

The Treasury

LEG-22-SUB-0167: International Finance Agreements Order 2022

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International Finance Agreements Order 2022

Proposal

- 1 This paper seeks authorisation for submission to the Executive Council of the International Finance Agreements Order 2022.

Policy

The International Finance Corporation has amended its Articles of Agreement

- 2 The International Finance Corporation (IFC) is the World Bank Group (WBG) institution responsible for providing finance and assistance to stimulate private investment in developing countries. As Minister of Finance, I am New Zealand's Governor at the WBG.
- 3 In September 2018, as New Zealand's Governor at the World Bank, I voted in support of resolutions approving a capital increase package for two of the WBG's five constituent institutions (Capital Increase Package). In Budget 2021, Cabinet agreed to subscribe to new shares issued by the IFC, at the cost of NZD\$27.900 million across the forecast period [CAB-21-MIN-0116 refers]. I formally authorised New Zealand's subscription to the IFC in September 2021, by which point the amount required for payment was NZD\$28.800 million due to exchange rate movements.
- 4 As part of the Capital Increase package, the Board of Governors, including myself, also agreed to change the required voting majority for most increases in capital from an 80 percent majority of the voting power to an 85 percent majority¹. The amendment came into force on 16 April 2020 when the Capital Increase package was adopted.

¹ Article II, Section 2(c) of the IFC's Articles of Agreement.

New Zealand's International Finance Agreements Act 1961 needs to be updated to reflect this change

- 5 The International Finance Agreements Act 1961 (the Act) enables New Zealand to be a member of International Financial Institutions (IFIs), including the WBG's constituent institutions². The Schedules to the Act incorporate each IFI's articles of agreement (or their equivalent) into New Zealand legislation. The Act grants the Governor-General the power to amend the Schedules to the Act to bring the text of the articles of agreement up to date³.
- 6 I seek authorisation to submit an Order in Council under section 10 of the Act to amend the Act such that the IFC's Articles of Agreement as they appear in the Schedule to the Act reflect the amendment agreed in the Capital Increase Package.
- 7 If the Act is not updated, the Articles of Agreement in the Act would be out of date. This goes against legislative best practice as set out by the Legislation Design and Advisory Committee and undermines the regulatory stewardship of the Act. Aotearoa New Zealand is required to comply with the Articles of Agreement, regardless of the wording of the Act.
- 8 The Order in Council is routine and does not require any new policy decisions from Cabinet. As per paragraph 7.91(d) of the Cabinet Manual, I have not requested policy approval from Cabinet prior to submitting this paper.

Timing

- 9 Should Cabinet agree to authorise me to submit the Order in Council to the Executive Council, I will do so on 31 October 2022. The Order in Council will then be published in the *New Zealand Gazette* in the week it is signed by the Executive Council and will come into force on the 28th day after publication.

Compliance

- 10 I consider that the proposed Order in Council complies with:
 - 10.1 the principles of the Treaty of Waitangi;
 - 10.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
 - 10.3 the principles and guidelines set out in the Privacy Act 2020 (if the regulations raise privacy issues, indicate whether the Privacy Commissioner agrees that they comply with all relevant principles);
 - 10.4 relevant international standards and obligations (most notably, the IFC's Articles of Agreement);

² Section 3 of the International Finance Agreements Act 1961.

³ Section 10(1)(a) of the International Finance Agreements Act 1961.

10.5 the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

- 11 The Act grants the Governor-General the power to amend Schedule 3 of the Act (the IFC's Articles of Agreement) so that it is up to date. As Schedule 3 does not currently reflect the most up to date version of the IFC's Articles of Agreement, I consider an amendment is necessary.

Regulations Review Committee

- 12 I do not consider there to be grounds for the Regulations Review Committee to draw the disallowable instrument or regulations to the attention of the House of Representatives under Standing Order 327.

Certification by Parliamentary Counsel

- 13 The Parliamentary Counsel Office (PCO) has certified the Order in Council as being in order for submission to Cabinet.

Impact Analysis

- 14 The Treasury's Regulatory Impact Analysis team has determined that this proposal is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that the government has limited statutory decision-making discretion or responsibility for the content of the proposed delegated legislation.

Publicity

- 15 The Order in Council will be published in the *New Zealand Gazette* in the week it is signed by the Executive Council.

Proactive release

- 16 I propose to release this paper proactively, subject to redaction as appropriate under the Official Information Act 1982, within 30 business days.

Consultation

- 17 This Cabinet paper was developed by the Treasury. The Ministry of Foreign Affairs and Trade was consulted.

Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 **note** that in 2020, the International Finance Corporation amended its Articles of Agreement to change the required voting majority for most increases in capital from an 80 percent majority of the voting power to an 85 percent majority;
- 2 **note** that the change to the International Finance Corporation's Articles of Agreement means that the Corporation Agreement set out in Schedule 3 of the International Finance Agreements Act 1961 is now out of date;
- 3 **note** that Section 10 of the International Finance Agreements Act 1961 enables the Government to update the text of the Articles of Agreement in the Act via an Order in Council;
- 4 **note** that the International Finance Agreements Order 2022 will bring Schedule 3 of the International Finance Agreement Act 1961 up to date;
- 5 **authorise** the submission to the Executive Council of the International Finance Agreements Order 2022;
- 6 **note** that the International Finance Agreements Order 2022 will come into force on the 28th day after the date of its notification in the Gazette.

Authorised for lodgement

Hon Grant Robertson
Minister of Finance