

Review of the Reserve Bank Act

Release Document – Draft Cabinet paper on Reserve Bank (Monetary Policy) Amendment Bill

July 2018

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- [1] 9(2)(a) - to protect the privacy of natural persons, including that of deceased natural persons.
- [2] 9(2)(k) - to prevent the disclosure of official information for improper gain or improper advantage.
- [3] 9(2)(g)(i) - maintain the effective conduct of public affairs through – the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any department or organisation in the course of their duty.
- [4] 9(2)(f)(iv) - maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials.

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Treasury Report: Draft Cabinet paper on Reserve Bank (Monetary Policy) Amendment Bill

Date:	7 June 2018	Report No:	T2018/1557
		File Number:	MC-1-7-6

Action Sought

	Action Sought	Deadline
Minister of Finance (Hon Grant Robertson)	Provide feedback on the draft Cabinet committee paper seeking approval for introduction of the Reserve Bank of New Zealand (Monetary Policy) Amendment Bill (2018). Agree to the recommendations in the report.	4pm, Monday 11 June 2018

Contact for Telephone Discussion (if required)

Name	Position	Telephone			1st Contact
Ben Gaukrodger	Senior Analyst, Macroeconomic and Fiscal Policy	[2]	(wk) [1]	(mob)	✓
Renee Philip	Manager, Reserve Bank Act Review	[2]	(wk) [1]	(mob)	

Actions for the Minister's Office Staff (if required)

Return the signed report to Treasury with any feedback from the Minister on the Cabinet paper by 4pm on Monday 11 June.

Note any feedback on the quality of the report

Enclosure: Yes (attached)

Treasury Report: Draft Cabinet paper on Reserve Bank (Monetary Policy) Amendment Bill

Purpose of Report

1. This report seeks your feedback on the attached draft paper for the Cabinet Legislation Committee (LEG). The draft paper seeks agreement to introduce the Reserve Bank of New Zealand (Monetary Policy) Amendment Bill (2018) (the Bill). The report also seeks decisions on two outstanding policy issues.

Background

2. On 19 March 2018, Cabinet agreed to amendments to the monetary policy framework as set out in the Reserve Bank of New Zealand Act 1989 (the Act). These decisions included adding maximum sustainable employment to the monetary policy objective and instituting a monetary policy committee (MPC) for monetary policy decision-making [CAB-18-MIN-0086 refers].
3. Finance Ministers were delegated authority to take second-order policy decisions to progress the drafting of the Bill. Finance Ministers have taken a number of such decisions [T2018/998 and T2018/1036 refer]. The Parliamentary Counsel Office is in the process of drafting the Bill so that it will be ready for submission to LEG by 28 June.
4. The attached draft paper for the Cabinet Legislation Committee (LEG paper) asks the committee to approve the introduction of the Bill. It highlights the policy decisions taken by Finance Ministers under delegated authority, as well as some consequential changes that are necessary in order to implement previous decisions. The paper therefore meets the requirements of the specific Cabinet minute that Cabinet approve “the full details of the reform at the same time as it considers the draft legislation that will give effect to the changes” [CAB-18-MIN-0086 recommendation 41 refers]. The paper does not ask Cabinet to re-make the decisions Cabinet made on 19 March 2018.
5. We request your feedback on the draft Cabinet paper by 11 June 2018. A final version of the paper will then be provided to you on 14 June to enable you to consult with your colleagues before the paper is lodged for submission to LEG on 28 June.

Further matters included in the Bill

6. The Bill includes a small number of detailed provisions that have not been expressly approved by Finance Ministers. These relate to:
 - the operation of the transitional provisions;
 - the operation of the provisions that allow for the legislative objective for monetary policy to be replaced by Order in Council (OIC);
 - the specification of the duties of the individual MPC members and the MPC's collective responsibilities;
 - the status of instruments created by the Act under the Legislation Act;

- the detailed specification of the removal grounds for the Deputy Governor; and
- a number of small drafting details.

We draw your attention to these matters, which are set out in paragraphs 25-37 and 50-53 of the LEG paper.

7. There are two outstanding matters which require decisions.

[3]

9. The second matter on which a decision is needed is the process that will apply in relation to the setting of the initial Charter. As previously agreed by Finance Ministers [T2018/998 refers], the transition provisions in the draft Bill commence on Royal assent and provide for the initial Charter (and Remit, which sets the operational objectives of monetary policy) to be set by agreement between the Minister and the Governor prior to the rest of the Act commencing (3 months following Royal assent). This process has been designed so that the new decision-making processes can be in effect on the day the main provisions of the Act commence.
10. Finance Ministers have not, however, made any decisions on what procedure would apply if you and the Governor cannot reach agreement on the initial Charter. We consider it highly unlikely that you will be unable to agree an initial Charter with the Governor, and we understand the Governor is committed to ensuring agreement is reached. However, the legislation would ideally make provision for such a situation in order to minimise any risks of procedural failure in the new regime. The Charter is an integral part of the regime because the MPC and its individual members are obliged to comply with the Charter. Two options exist to reduce (option one) or minimise (option two) the risk of a procedural failure.
11. Option one, which is provided for in the draft Cabinet paper (paragraphs 27 and 28 refer) is for the Governor to have a legislative duty to ensure that the initial Charter is in place 42 days prior to commencement. In effect, it would be possible to remove the Governor if agreement were not reached. This is the same approach as used in the 1989 Act to manage lack of agreement on the initial PTA (section 49(e)). This approach would provide additional incentive for the Governor to agree the Charter. However, it would still not guarantee resolution before commencement, especially given that removal may be seen as an unlikely sanction for failing to reach agreement. In the unlikely event that agreement is not reached, there would be no mechanism to put a Charter in place.
12. Option two is to include a provision that gives the Minister the power to set the initial Charter by OIC if agreement cannot be reached 42 days prior to commencement. This is the only option that would eliminate any risk that the Charter is not put in place and would be a more plausible intervention than dismissal (although still an option that would not be used lightly). Using an OIC to set the first Charter would deviate from the intent that the Charter be set by agreement. However, if the Charter can only be amended in future through agreement with the MPC (your favoured option, as

discussed in paragraph 8 of this report), the content of the initial Charter will set the benchmark for future negotiations with the MPC. This may warrant having Cabinet approve the initial Charter via OIC if agreement is not reached.

13. If neither of these options are palatable, then a third option is for the legislation to omit a provision that deals with the situation where the initial Charter cannot be agreed. However, this does introduce a small risk into the implementation process that a Charter may not be put in place. Given the incentives on you and the Governor to agree the Charter, the Reserve Bank considers that additional provisions to manage the risk are unnecessary.
14. The initial Remit is also to be set by agreement by the Minister and the Governor, although subsequent Remits are set by the Minister every five years following advice from the Bank. Finance Ministers have agreed Remits will also be able to be set by OIC on the advice of the Minister [T2018/998 refers]. We therefore do not consider it necessary to include an alternative process to set the initial Remit in the Bill, as the OIC process will be available if agreement is not reached by a statutorily required date.

Monetary and fiscal policy coordination

15. You asked officials to develop options for improving monetary and fiscal policy coordination as part of the drafting process, in case further legislative changes are necessary to support that coordination. While we do not consider it likely that legislative mechanisms are necessary beyond the introduction of a Treasury observer on the MPC, we have not been able to complete work on how best to enhance coordination within the compressed timeline for preparing legislation. The Reserve Bank and the Treasury will continue to work on this issue, and will report to you once it is complete.

Content of the draft Bill

16. The Bill is still being drafted, so a draft version will not be provided until 14 June, when the final draft of the LEG paper is provided. However, for your information, Annex One of this paper provides you with extracts from two key sections of the Bill that you are likely to have a particular interest in:
 - Section 1A - the amended purpose statement; and
 - Section 8 – the updated legislative objective for the Act.

Next Steps

17. After receiving feedback on this report, a final version of the Cabinet paper will be provided to you on 14 June 2018, along with a draft version of the Bill. This will enable you to consult with your colleagues before the paper is lodged for submission to LEG on 28 June.
18. Cabinet has delegated authority to Finance Ministers (you, Hon Parker, Hon Jones and Hon Shaw) to take detailed decisions on the legislative drafting. Accordingly, it is necessary for Finance Ministers to agree the outstanding matters covered in recommendations (b and c). Given the limited time available to get a decision, we recommend that you consult Finance Ministers on these recommendations at the same time that you consult them on the Cabinet paper. Officials can provide any materials required to support this consultation.

19. The LEG paper includes the following process and timetabling matters that have been determined to allow for the Bill to be passed this year ^[4]
^[4] . It is intended that the Bill be approved by LEG on 5 July 2018, by Cabinet on 9 July 2018, and by Government Caucuses on 10 July 2018 (as appropriate). Providing this timetable is met, it is proposed that the Bill (subject to the agreement of the Leader of the House, where required):
- is introduced into the House by Friday 20 July 2018 and has its first reading on Thursday 26 July 2018;
 - is referred to the Finance and Expenditure select committee for consideration for a shortened four month period;
 - is reported back by the Finance and Expenditure select committee by Thursday 29 November 2018;
 - has its second reading on Thursday 6 December 2018, committee of the whole on Tuesday 11 December 2018, and its third reading on Wednesday 12 December 2018 (the second to last sitting day);
 - is enacted and receives royal assent in late December 2018 or early January 2019, and;
 - comes into force on 1 April 2019 (which provides for a three month transition period).
20. When conducting your pre-Cabinet consultation, your Office may wish to consult with the Office of the Leader of the House to ensure this timetable can be met.

Proactive release

21. Subject to your agreement, we also propose to proactively release on the Treasury's website all the policy advice that has been provided to Ministers to support the drafting of the Bill as well as the LEG Cabinet paper and RIS (with redactions made as appropriate in line with the Official Information Act). Officials will report to you separately on the materials to be released, but the draft LEG paper notes the intention to proactively release the relevant advice.

Recommended Action

We recommend that you:

- a **provide feedback** on the draft Cabinet committee paper by Monday 11 June, to enable officials to provide you with a final paper for consultation with your colleagues on 14 June.
- b **agree** that the version of the Bill submitted to LEG should:
Either
 - i provide that amendments to the Charter can only be made when agreement is reached between the MPC and the Minister of Finance

Agree/disagree.

Or

- ii. provide two different options, with LEG asked to agree either that:
 - 1. Amendments to the Charter can only be made when agreement is reached between the MPC and the Minister of Finance; or
 - 2. The Charter can be amended by Order in Council on the advice of the Minister of Finance, when agreement cannot be reached

Agree/disagree.

- c **agree** that the version of the Bill submitted to LEG should:

Either

- i. provide that the Governor will have a duty to agree the initial Charter at least 42 days before the commencement of the Act, and will be subject to removal for failing to reach agreement

Agree/disagree.

Or

- ii. provide that initial Charter can be set by Order in Council on the advice of the Minister of Finance if the Minister and the Governor cannot agree the Charter at least 42 days before the commencement of the Act

Agree/disagree.

Or

- iii. not provide for a resolution mechanism, accepting the risk that the Minister of Finance and Governor may fail to agree the Charter

Agree/disagree.

Renee Philip
Manager, Reserve Bank Act Review

Hon Grant Robertson
Minister of Finance

Section 1A – Purpose

- (1) The purpose of this Act is to promote the prosperity and wellbeing of New Zealanders, and contribute to a sustainable and productive economy, by providing for the Reserve Bank of New Zealand, as the central bank, to be responsible for—
- (a) formulating and implementing monetary policy directed to the economic objectives set out in subsection (1A), while recognising the Crown’s right to determine economic policy; and
 - (b) promoting the maintenance of a sound and efficient financial system; and
 - (c) issuing bank notes and coins in New Zealand to meet the needs of the public; and
 - (d) carrying out other functions, and exercising powers, specified in this Act.
- (1A) The economic objectives are—
- (a) achieving and maintaining stability in the general level of prices over the medium term; and
 - (b) supporting maximum sustainable employment.

Section 8 – Economic objectives

- (1) The Bank, acting through the MPC, has the function of formulating a monetary policy directed to the economic objectives of—
- (a) achieving and maintaining stability in the general level of prices over the medium term; and
 - (b) supporting maximum sustainable employment.
- (2) The MPC must, in acting under this section, have regard to—
- (a) the efficiency and soundness of the financial system; and
 - (b) any matter provided for in a remit under section 10(4)(d).