

The Treasury

LEG-21-SUB-0085 - Public Finance (Transfers Between Outputs) Order 2021

June 2022

This document has been proactively released by **Minister of Finance (Hon Grant Robertson)** on the Treasury website at

<https://treasury.govt.nz/publications/information-release/finance-portfolio-cabinet-material>

Cabinet Document Details

Title: **Cabinet Paper: LEG-21-SUB-0085: Public Finance (Transfers Between Outputs) Order 2021**

Date: **2 June 2021**

Creator: Office of the Minister of Finance

Information Withheld

No information has been withheld.

Copyright and Licensing

Cabinet material and advice to Ministers from the Treasury and other public service departments are © **Crown copyright** but are licensed for re-use under **Creative Commons Attribution 4.0 International (CC BY 4.0)** [<https://creativecommons.org/licenses/by/4.0/>].

For material created by other parties, copyright is held by them and they must be consulted on the licensing terms that they apply to their material.

Accessibility

The Treasury can provide an alternate HTML version of this material if requested. Please cite this document's title or PDF file name when you email a request to information@treasury.govt.nz.

Chair
Cabinet Legislation Committee

Public Finance (Transfers Between Outputs) Order 2021

Proposal

1. This paper seeks authorisation for submission to the Executive Council of the Public Finance (Transfers Between Outputs) Order 2021, made under section 26A of the Public Finance Act 1989, directing limited transfers between output expense appropriations (including multi-category appropriations that include only categories of output expenses). It also seeks a waiver of the 28-day rule so that the Order can come into force before the end of the financial year (by 30 June 2021).

Policy

2. It is often necessary for minor changes to be made to the amounts of appropriations after the Supplementary Estimates have been finalised. These changes are necessary to avoid unappropriated expenditure being incurred. Section 26A of the Public Finance Act 1989 authorises the Governor-General, by Order in Council, to direct a transfer of resources between output expense appropriations within a Vote to avoid unappropriated expenses.
3. This paper details the section 26A criteria and cases of fiscally neutral transfers to be made by the Public Finance (Transfers Between Outputs) Order 2021 to avoid unappropriated expenditure in 2020/21.

Section 26A Criteria

4. The Public Finance (Transfers Between Outputs) Order 2021 is made under section 26A of the Public Finance Act 1989 and allows for the transfer between output expenses within a Vote if:
 - a. The amount transferred does not increase that appropriation for a financial year by more than 5 percent
 - b. No other transfer under section 26A to that appropriation has occurred during that financial year, and

- c. The total amount appropriated for that financial year for all output expense appropriations in that Vote is unaltered.
5. Output expenses from and to which such transfers can be made include multi-category appropriations (MCAs) that consist solely of output expense categories.

Fiscally Neutral Transfers to Be Made by the Public Finance (Transfers Between Outputs) Order 2021

6. A list of fiscally neutral transfers under section 26A of the Public Finance Act 1989 required to avoid unappropriated expenditure in 2020/21 is provided in Annex One to this paper. These transfers are included in the proposed Order in Council, and meet the criteria for section 26A transfers set out above.

Timing and 28 Day Rule

7. The 28-day rule requires that an Order in Council shall not come into force until at least 28 days after it has been notified in the Gazette. The proposed Order in Council is to come into force on 30 June 2021. Therefore a waiver of the 28-day rule is being sought on the following basis:
- a. the making of fiscally neutral transfers under section 26A of the Public Finance Act 1989 by Order in Council, to avoid unappropriated expenditure in 2020/21, must come into force by the end of the financial year to which the expenditure relates (i.e. by 30 June 2021),
 - b. the Order needs to be made as close to the end of the financial year as possible, so as to take into account the latest possible information on expenditure, and
 - c. the Order imposes no obligation on anyone other than the Ministers and departments responsible for the Votes in which transfers are being made.

Compliance

8. The proposed Order in Council complies with:
- a. the principles of the Treaty of Waitangi
 - b. the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993
 - c. the principles and guidelines set out in the Privacy Act 1993
 - d. relevant international standards and obligations, and
 - e. LAC Guidelines: Guidelines on Process and Content of Legislation, a publication by the Legislation Advisory Committee.

Regulations Review Committee

9. There are no grounds for the Regulations Review Committee to draw the proposed Order in Council to the attention of the House under Standing Order 319.

Certification by Parliamentary Counsel

10. The proposed Order in Council has been certified by Parliamentary Counsel as being in order for submission to Cabinet subject to the waiver of the 28-day rule.

Regulatory Impact Statement

11. A regulatory impact statement is not required as the proposed Order in Council is mechanical in nature and has no impact on businesses, individuals or not-for-profit entities.

Publicity

12. Apart from notification in the Gazette, no other publicity of the proposed Order in Council is required.

Consultation

13. Departments that administer Votes where fiscally neutral transfers are being sought under section 26A of the Public Finance Act 1989 have been consulted on the amounts and output expense appropriations included in the proposed Order in Council.

Proactive Release

14. This paper may be proactively released, with any appropriate redactions.

Recommendations

15. I recommend that the Cabinet Legislation Committee:

- 1 **note** that the Public Finance (Transfers Between Outputs) Order 2021, made under section 26A of the Public Finance Act 1989, will direct a transfer of resources between output expense appropriations (including multi-category appropriations that include only categories of output expenses) within a Vote to avoid unappropriated expense
- 2 **authorise** the submission to the Executive Council of the Public Finance (Transfers Between Outputs) Order 2021
- 3 **note** that the Public Finance (Transfers Between Outputs) Order 2021 requires the 28-day rule to be waived as the Order must come into force by the end of the financial year to which the expenditure relates (30 June 2021) to avoid unappropriated expenditure in 2020/21, and that the Order imposes no obligation on anyone other than the Ministers and departments for the Votes in which transfers are being made, and
- 4 **agree** to waive the 28-day rule so that the Public Finance (Transfers Between Outputs) Order 2021 comes into force on 30 June 2021.

Hon Grant Robertson
Minister of Finance

Date:

Annex One: Transfers Between Output Expense Appropriations

Fiscally Neutral Transfers Under Section 26A of the Public Finance Act	
Vote	\$ million
Conservation	0.800
Customs	3.306
Health	0.917
Total	5.023

Vote Conservation	\$million
The transfers were not included in the Supplementary Estimates as they resulted from updated information received after the Supplementary Estimates were finalised.	
Baseline Reductions	
Departmental Output Expenses <i>Management of Recreational Opportunities</i>	(0.800)
Total	(0.800)
Baseline Increases	
Departmental Output Expenses:	
<i>Conservation with the Community</i>	0.300
<i>Crown Contribution to Regional Pest Management</i>	0.100
<i>Management of Historic Heritage</i>	0.293
Multi-Category:	
<i>Policy Advice, Statutory Planning, and Services to Ministers and Statutory Bodies</i>	
Policy Advice	0.032
Statutory Planning, Services to Ministers and Statutory Bodies	0.075
Total	0.800

Vote Customs	\$million
Following the opening of the quarantine-free travel zone with Australia on 19 April 2021, redeployed Customs staff have returned to airports. This means that airport staffing levels are now higher than what was anticipated in February 2021 at the time that the 2021 March Baseline Update was finalised. This will place the departmental output expense appropriation <i>Travellers Clearance and Enforcement</i> under financial pressure for the remainder of the year. This is the appropriation that funds airport-based staff.	
Baseline Reductions	
Departmental Output Expenses:	
<i>Goods Clearance and Enforcement</i>	(1.653)
<i>Revenue Collections and Other Services</i>	(1.653)
Total	(3.306)
Baseline Increases	
Departmental Output Expenses:	
<i>Travellers Clearance and Enforcement</i>	3.306
Total	3.306

Vote Health	\$million
The transfers were not included in the Supplementary Estimates as they resulted from updated information received after the Supplementary Estimates were finalised.	
Baseline Reductions	
Departmental Output Expense:	
<i>Sector Planning and Performance</i>	(0.917)
Total	(0.917)
Baseline Increases	
Departmental Output Expense:	
<i>Payment Services</i>	0.917
Total	0.917