
Specific Fiscal Risks

Key Features

- A number of significant contingent liabilities at the 1997 *December Update*, including the Equiticorp cross appeal, Māori Reserved Land Lease Reform and the Synfuels contract dispute, have expired.
- In addition to the Government's previously established \$5 billion for policy initiatives for the three years 1997/98 to 1999/2000, the forecasts also now include a provision for new initiatives in 2000/01. Many risks outlined in this chapter, if they crystallise, would be covered by these provisions.
- A significant number of fiscal risks have been removed since the 1997 *December Update*. More than two-thirds of these have been incorporated into the fiscal forecasts, while the remainder have either expired, are no longer under active consideration or are too immaterial to warrant separate disclosure.

Introduction

This chapter describes the specific fiscal risks of the Crown, including contingent liabilities and other specific fiscal risks. The risks are disclosed as either quantifiable or unquantifiable, depending on their characteristics. Only contingent liabilities and other specific fiscal risks involving amounts of \$10 million or more in any one year are separately disclosed. Contingent liabilities below \$10 million are included in the “other quantifiable contingent liabilities” total.

Contingent Liabilities

Contingent liabilities are costs which the Crown will have to face if a particular event occurs. Typically, contingent liabilities consist of guarantees and indemnities, legal disputes and claims, and uncalled capital. The contingent liabilities facing the Crown are a mixture of operating and balance sheet risks, and they can vary greatly in magnitude and likelihood of realisation. In general, if a contingent liability were realised it would have a negative impact on the operating balance, net Crown debt and net worth. However, in the case of contingencies for uncalled capital, the negative impact would be restricted to net Crown debt.

Where contingent liabilities have arisen as a consequence of legal action being taken against the Crown, the amount shown is the amount claimed and thus the maximum potential cost. It does not represent either an admission that the claim is valid or an estimation of the possible amount of any award against the Crown.

Contingent liabilities included in the Statement of Specific Fiscal Risks were finalised at 31 March 1998.

Quantifiable Contingent Liabilities Table

Guarantees and indemnities	Status¹	(\$ million)
Cook Islands - Asian Development Bank (ADB) Loans	Changed	20
Huntly East mine subsidence	Unchanged	25
Indemnification of touring exhibitions	New	143
Post Office Bank (PostBank) – guaranteed deposits	Changed	29
Rural Banking and Finance Corporation of New Zealand Limited (the Rural Bank)	Changed	126
Guarantees and indemnities of State-owned enterprises and Crown entities	Changed	94
Other guarantees and indemnities	Changed	66

¹ Relative to reporting in *December Update*.

Quantifiable contingent liabilities table (continued)	Status	(\$ million)
Uncalled capital		
Asian Development Bank	Changed	1,266
European Bank for Reconstruction and Development	Changed	14
International Bank for Reconstruction and Development	Changed	1,481
Legal proceedings and disputes		
Commerce Ministry - legal claims	Changed	15
Fisheries - cost recovery regime	Unchanged	11
Fisheries - management plans	Unchanged	10
Fisheries - quota allocation	Unchanged	20
Fisheries - other claims	Changed	18
Goods and services tax on rest homes	Unchanged	18
Police – legal claims	Changed	94
Social Welfare - legal claims	Changed	23
Tax in dispute	Changed	77
Legal claims against State-owned enterprises and Crown entities	Changed	63
Other legal claims	Changed	109
Other quantifiable contingent Liabilities		
Commerce Ministry - other contingent liabilities	Changed	11
Health – other contingent liabilities	New	26
Foreign Affairs and Trade - other contingent liabilities	New	80
International financial organisations	Changed	1,083
Reserve Bank - demonetised currency	Unchanged	23
Other quantifiable contingent liabilities	Changed	37

Non-Quantifiable Contingent Liabilities Table

Institutional guarantees	Status
Commerce Commission - indemnity for damages	Unchanged
District Court judges and Justices of the Peace	Unchanged
Earthquake Commission	Unchanged
Fletcher Challenge Limited (FCL)	Unchanged
Māori Trustee	Unchanged
National Provident Fund	Unchanged
Persons exercising investigating powers	Unchanged
Public Trust Office	Unchanged
Reserve Bank of New Zealand (the Reserve Bank)	Unchanged
Other non-quantifiable contingent liabilities	
Alkylammonium compound compensation	Unchanged
Bank of New Zealand (BNZ)	Unchanged
Contact Energy Limited (Contact)	Unchanged
Contaminated sites	Unchanged
Crown Health Enterprises	Unchanged
Crown Research Institutes (CRIs)	Unchanged
DFC New Zealand Limited (under statutory management) (DFC)	Unchanged
Electricity Corporation of New Zealand (ECNZ)	Unchanged
Housing Corporation of New Zealand (HCNZ)	Unchanged
Housing New Zealand (HNZ)	Unchanged
Maui Developments Limited	Unchanged
Pharmaceutical Management Agency (Pharmac)	Unchanged
Purchasers of Crown operations	Unchanged
Sale of Crown assets	Unchanged
Solid Energy Limited	Unchanged
Southland Electric Power Supply Consumer Trust	New
Tax liabilities	Unchanged
Treaty of Waitangi claims	Changed
Works Civil Construction	Unchanged
Works Consultancy Services	Unchanged

Contingent Liabilities Removed Since December Update

Quantifiable contingent liabilities	(\$ million)
Asbestosis claims	19
Equiticorp cross appeal	137
Land Information New Zealand - legal proceedings	18
Māori Reserved Land Lease Reform	66
Parliamentary Building claim	11
Synfuels contract dispute	98
Non quantifiable contingent liabilities	
GPO Holdings Limited	

Quantifiable Contingent Liabilities

Guarantees and indemnities

Cook Islands - Asian Development Bank (ADB) loans

Before 1992, the New Zealand Government guaranteed the Cook Islands' borrowing from the ADB. These guarantees have first call on New Zealand's Official Development Assistance to the Cook Islands.

\$20 million at 31 March 1998 (\$18 million at 30 September 1997).

Huntly East mine subsidence

For claims from private landowners concerning property damage or loss of value.

\$25 million at 31 March 1998 (\$25 million at 30 September 1997).

Indemnification of touring exhibitions

The Crown has a contingent liability for damages or losses under the scheme for indemnifying touring exhibitions. The contingent liability took effect in March 1998 and expires in August 1998.

\$143 million at 31 March 1998 (nil at 30 September 1997).

Post Office Bank (PostBank) - guaranteed deposits

In the sale of PostBank to ANZ Banking Group Limited (ANZ), the Crown agreed to continue its guarantee, under the Post Office Bank Act 1987, for certain PostBank deposits lodged with the Bank before 1 July 1988. ANZ agreed to indemnify the Crown for the cost of any liability that may arise from the Crown guarantee. The amount guaranteed will reduce as deposits mature.

\$29 million at 31 March 1998 (\$31 million at 30 September 1997).

Rural Banking and Finance Corporation of New Zealand Limited (the Rural Bank)

At the time of the sale of the Rural Bank to the Fletcher Challenge Group in 1989, the Government agreed that the existing guarantee over the Rural Bank's borrowings at the date of sale would continue. Fletcher Challenge Limited, as a condition of sale, agreed to indemnify the Crown against default by the Rural Bank on the Crown-guaranteed debt.

\$126 million at 31 March 1998 (\$132 million at 30 September 1997).

Guarantees and indemnities of State-owned enterprises and Crown entities

\$94 million at 31 March 1998 (\$98 million at 30 September 1997).

Other guarantees and indemnities

\$66 million at 31 March 1998 (\$48 million at 30 September 1997).

Uncalled capital

The Crown's uncalled capital subscriptions are as follows:

	Uncalled Capital at 31 March 1998 (\$ million)	Uncalled Capital at 30 September 1997 (\$ million)
Asian Development Bank	1,266	1,100
European Bank for Reconstruction and Development	14	11
International Bank for Reconstruction and Development	1,481	1,287

Legal proceedings and disputes

The amounts under quantifiable contingent liabilities for legal proceedings and disputes are shown exclusive of any interest and costs that may be claimed if these cases were decided against the Crown.

Commerce Ministry - legal claims

Miscellaneous legal claims against the Crown relating to matters administered by the Ministry of Commerce, including motor vehicle import licences and a UHF tender contract.

\$15 million at 31 March 1998 (\$12 million at 30 September 1997).

Fisheries - cost recovery regime

The New Zealand Fishing Industry Association has issued proceedings requesting a judicial review of the cost recovery process and seeking a declaration that the 1996/97 fishing year levies are invalid and unenforceable.

\$11 million at 31 March 1998 (\$11 million at 30 September 1997).

Fisheries - management plans

Prior to October 1995, the Fisheries Act 1983 contained provisions for implementing fishery management plans. A claim has been lodged that, had such a plan been implemented in the Auckland Fishery, the total allowable commercial catch for stocks could have been higher.

\$10 million at 31 March 1998 (\$10 million at 30 September 1997).

Fisheries - quota allocation

For claims of alleged inconsistent application of a policy for allocating deepwater species.

\$20 million at 31 March 1998 (\$20 million at 30 September 1997).

Fisheries - other claims

For damages claimed against the Crown mainly in respect of alleged personal grievances, alleged breach of contract to lease quotas, and non-issuance of permit or quota and the extent to which the Ministry of Fisheries discharged its obligations in relation to forfeit property.

\$18 million at 31 March 1998 (\$32 million at 30 September 1997).

Goods and services tax on rest homes

For backdated payments to rest home providers with contracts prior to the July 1989 GST increase, to compensate for the additional costs.

\$18 million at 31 March 1998 (\$18 million at 30 September 1997).

Police - legal claims

Claims against the Police for alleged legal or administrative faults.

\$94 million at 31 March 1998 (\$95 million at 30 September 1997).

Social Welfare - legal claims

Claims against the Department of Social Welfare for alleged legal or administrative faults.

\$23 million at 31 March 1998 (\$17 million at 30 September 1997).

Tax in dispute

Represents 50% of the outstanding debt of those tax assessments raised, against which an objection has been lodged and legal action is proceeding.

\$77 million at 31 March 1998 (\$59 million at 30 September 1997).

Legal claims against State-owned enterprises and Crown entities

\$63 million at 31 March 1998 (\$28 million at 30 September 1997).

Other legal claims

\$109 million at 31 March 1998 (\$455² million at 30 September 1997).

Other quantifiable contingent liabilities*Commerce Ministry - other contingent liabilities*

Miscellaneous contingent liabilities for matters administered by the Ministry of Commerce, mainly relating to fulfilment of conditions for payment of Business Development Board grants and compensation for changes to mining licence conditions.

\$11 million at 31 March 1998 (\$18 million at 30 September 1997).

Health - other contingent liabilities

For claims against the Crown in respect of people allegedly contracting Hepatitis C through contaminated blood and blood products.

\$26 million at 31 March 1998 (\$1 million at 30 September 1997).

Foreign Affairs and Trade - other contingent liabilities

The sale of part of the embassy complex in Tokyo has created a deferred tax contingent liability under Japanese tax law of \$80 million. This liability will crystallise if the balance of the property is sold.

\$80 million at 31 March 1998 (nil at 30 September 1997).

International financial organisations

The Crown has lodged promissory notes with the following international finance organisations:

	31 March 1998 (\$ million)	30 September 1997 (\$ million)
International Bank for Reconstruction and Development	53	53
International Monetary Fund	1,030	1,099

Payment of the notes depends upon the operation of the rules of the individual organisations.

²

Includes contingent liabilities such as the Equiticorp cross appeal (\$137 million) and Synfuels contract dispute (\$98 million) which had expired by 31 March.

Reserve Bank - demonetised currency

The Crown has a contingent liability for the face value of the demonetised \$1 and \$2 notes issued which have yet to be repatriated.

\$23 million at 31 March 1998 (\$23 million at 30 September 1997).

Other quantifiable contingent liabilities

\$37 million at 31 March 1998 (\$87 million at 30 September 1997).

Non-Quantifiable Contingent Liabilities

This part of the Statement provides details of those contingent liabilities of the Crown which cannot be quantified.

Institutional guarantees

The following institutional guarantees have been provided through legislation.

Commerce Commission - indemnity for damages

The Crown has indemnified the Commerce Commission under section 59 of the Public Finance Act 1989 for up to \$40 million per case for damages awarded against it by the courts in certain circumstances.

District Court judges and Justices of the Peace

Section 119 of the District Courts Act 1947 indemnifies District Court judges acting in their civil jurisdiction. Section 196A of the Summary Proceedings Act 1957 also indemnifies District Court judges for any liabilities arising as a result of an act done by a judge in excess of, or without, jurisdiction. Under section 197 of the Summary Proceedings Act 1957, Justices of the Peace are similarly indemnified as long as a High Court judge certifies that they have acted in good faith and ought to be excused.

Earthquake Commission

The Crown is liable to meet any deficiency in the Earthquake Commission's assets in meeting the Commission's financial liabilities (section 16 of the Earthquake Commission Act 1993).

Fletcher Challenge Limited (FCL)

Under the sale and purchase agreement for the sale of Forestry Corporation of New Zealand Limited, the Crown has indemnified FCL for the cost of cleaning up on-site environmental contamination incurred up to settlement date (27 September 1996). The Crown is to pay for half of any cost over \$30 million and for all costs over \$50 million. The on-site indemnity runs until 1 January 2020. The Crown has also indemnified FCL in respect of off-site environmental costs and losses incurred up until settlement date. The off-site indemnity is unlimited as to amount and time.

Māori Trustee

The Crown is liable to meet any deficiency in the Māori Trustee's Common Fund (section 27(1) of the Māori Trustee Act 1953).

National Provident Fund

The Crown guarantees the benefits payable by all National Provident Fund Board schemes (section 60 of the National Provident Fund Restructuring Act 1990). The Crown also guarantees investments and interest thereon deposited with the National Provident Fund Board prior to 1 April 1991 (section 61 of the same Act).

A provision has been made in the Financial Statements in respect of the actuarially assessed deficit in the DBP (Annuitants') Scheme (refer Note 12).

Persons exercising investigating powers

Section 63 of the Corporations (Investigation and Management) Act 1989 indemnifies the Securities Commission, the Registrar and Deputy Registrar of Companies, members of advising committees within the Act, every statutory manager of a corporation, and persons appointed pursuant to sections 17 to 19 of the Act, in the exercise of investigating powers, unless the power has been exercised in bad faith.

Public Trust Office

The Crown is liable to meet any deficiency in the Public Trust Office's Common Fund (section 36 of the Public Trust Office Act 1957).

Reserve Bank of New Zealand (the Reserve Bank)

Under section 146 of the Reserve Bank of New Zealand Act 1989, every statutory manager of a Registered Bank, every person appointed under section 99 or section 101 of the Act and every member of an advisory committee, shall be indemnified by the Crown in respect of any liability arising from the exercise, purported exercise or omission to exercise of any power conferred by Part V of the Act, unless that power has been exercised in bad faith.

The Government pays to the Reserve Bank any exchange losses incurred by the Reserve Bank as a result of dealing in foreign exchange under sections 17, 18 and 21(2) of the Act.

Other non-quantifiable contingent liabilities

Alkylammonium compound compensation

The Crown is liable, under an agreement with Carter Holt Harvey Limited, Thames Sawmilling Limited, Dashwood Treated Timber & Post Limited and McAlpines Limited, to meet 50% of settlement of claims relating to alkylammonium compound preservation of timber. The Crown is also liable for 50% of the costs of private claimants who cannot identify the timber treater and 100% of negotiated settlements of Prolog Industries Limited.

Bank of New Zealand (BNZ)

A deed, entered into by the Crown, Fay Richwhite and Company Limited and National Australia Group Limited (the purchaser of BNZ), provides for the sharing of certain costs arising from defined risks that pre-date the sale of BNZ. These risks are associated with New Zealand taxation and specified litigation.

Contact Energy Limited (Contact)

The Deed of Assumption and Release between ECNZ, Contact and the Crown provides for compensation to Contact for any tax, levy, royalty or impost imposed on the company's use of water or geothermal energy for plants in existence or under construction at the date of the ECNZ Sale and Purchase Agreement (and which are not reflected in the increased prices of energy generally). It provides for compensation for any net costs to Contact arising from resumption of assets pursuant to the Treaty of Waitangi (State Enterprises) Act 1988. The Deed also provides that the Crown is no longer liable to ECNZ in respect of those assets transferred to Contact.

Contaminated sites

Under common law and various statutes, the Crown may have responsibility to remedy adverse effects on the environment arising from Crown activities. The "Discussion Document on Contaminated Sites Management" discusses the possibility of the Crown contributing to funding the clean-up of "orphan" contaminated sites.

Crown Health Enterprises

The Crown has provided transitional indemnities to directors and officers of some Crown Health Enterprises, for liabilities arising from inherited assets and business practices under the Building Act 1991 and Health and Safety in Employment Act 1992.

Crown Research Institutes (CRIs)

The Crown has indemnified the CRIs for any costs arising from certain third-party claims that are the result of acts or omissions prior to the transfer date, for costs of complying with statutes, ordinances and bylaws which relate to or affect certain buildings, and (subject to certain limitations) for the costs of obtaining title to land.

DFC New Zealand Limited (under statutory management) (DFC)

DFC and the National Provident Fund have been indemnified for certain potential tax liabilities.

Electricity Corporation of New Zealand Limited (ECNZ)

The ECNZ Sale and Purchase Agreement provides for compensation to ECNZ for any tax, levy, royalty or impost imposed on ECNZ for the use of water or geothermal energy for plants in existence or under construction at the date of the Sale and Purchase Agreement. The Agreement also provides for compensation for any net costs to the corporation arising from resumption of assets pursuant to the Treaty of Waitangi (State Enterprises) Act 1988.

Under the Transpower New Zealand Limited (Transpower) Sale and Purchase and Debt Assumption Agreements, the Crown has indemnified ECNZ for any losses resulting from changes in tax rules applicable to transactions listed in the agreements. Additionally the Crown has indemnified the directors and officers of ECNZ for any liability they may incur in their personal capacities as a result of the Transpower separation process.

Housing Corporation of New Zealand (HCNZ)

The Crown has indemnified the following entities in respect of the accuracy of information provided on the sale of various parcels of HCNZ mortgages: ANZ Banking Group Ltd; Mortgage Corporation; Countrywide Bank; TSB Bank; and Westpac Banking Corporation.

The Crown has indemnified the directors and officers of HCNZ against any liabilities in respect of the sale of mortgages to ANZ Bank and Mortgage Corporation.

Under the sale of mortgages to Westpac, HCNZ has insured the purchaser against certain credit losses with the Crown standing behind this obligation.

Legal proceedings have been initiated against a number of defendants, including the Crown, alleging breach of fiduciary duties in respect of the transfer of Agreement for Sale and Purchase and mortgage agreements to HCNZ under the Housing Assets Transfer Act 1993.

Housing New Zealand (HNZ)

The Crown has provided a warranty in respect of title to the assets transferred to HNZ and has indemnified the company against any breach of this warranty. The Crown has indemnified the company against any third party claims that are as a result of acts or omissions prior to 1 November 1992. It has also indemnified the directors and officers of the company against any liability consequent upon the assets not complying with statutory requirements, provided they are taking steps to rectify any non-compliance.

Maui Developments Limited³

In 1973 the Crown contracted with Maui Developments Limited that it would meet the cost of over-runs on the construction of the Maui A and Maui B oil and gas platforms and associated pipeline projects. Discussions are currently being held between the parties to the contract about possible liabilities. These cannot be quantified at this stage.

Pharmaceutical Management Agency (Pharmac)

Section 99 of the Social Security Act 1964 provided for the fixing of prices for pharmaceutical products by way of a list specified by the Minister of Health (“the Drug Tariff”). This list was superseded by a list (“the Pharmaceutical Schedule”) developed and issued by Pharmac, a company established by the Regional Health Authorities (RHAs) and having various powers under the Health Reforms (Transitional Provisions) Act 1993.

Under the Transfer Agreement between Pharmac and the Crown, the Crown has indemnified Pharmac against any liability in respect of operations, activities, decisions and policies relating to the Drug Tariff and the Pharmaceutical Schedule.

A number of legal claims have been lodged against Pharmac. If these claims are successful, the Crown’s financial position may be adversely affected by any damages arising either directly through the indemnity, or indirectly through its ownership of the Health Funding Authority (HFA) (successor to RHAs) and Pharmac.

Purchasers of Crown operations

The Crown has indemnified the purchasers of various Crown operations for losses owing to changes in legislation which uniquely and adversely affect those purchasers.

Sale of Crown assets

On the sale of Crown assets and the corporatisation of Crown assets into State-owned enterprises and Crown entities, the Crown has generally provided a warranty that the Crown was the rightful owner of the assets transferred, and that the assets were free of encumbrances.

³ This will expire as part of the Maui Post Facto Review settlement.

Solid Energy Limited

The Crown has indemnified Solid Energy Limited for any liability, damages, claims, costs and expenses arising from coal mining operations carried out by State Coal Mines prior to 1 April 1987. In addition, the Crown has indemnified Solid Energy against illegal action, or action without the requisite right, if this is a continuation of State Coal Mines activity.

Southland Electric Power Supply Consumer Trust

The Crown has indemnified the Southland Electric Power Supply Consumer Trust for any gift duty arising from the vesting of the Crown's shares in The Power Company Limited (TPCL) with the Trust.

Tax liabilities

The Crown has granted to the purchasers of the Shipping Corporation of New Zealand Limited, Telecom Corporation of New Zealand Limited, State Insurance Office Limited, and the Rural Banking and Finance Corporation Limited an indemnity for certain potential tax liabilities.

Treaty of Waitangi claims

Under the Treaty of Waitangi Act 1975, any Māori may lodge claims relating to land or actions counter to the principles of the Treaty with the Waitangi Tribunal. Where the Tribunal finds a claim is well founded, it may recommend to the Crown that action be taken to compensate those affected. The Tribunal can make recommendations that are binding on the Crown with respect to land which has been transferred by the Crown to an SOE or tertiary institution, or is subject to the Crown Forests Assets Act 1989.

Settlement relativity payments

As part of the Deeds of Settlement negotiated with Waikato-Tainui and Ngai Tahu, the Crown agreed that if the value of their respective settlements, in December 1994 dollars, is less than the agreed relativity percentage of the total settlement redress of all historical Treaty claims, the Crown will be liable for additional payments to the extent required to maintain the relative value of each settlement. The non-quantifiable contingent liability relates to the risk that total settlement redress, including binding resumptions from the Waitangi Tribunal, will trigger these relativity payments.

Works Civil Construction

The Crown has provided an indemnity to the purchasers of Works Civil Construction in relation to the activities of the Ministry of Works prior to 1 April 1989. In addition an indemnity has been provided against certain costs, claims or damages in relation to Clyde and Ohaaki power projects.

Works Consultancy Services

The Crown has provided an indemnity to the purchasers of Works Civil Construction in relation to the activities of the Ministry of Works prior to 1 April 1989.

Specific Fiscal Risks

Specific fiscal risks (excluding contingent liabilities) are a category of government decisions or circumstances which may have a material impact on the fiscal position. The risks have not been included in the main forecasts because: their fiscal impact cannot be reasonably quantified; the likelihood of realisation is uncertain; and/or the timing is uncertain.

The Government allocated \$5 billion for policy initiatives for the three years 1997/98 to 1999/2000. Operating and capital contingencies are included in the forecasts to accommodate these policy initiatives. In addition, the forecasts include a provision for new initiatives in 2000/01. Many risks outlined in this chapter, if they crystallise, would be covered by these provisions.

Not all policy proposals discussed in the Coalition Agreement are included as specific fiscal risks. Some are not material in size of impact. Others do not currently meet the tests set out below to be regarded as specific fiscal risks.

Specific fiscal risks can include:

- government decisions or legislative commitments with uncertain fiscal consequences
- undecided policy under active consideration by Cabinet or Cabinet committees
- incomplete negotiations which have fiscal implications.

The Fiscal Responsibility Act 1994 requires that all specific fiscal risks be disclosed, except where it is determined by the responsible Ministers that disclosing a risk is likely to:

- prejudice the substantial economic interests of New Zealand
- prejudice the security or defence of New Zealand or international relations of the Government
- compromise the Crown in a material way in negotiation, litigation or commercial activity
- result in a material loss of value to the Crown.

In addition, the responsible Ministers have to determine that there is no reasonable or prudent way the Government can avoid this prejudice, compromise or material loss by making a decision on the fiscal risk before the finalisation of the forecasts, or by disclosing the fiscal risk without reference to its fiscal implications.

Specific fiscal risks do not include:

- normal forecasting risks, such as uncertainty around welfare benefits, State-owned enterprise/Crown entity surpluses or finance costs

- policy proposals being developed by individual Ministers or departments which have yet to be considered by wider government processes such as Cabinet committees or Cabinet
- possible changes to the interpretation of accounting policies such as the changes to revenue recognition rules and reclassifications between commitments and liabilities.

The fiscal risks included in the Statement of Specific Fiscal Risks were finalised as at 4 May 1998.

Quantified Risks Table⁴

Risks as at 4 May 1998	Operating Balance	Net Debt	Net Worth	(\$ million)
Agriculture and Forestry - Quality Management review	Decrease	Increase	Decrease	0 to -35
ARCIC - purchase of elective health services for non-earners	Decrease	Increase	Decrease	-25 annually from 1998/99
Carbon tax	Increase	Decrease	Increase	+70 annually from 1999/2000
Commerce - Māori broadcasting	N/A	Increase	N/A	-11 of capital in 1998/99
Corrections - construction of new facilities and associated operating costs	N/A	Increase	N/A	up to -140 over three years
Defence - capital injections	N/A	Increase	N/A	-51 in 1999/2000 and -105 in 2000/01
Education - National assessment	Decrease	Increase	Decrease	up to -25 over three years
Education - school property	N/A	Increase	N/A	-250 annually in 1999/2000 and 2000/01
Education - Special Education 2000	Decrease	Increase	Decrease	-50 to -80 over three years
Employment strategy	Decrease	Increase	Decrease	up to -20 over next two years
Firearms review	Decrease	Increase	Decrease	-25 over three years
Higher Quality Early Childhood Education	Decrease	Increase	Decrease	-15 to -35 over two years
Justice – citizens' initiated referenda	Decrease	Increase	Decrease	up to -10 per referendum
Māori Trustee – payment for services	Decrease	N/A	Decrease	-21
Services to Children, Young Persons and their Families	Decrease	Increase	Decrease	-44 over next three years

⁴ In the summary tables listing specific risks:

- positive numbers indicate an improvement in the Crown's financial position
- "N/A" means no effect
- "Unclear" means insufficient information is available to determine the risk's effect.

Unquantified Risks Table

Risks as at 4 May 1998	Operating Balance	Net Debt	Net Worth
ARCIC – introduction of competition	Unclear	Unclear	Unclear
ARCIC – review of four week entitlements	Unclear	Unclear	Unclear
CHE – letters of comfort	Unclear	Unclear	Unclear
CHE - loan covenant	Unclear	Unclear	Unclear
Crown lease forests - sale of the Crown's interest	Unclear	Decrease	Unclear
Customer requirements	Decrease	Increase	Decrease
Disaster Recovery Plan	Decrease	Increase	Decrease
ECNZ - sale of small hydro stations	N/A	Decrease	N/A
Education - review of the Private Schools Conditional Integration Act	Unclear	Unclear	Unclear
Electricity sector review	N/A	Increase	N/A
Establishment of integrated Employment and Income Support Department (previously Employment initiatives)	Unclear	Unclear	Unclear
Fisheries – allocation of fishing quota	Decrease	Increase	Decrease
Group Investment Funds (GIFs)	Increase	Decrease	Increase
GST on services (previously GST on travel vouchers)	Increase	Decrease	Increase
HCNZ - sale of residual mortgage portfolio	Unclear	Decrease	Unclear
Human Rights Act	Unclear	Unclear	Unclear
Roading reform (previously Land Transport Pricing Study)	Unclear	Unclear	Unclear
School operations grant	Decrease	Increase	Decrease
Scoping of Government's ownership interest	Unclear	Unclear	Unclear
SOE/Crown entities capital structures review	N/A	Decrease	N/A
South Island Landless Māori forest	Unclear	Unclear	Unclear
Student loans	Unclear	Unclear	Unclear
Tariff review	Decrease	Increase	Decrease
Tax reductions	Decrease	Increase	Decrease
Tax treatment – restrictive covenants and lease inducements	Increase	Decrease	Increase
Taxation – Committee of Experts on Tax Compliance	Increase	Decrease	Increase
Teacher collective employment contracts (previously Education – integrated teaching service/unified pay system)	Decrease	Increase	Decrease
Television New Zealand review	Unclear	Unclear	Unclear
Timberlands West Coast - compensation for ceasing Buller overcut	Decrease	Increase	Decrease
Transfer between Health Votes to establish efficient prices	Decrease	Increase	Decrease
Treaty of Waitangi settlements	Decrease	Increase	Decrease

Risks Removed Since the 1997 December Update

Risk	In Forecasts	Comment
ARCIC - attendant care	Yes	
Benefit reviews	Yes	
Border charging proposals	Yes	
CHE equity transfer	No	Normal forecasting risk
CHE - proposals for changes	No	Expired
Child Support collection mechanism	No	Not under active consideration
Courts - construction of new facilities	Yes	
Driver licensing review	Yes	
Equiticorp	Yes	
Fisheries - implementation of the Fisheries Act 1996	Yes	
Fisheries - incorrectly maintained quota registers	Yes	
Foreign Affairs - hosting APEC meetings in 1999	Yes	
General election	Yes	
Health - THA risk reserve lending facility	No	Expired
Health - hepatitis C claims against the Crown	No	Reclassified to contingent liability
Police - future requirements	Yes	
Prioritisation process	Yes	
Social Welfare - Information Systems Strategic Plan	Yes	Remaining risk not material
Student loan and allowance administration transfer	Yes	
Taxation of life insurance and superannuation	No	Expired
Taxation - trading stock	Yes	
Taxation - Winebox recommendations	No	Not under active consideration
Treaty - purchase of surplus Crown properties for Treaty settlement	No	Expired
Vehicle tariffs	Yes	
Year 2000 celebrations	Yes	
Youth income support	Yes	

Quantified Fiscal Risks

Agriculture and Forestry - Quality Management review (changed risk)

The Government has considered recommendations from the review of the organisational structure of MAF Quality Management (MQM) and has agreed to restructure a number of the MQM businesses. Two SOEs will be established from MQM starting from 1 November 1998. During the establishment process, the commercial viability of all components of MQM will be assessed. Depending on final restructuring decisions, the additional cost could range from nil to \$35 million. At the time of the 1997 *December Update*, the estimated cost of this risk was reported in the range from nil to \$15 million.

Sources: Ministry of Agriculture and Forestry, The Treasury

Accident Rehabilitation and Compensation Insurance Corporation (ARCIC) - purchase of elective health services for non-earners (unchanged risk)

Since 1 July 1997, the Government has required ARCIC to purchase elective health services for claimants from the Non-Earners' Account. The costs of purchasing these services may have been underestimated. If ARCIC is unable to manage the costs of purchasing non-earners elective health services within the original cost estimate, increases in ARCIC expenditure of up to \$25 million per year from 1998/99 are possible.

Source: ARCIC

Carbon tax (unchanged risk)

A low-level carbon charge is one option the Government is considering as part of its response to climate change. A charge of \$10 per tonne of carbon would generate net revenue of about \$70 million annually. The introduction of a carbon charge is not likely prior to the 1999/2000 year.

Sources: Ministry of Commerce, The Treasury

Commerce - Māori broadcasting (changed risk)

Following the State Owned Enterprises Amendment Act (No. 4) 1988, authorising the transfer of television and radio assets from the Broadcasting Corporation, the National Māori Organisations took legal action against the Crown. As a result of the *Broadcasting Assets* case (1991 to 1993) and the *Radio New Zealand* case (1995), the Crown gave assurances to the courts, as a condition for permitting the transfer of broadcasting assets to Television New Zealand, to promote the Māori language through television broadcasting. The courts determined that transfer without specific protection for the Māori language would be in breach of the Crown's obligations under section 9 of the State-Owned Enterprises Act 1986 not to act inconsistently with the principles of the Treaty of Waitangi.

The Crown, in consultation with Māori, is reviewing how those assurances will be met. The current risk is approximately \$11 million in 1998/99 and relates to the estimated costs of a transmission network and set-up costs for establishing a Māori television channel. In the 1997 *December Update* this risk was reported as \$12 million in 1997/98 and \$17 million per annum from 1998/99. The \$17 million per annum forecast from 1998/99 has been included in Vote Communications to fund the ongoing expenses for Māori language broadcasting.

Source: Ministry of Commerce

Corrections - construction of new facilities and associated operating expenses (changed risk)

The Department of Corrections is developing proposals for additional funding for deferred maintenance on buildings and the construction of new prison buildings, and any associated changes in operating expenses. Additional capital expenditure of up to \$140 million over three years may be required. At the time of the 1997 *December Update*, the estimated cost of this risk was reported as being up to \$265 million over four years. The change reflects decisions taken to accommodate additional prison inmates and upgrading of prison physical and electronic security systems. These decisions are reflected in Vote Corrections' baseline.

Source: Department of Corrections

Defence - capital injections (unchanged risk)

The Defence Assessment has indicated that additional capital injections above those already approved will be considered on a case-by-case basis when individual capital projects are submitted to Cabinet for approval. The extent of these additional capital injections is not expected to exceed \$51 million in 1999/2000 and \$105 million in 2000/01.

Source: Ministry of Defence

Education - National assessment (new risk)

A discussion document on national assessment of primary school students was released in early May. The policies arising from this document could cost up to \$25 million over three years.

Source: Ministry of Education

Education - school property (unchanged risk)

Additional capital contributions for school accommodation are likely in 1999/2000 and 2000/01. Capital costs are estimated to be around \$250 million in each of those years.

Source: Ministry of Education

Education - Special Education 2000 (changed risk)

The Special Education 2000 policy increased expenditure on special education. Since the 1997 Budget, Cabinet has decided to spend \$113 million over three years on this policy. Further decisions yet to be made could result in additional costs from \$50 million to \$80 million over the next three years.

Source: Ministry of Education

Employment strategy (new risk)

The Government has agreed to set aside up to \$20 million for Vote Employment over the next two years as part of a contingency to advance its employment strategy objectives.

Source: Department of Labour

Firearms review (new risk)

The Thorp Review of firearms licensing contains a number of recommendations to improve gun control in New Zealand. The Government is currently considering the recommendations, which include: the acceleration of the current licensing regime; the introduction of licensing of individual firearms; and the buy-back of all military-style weapons. The fiscal risk associated with these proposals is approximately \$25 million over three years.

Source: The Police

Higher Quality Early Childhood Education (new risk)

The Government is considering methods to provide incentives for demonstrable increases in quality in the early childhood sector. Policy work is at an early stage of development, but this could cost between \$15 million and \$35 million over two years.

Source: Ministry of Education

Justice - citizens' initiated referenda (unchanged risk)

This risk measures the estimated expense of referenda held in accordance with the Citizens' Initiated Referenda Act 1993. Indications are that each referendum could cost up to \$10 million. The number of referenda to be held each year is uncertain.

Source: Ministry of Justice

Māori Trustee - payment for services (changed risk)

The fiscal forecasts make no allowance by way of a doubtful debts provision for the non-payment of \$21 million owed by the Māori Trust Office for services provided by the Ministry of Māori Development. Since the 1997 *December Update*, the fiscal risk has increased from \$19 million.

Sources: Ministry of Māori Development, The Treasury

Services to Children, Young Persons and their Families (new risk)

Further policy work in the area of services to children, young persons and their families could increase the level of expenditure in this area by up to \$44 million over the next three years.

Source: Department of Social Welfare

Unquantified Fiscal Risks***Accident Rehabilitation and Compensation Insurance Corporation (ARCIC) - introduction of competition (changed risk)***

The Government has decided to introduce competition between the ARCI Corporation and commercial insurers in the delivery of the Employers Account and insurance for the self employed by 1 July 1999. Comprehensive, 24 hour, no fault coverage will remain with the same level of entitlements for workplace injuries. Employers will still be required to purchase insurance cover for their workers, and insurers will be required to provide services to ensure injured people are supported to enable them to lead as normal a life as possible. Decisions on the details of the regulatory regime and any necessary restructuring of the ARCI Corporation so that it can compete on an equal footing with commercial insurers are expected to be made in July. Fiscal implications will not be known until then. Requiring employers to fully fund all future claims through their insurance cover will reduce the Crown's fiscal risks.

Accident Rehabilitation and Compensation Insurance Corporation (ARCIC) - review of four week entitlements (unchanged risk)

The Government has instituted a review of the entitlements available to claimants in the first four weeks of qualifying for ARCIC assistance. The aim is to reduce the number of claimants entering the scheme and increase the scheme's focus on the seriously injured. Policy development is being undertaken in the context of the introduction of competition to the ACC scheme. Until policy options are developed it is not possible to identify or quantify specific risks.

CHE (being renamed Hospital and Health services) - letters of comfort (unchanged risk)

Many CHEs have received 'letters of comfort' from shareholding Ministers which give assurance to the CHEs concerned that their contractual obligations can be met in full as they fall due. These obligations apply 12 months from the date on which directors sign their financial statements or the date of the auditor's report, whichever is the later. The impact on the fiscal position would depend on the response taken by shareholders to any deterioration in the operating performance of a CHE with a letter of comfort.

CHE (being renamed Hospital and Health services) - loan covenant (unchanged risk)

Several CHEs holding private debt have had poor financial performance. Financial ratio covenants in the loan or bond agreements may be breached, triggering events of review, which may lead to events of technical default. In addition, changes to CHE capital structure related to the not-for-profit objective, may also trigger a review or technical default if CHE constitutions are changed or existing capital is redeemed. This debt is not guaranteed by the Crown, although an event of technical default may necessitate the Crown's involvement in balance sheet or organisational restructuring of these entities. This risk is unquantified as full disclosure of the specific financial information would compromise the Crown in negotiations.

Crown lease forests - sale of the Crown's interest (unchanged risk)

The Crown is a lessee of 20 forest leases covering 51,000 hectares of forest on Māori land. The Crown has indicated a willingness to sell its interest in the leases back to the Māori lessors on commercial terms, and will dispose of these interests if satisfactory terms are agreed with individual lessors. The Crown is actively negotiating sale terms with a number of lessors. However, this risk is unquantified as disclosing any estimate of costs would be likely to compromise negotiations and commercial activity.

Customer requirements (new risk)

A proposal to simplify the tax return filing obligations for individual taxpayers together with related organisational changes in Inland Revenue is being considered by the Government. A decision on whether or not to proceed is scheduled to be made in May 1998. The operational changes required for Inland Revenue to implement this initiative are being prepared. At this stage no decisions have been reached. This risk is unquantified as disclosure could compromise the Crown in negotiations.

Disaster Recovery Plan (unchanged risk)

In the event of a natural disaster or emergency, the National Civil Defence Plan for Disaster Recovery provides that while local authorities or enterprises take first-line responsibility for dealing with the impact of a disaster in their own areas, central government will provide assistance in certain situations. These situations include:

- providing assistance to ensure physical safety where this cannot be provided by local agencies
- restoring those government facilities directly owned by the Government
- if the cost of repair or recovery of certain local authority assets is greater than certain specified amounts, meeting 60% of the cost of the additional amount
- providing assistance in restoration of individually owned assets or trading utilities where the risk of damage was uninsurable and hardship is demonstrated
- providing extra social welfare assistance if there is a requirement to provide an enhanced welfare base for the area affected for a period of time.

The fiscal implications of this risk are unquantifiable because they depend on the circumstances of a natural disaster.

ECNZ - sale of small hydro stations (changed risk)

In 1995, the Government and ECNZ agreed that eight of ECNZ's small hydro stations would be sold by ECNZ, subject to appropriate consultations with Māori about any Treaty of Waitangi issues. Any sales receipts returned to the Crown would be used to repay public debt. Of these stations, Mangahao has been sold since the 1997 *December Update*. Treaty consultations for the remainder are continuing. This risk is unquantified, as disclosing any estimate of receipts would be likely to compromise negotiations and commercial activity.

Education - review of the Private Schools Conditional Integration Act (unchanged risk)

This review aims to improve current integration arrangements, and facilitate choice in the school sector. The Association of Proprietors of Integrated Schools has sought \$373 million in funding over 10 years and the Government is considering policy options that are as yet unquantified.

Electricity sector review (changed risk)

In the 1997 Budget the Government announced that it would investigate options to introduce further competition in electricity generation. Since the 1997 *December Update*, the Government has announced an in principle decision to split ECNZ into three SOEs. A final decision will be made following consultation with Māori and further work on a range of implementation issues. An ECNZ separation gives rise to a risk that capital injections will be necessary to ensure the new entities are commercially structured. A key task for the implementation process will be to minimise the risk of any capital injections. This risk is unquantified as disclosure could compromise the Crown in negotiations.

Establishment of integrated Employment and Income Support Department (previously Employment initiatives) (changed risk)

Since the 1997 *December Update*, the integration of the New Zealand Employment Service, Income Support and the Community Employment Group into a new department has been announced by the Government. The new Department will be operational from 1 October 1998. Decisions on the organisational design of the Department, including the location and reporting lines for the Regional Employment Commissioners, will be made over the next months leading up to the start date for the new Department. An independent transition management unit has been established to manage the transition to the new Department.

It is not clear at this stage what the fiscal impact of these changes will be for the new Department, the Department of Labour or the Department of Social Welfare. There are likely to be short-term costs, particularly in respect of the management of property issues, but creation of the new department is expected to be fiscally positive in the long run.

Fisheries - allocation of fishing quota (unchanged risk)

The Fisheries Act 1996 provides for 20% of the new species quota entering the Quota Management System to be allocated to Māori, to give effect to the Crown's obligation under the Treaty of Waitangi Fisheries Settlement. Eight of these new species are considered to be fully fished already, and the Crown may choose to purchase the quota to be allocated to Māori. This risk is unquantified because disclosure of compensation estimates could compromise negotiations.

Group Investment Funds (unchanged risk)

Superannuation funds that are subject to tax on profits from the sale of shares have found a way of reducing that tax. This involves the use of Group Investment Funds (GIFs) and other trust structures. The method is to interpose a "passive" investment fund between the superannuation fund and its shares. The Government is considering an appropriate legislative response and therefore the fiscal impact is unquantified.

GST on services (previously GST on travel vouchers) (unchanged risk)

The Government has identified mechanisms which currently avoid GST on services supplied in New Zealand, using arrangements entered into offshore (eg, travel and accommodation vouchers). Legislation intended to correct this problem will generate as yet unquantified revenue from 1999 onwards.

HCNZ - sale of residual mortgage portfolio (unchanged risk)

HCNZ intends to complete further sales of mortgages. The effect on the Crown's operating balance and net worth depends on the extent to which the final sale value differs from book value. Any sale receipts would be used to repay Crown debt. This risk is unquantifiable at this time.

Human Rights Act (unchanged risk)

Section 151 of the Human Rights Act 1993, which generally excludes the Government from the Act's application, expires on 31 December 1999. After this date the Act will apply to anything done by or on behalf of the Government. The Government has announced its intention to introduce legislation and review relevant policies and practices to address any lack of compliance with the Act before this date.

Roading reform (previously Land Transport Pricing Study) (changed risk)

As a continuation of the Land Transport Pricing Study a Government-appointed Roothing Advisory Group provided the Government with recommendations for managing and funding roads. The Government is now assessing a range of proposals and is expected to make decisions later this year. At this stage no decisions have been reached and the fiscal impact is unclear.

School operations grant (new risk)

The Government may consider options for enhancing the structure of the school operations grant. At this stage the fiscal impact is unclear.

Scoping of Government's ownership interests (changed risk)

The Government has received the results of scoping studies of its ownership interests in Government Property Services (GPS), Auckland International Airport Limited (AIAL), Wellington International Airport Limited (WIAL), Christchurch International Airport (CIAL), Solid Energy and Vehicle Testing New Zealand (VTNZ). Studies for WIAL, Solid Energy and VTNZ have been completed since the 1997 *December Update*. In the case of GPS, AIAL, WIAL and Solid Energy, commercial advisors have been appointed. No final decision has been made on these assets.

SOE/Crown entities capital structures review (unchanged risk)

The 1997 Budget announced that Crown-owned businesses would be asked to adjust their capital structures to achieve a debt to equity ratio in line with that of comparable private sector businesses.

Crown-owned businesses are considering their capital structures in the context of their 1998/99 business plans. The Government's decision to review ownership options in some Crown-owned businesses may impact on their immediate capital structure decisions.

South Island Landless Māori forest (changed risk)

Forests granted to Māori under the South Island Landless Māori Act 1906 are exempt from the requirement that indigenous forests be sustainably harvested and managed, as established under the Forests Amendment Act 1993. Consequently, these forests can be clear-felled at the discretion of forest owners. The extension of the requirement for sustainable management may be sought for some South Island Landless Māori forests. Since the 1997 *December Update*, the Crown has started consulting with potentially affected landowners on policy options. This risk is unquantified as disclosure could compromise the Crown in negotiations.

Student loans (new risk)

The Government is considering options for possible changes to the Student Loans Scheme. Work on whether any changes to the Scheme are desirable will be completed in time for the 1999 year. At this stage the fiscal impact is unclear.

Tariff review (changed risk)

As announced in the 1997 Budget, the Government is undertaking a general tariff review with the intention of removing all other remaining tariffs well before 2010. A report on the general tariff review is expected at the end of May.

Tariff revenue (excluding motor vehicles) in 2000/01 is forecast to be \$210 million. The amount of revenue foregone in 2000/01 will depend on the pace of the tariff reduction decided by the Government and is not quantifiable at this stage. This risk has changed since the 1997 *December Update* as it no longer includes risks associated with the motor vehicle tariff review which was concluded in December 1997. The implications of decisions on motor vehicle tariffs are now included in the fiscal forecasts.

Tax reductions (changed risk)

If fiscal and economic conditions permit, the Government will consider further tax cuts in 2000/01.

Tax treatment - restrictive covenants and lease inducements (unchanged risk)

Inducements to enter into leases or restrictive covenants may in some cases be classified as non-taxable receipts of capital. Policy to ensure these amounts are treated as taxable income is being considered. The revenue at this stage is unquantified but would be positive.

Taxation - Committee of Experts on Tax Compliance (new risk)

The Government has commissioned the Committee of Experts on Tax Compliance to consider a number of issues regarding tax compliance and report to the Government by 21 December 1998 with its recommendations for future policy changes. The recommendations of the Committee will be considered by the Government and may lead to fiscally positive policy changes. Any additional revenue from such changes cannot currently be quantified.

Teacher collective employment contracts (previously Education - integrated teaching service/unified pay system) (changed risk)

Since the 1997 *December Update*, the primary teachers' collective employment contract has been settled. However, a risk still remains for the cost of secondary and area schools teachers' collective employment contracts, as well as flow-on effects these contracts have on wages for primary teachers. This risk is unquantified because disclosure of estimates of cost could compromise negotiations.

Television New Zealand review (changed risk)

Since the 1997 *December Update*, a scoping study has been initiated for Television New Zealand (TVNZ). The Coalition Agreement states that TV1 will not be sold. Excluding TV1, no final decision has been made regarding the Crown's ownership interests in TVNZ.

Timberlands West Coast - compensation for ceasing Buller overcut (new risk)

Timberlands West Coast (TWC) currently has the right to overcut the Crown's indigenous forests in the Buller. Ministers have recently considered proposals to bring forward the cessation of the overcut from 2006 to 2001. TWC's right to overcut the Buller is recorded in a Deed of Appointment between the Crown and TWC. Therefore, any decision to vary the Deed will lead to a call for compensation against the Crown. This risk is unquantified as disclosure could compromise the Crown in negotiations.

Transfer between Health Votes to establish efficient prices (new risk)

Cabinet has agreed to a transfer from Vote Health Services Providers (formerly Vote CHE) to Vote Health to allow the Health Funding Authority to pay prices that reflect the cost of efficient service delivery, subject to a number of conditions to make the transfer fiscally neutral. Over time there is a risk that, despite the conditions, the transfer may not be fiscally neutral because Hospital and Health Services deficits may not decrease by the exact size of the transfer to Vote Health.

Treaty of Waitangi settlements (changed risk)

The Crown is willing to settle all well founded Treaty claims lodged with the Waitangi Tribunal arising from historical acts or omissions of the Crown. The forecasts include an appropriation for historical Treaty of Waitangi settlements of \$700 million for the five-year period from 1 July 1997 to 30 June 2002. The actual amount expensed in any one year may be greater or less than the amount forecast since actual expenses depend on the settlements reached, and claimant funding provided, within that year. At the time of the 1997 *December Update*, an appropriation of \$583 million was reported for the five-year period from 1 July 1996 to 30 June 2001.