30 September (though the CFISnet actuals may be updated as indicated above).

The reporting requirements under section 26D of the PFA will apply. These are that a statement relating to the unappropriated expenditure must be included in the department's and the Government's annual financial statements.

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### Interim Authority under Imprest Supply

Where a potential breach of appropriation is identified in advance, and it does not meet the criteria for section 26A or section 26B, departments should seek interim authority under Imprest Supply in advance of the expenditure being incurred. This authority will then be confirmed in the Appropriation (Financial Review) Act.

Interim authority under Imprest Supply should be used where the following breaches are *anticipated*:

- Breaches of projected net asset balances;
- Expenses or capital expenditure outside the scope of an appropriation; and
- Expenses or capital expenditure in excess of the amount of an appropriation, where the use of section 26A or section 26B is not appropriate.

If a department exceeds the projected net asset balance included in the Supplementary Estimates, the department should seek interim authority under Imprest Supply (where identified in advance).

The reporting requirements under section 26D of the PFA will apply.

#### *Process for seeking interim authority under Imprest Supply*

Except where Joint Ministers have a delegation from Cabinet, the Vote/Portfolio Minister should submit a Cabinet paper:

- outlining the reason for the additional spend or increase in net assets, including why it was not in the Supplementary Estimates;
- including any Treasury comment (please discuss with your Vote Team); and
- including the following recommendations:

**note** [details of additional spend, including value]; and

**agree** that the additional spend *and/or* the increase in projected balance of net assets above be confirmed in the 2006/07 Appropriation (Financial Review) Act, and that, in the interim, these expenses *and/or* increase in net assets be met from Imprest Supply.

The reporting requirements under section 26D of the PFA will apply.

This type of approval also has two report dates. For approvals up to Friday 8 June:

- complete an *Interim Authority under Imprest Supply* return for all approved items (see attachment);

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- provide either the substantive Cabinet minute reference or signed copies of Joint Minister approvals; and
- **submit prior to 1pm Monday 11 June 2007.**

For approvals not included in the 11 June return:

- complete an *Interim Authority under Imprest Supply* return for all approved items (see attachment);
- provide either the substantive Cabinet minute reference or signed copies of Joint Minister approvals;
- attach the Ministerial certification; and
- for each item of unappropriated expenditure that has been given interim authority under Imprest Supply, include the explanation of the Vote/Portfolio Minister for tabling in the House of Representatives; and
- **submit to Treasury prior to 1pm Thursday 26 July 2007.**

If there are changes to the details in the return subsequent to July 26, departments should:

- advise their Treasury Vote Team contact;
- notify Alex Harrington (Fiscal Management) by email ([alex.harrington@treasury.govt.nz](mailto:alex.harrington@treasury.govt.nz)); and
- update CFISnet actuals on one of the following dates: 17 August, or 1-4 October.

Changes cannot be made after 30 September (though the CFISnet actuals may be updated as indicated above).

### **Section 26C – Parliamentary validation of expenses or capital expenditure incurred without appropriation or other authority**

Section 26C covers all expenditure without appropriation or other authority where:

- authority for additional expenditure has not been obtained in advance; or
- the additional expenditure has not been approved under section 26B, either because it is too large, or the Minister of Finance has deemed it more appropriate for the expenditure to be validated.

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Such unappropriated expenditure requires validation in the Appropriation (Financial Review) Act. Departments should, in the first instance, seek to use one of the approval options above.

Validation is a *retrospective* approval for:

- breaches of projected net asset balances;
- expenses or capital expenditure outside the scope of an appropriation; and
- expenses or capital expenditure in excess of the amount of an appropriation, not already remedied via the tools above.

If a department exceeds the projected net asset balance included in the Supplementary Estimates, and interim authority under Imprest Supply has not been obtained, validating legislation is required.

The reporting requirements under section 26D of the PFA will apply.

Note that if an appropriation has been exceeded during the year (in respect of amount or scope), and the department has *subsequently* sought a change in appropriation, this change only applies to expenditure going forward. The initial breach must be either approved under section 26B (where it meets the criteria) or validated. Validation will generally be considered more suitable.

### *Process for section 26C*

For all expenditure incurred without an appropriation or other authority, departments must:

- complete the section 26C return (attached to this circular);
- attach the Ministerial certification;
- for each item of unappropriated expenditure, include the explanation of the Vote/Portfolio Minister for tabling in the House of Representatives;
- ***submit to Treasury prior to 1pm Thursday 26 July 2007***; and
- ***note that nil returns are required.***

If there are changes to the details in the return subsequent to July 26, departments should:

- advise their Treasury Vote Team contact;
- notify Alex Harrington (Fiscal Management) by email ([alex.harrington@treasury.govt.nz](mailto:alex.harrington@treasury.govt.nz)); and

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- update CFISnet actuals on one of the following dates: 17 August, or 1-4 October.

Changes cannot be made after 30 September (though the CFISnet actuals may be updated as indicated above).

### Additional Information

Further information relating to unappropriated expenditure can be found in TC2006/4 *Unappropriated Expenditure - Avoiding Unintended Breaches*.

### Attachments

The following attachments for this circular can be found in CFISnet.

<b>Attachment</b>	<b>Due date</b>
<a href="#">Section 26A template</a>	11 June
<a href="#">Section 26B template</a>	11 June and/or 26 July
<a href="#">Template for interim authority under Imprest Supply</a>	11 June and/or 26 July
<a href="#">Section 26C template</a>	26 July
<a href="#">Unappropriated certification form for all departments to complete</a>	26 July

Mark Sowden  
for Secretary to the Treasury