

The Treasury

Additional Documents Related to Phase 2 of the Reserve Bank Act Review - December 2019 to April 2021 - Proactive Release

June 2021

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Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Key to sections of the Act under which information has been withheld:

- [7] 6(e)(ii) - to prevent serious damage to the economy of New Zealand by disclosing prematurely decisions to change or continue government economic or financial policies relating to the regulation of banking or credit
- [27] 9(2)(ba)(ii) - to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely otherwise to damage the public interest
- [29] 9(2)(d) - to avoid prejudice to the substantial economic interests of New Zealand
- [33] 9(2)(f)(iv) - to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials
- [35] 9(2)(g)(ii) - to maintain the effective conduct of public affairs through protecting ministers, members of government organisations, officers and employees from improper pressure or harassment
- [36] 9(2)(h) - to maintain legal professional privilege
- [39] 9(2)(k) - to prevent the disclosure of official information for improper gain or improper advantage

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MC-1-7-3-1-3

Date: 18 February 2020

To: Minister of Finance
(Hon Grant Robertson)

Deadline: 19 February 2020

Aide Memoire: Response to questions raised in relation to the 14 February 2020 Joint Report on the Institutional Act

This Aide Memoire responds to questions raised in an email from Angus Hodgson of 17 February 2020 in relation to the following recommendations:

- who determines the Governor's remuneration; and
- the appointment process for members of the Reserve Bank Board.

Determining the Governor's remuneration

You have asked for further advice on why the State Services Commission (SSC) does not consider it appropriate that there be a legislative requirement for it to be consulted on the Governor's remuneration. You note this process applies in relation to the New Zealand Superannuation Fund (NZSF).

There are several features of the Reserve Bank's institutional arrangements that distinguish it from the NZSF.

The NZSF is a Crown entity. The Chief Executive is employed by the Board (the Guardians of New Zealand Superannuation). The Board determines the Chief Executive's remuneration and terms and conditions of employment. Consistent with section 117 of the Crown Entities Act 2004 (CEA), the State Services Commissioner must consent to the Chief Executive's terms and conditions of employment and remuneration. This requirement applies to all Crown entities.

Unlike the NZSF, the Reserve Bank will not be a Crown entity. The position of Governor will continue to be a statutory appointment, appointed by the Minister. The Governor will not be an employee of the Board. This is consistent with other statutory appointments that are heads of institutions. For example, the Ombudsman, the Auditor-General and the Commissioner of Police are statutory appointments. They are not employees of the organisations which they head.

The SSC was consulted on whether it could consent to or provide advice on the Governor’s remuneration. The SSC advised as follows:

“...it would be constitutionally inappropriate for SSC to be statutorily involved in setting the remuneration for an independent position such as this. The Remuneration Authority website and Cabinet Office Circular CO (11) 7 describe that the Authority should be involved in determining the remuneration of officers whose roles require them to exercise, and be seen to exercise, a high degree of independence. SSC has not been involved in setting remuneration for such roles.”

The Remuneration Authority was also consulted on whether it could act in an advisory capacity. As noted in the Joint Report, the Remuneration Authority does not act in an advisory capacity. The Remuneration Authority determines the remuneration of other statutory appointments that are heads of institutions. The Remuneration Authority has advised that determining the Governor’s remuneration would be consistent with its role.

Summary of differences

	The Reserve Bank	The NZSF
Institutional status	Unique institutional status	Crown entity
Employment status	Statutory appointment	Employee of the NZSF
Method of appointment/ employment	Appointed by the Minister	Employed by the Guardians of the NZSF

Appointment process for the Reserve Bank Board

The email queries whether the previous decision by Cabinet to retain the current process for the appointment of Board members needs to be rescinded. On reflection, instead of a recommendation that Cabinet rescinds its decision, the recommendation will be framed as recommending an additional step in the appointment process. The recommendation will reflect that the Minister continues to select members, but that there is an additional step where the Governor-General formally appoints the members. The Cabinet paper will be updated to reflect this change.

Felicity Barker, Principal Advisor, Reserve Bank Act Review, [35]

Tamiko Bayliss, Director, Reserve Bank Act Review, Reserve Bank Act Review, [39]