

- 7.001 In this chapter, we draw attention to some apparent inconsistencies in the way Parliament currently approaches the approval of supply. As we indicated in paragraph 3.006, Parliament can exercise effective control only if approvals that are intended to be given in advance are so given, and reviews of the use of those approvals are not postponed to a point where they become practically irrelevant.
- 7.002 However, the way in which Parliament currently provides imprest supply creates considerable latitude for the Executive, notwithstanding that appropriations otherwise appear to be tightly prescribed. For example, new expenditure decisions that are taken by the Executive immediately after the first Appropriation Act of the year has been passed may not be validated by an Appropriation Act for many months.

## When and How Does Parliament Approve Supply?

- 7.003 Among Parliament's most fundamental powers is its imposition of statutory control over the revenue and expenditure of the Government. In the Westminster system, the principle of parliamentary control over supply dates back many hundreds of years. It first became enshrined in New Zealand legislation as a continuance of Article 4 of the Bill of Rights 1688 of the Parliament of England. Currently, it is asserted in New Zealand's statutes in the Constitution Act 1986 and restated in the Public Finance Act 1989. It remains a key constitutional function of Parliament to examine and, as it deems appropriate, approve the expenditure proposals of the Government.
- 7.004 Parliament's approvals are given by means of Appropriation Acts and Imprest Supply Acts. Appropriation Acts provide the Executive with authority to spend particular sums on particular things. Imprest Supply Acts provide the Executive with authority to incur expenditure up to a specified amount.

7.005 Usually, there are three Appropriation Acts for any financial year.

- The first provides authority for the expenditure specified in the main *Estimates*.
- The second provides authority for the expenditure specified in the *Supplementary Estimates*.
- The third –
  - sanctions any transfers of appropriations that may have been authorised by Order in Council pursuant to section 5 of the Public Finance Act 1989;
  - validates any unappropriated expenditure that may have been approved by the Minister of Finance pursuant to section 12 of the Public Finance Act 1989; and
  - validates any other unapproved unappropriated expenditure that may have been incurred.

This third Appropriation Act is passed in the year that follows the financial year to which it relates.

7.006 Section 6 of the Public Finance Act 1989 currently requires (unless otherwise agreed by a resolution of the House) that the first Appropriation Bill relating to a financial year be introduced to the House before the end of the first month after the commencement of that financial year. In practice, this means that the first Appropriation Bill must be introduced before the end of July.<sup>39</sup> Standing Order 327(1) requires the debate on the question of the first Appropriation Bill to be completed within three months of introduction. In practice, this means that the first Appropriation Act will be passed by the end of October.

7.007 Because there is a time lag of up to four months before the passage of the first Appropriation Act, the Executive is provided with financial authority to continue spending and incurring expenditure by means of an Imprest Supply Act, which is passed before the start of the financial year to which it relates. Other Imprest Supply Acts are passed throughout the financial year, as considered necessary, to provide the

<sup>39</sup> Some of the problems expressed here would be resolved if the first Appropriation Act could be passed before the commencement of the year to which it relates. However, that would be difficult to achieve for practical reasons.

Executive with the authority to spend money and incur expenditure in advance of an Appropriation Act, which is introduced with the *Supplementary Estimates*. Typically, the *Supplementary Estimates* are not introduced and passed until very close to the end of the financial year to which they relate.

## Are There Any Problems with This Procedure?

- 7.008 The first two Appropriation Acts relate respectively to the main *Estimates* and the *Supplementary Estimates*, which provide a great deal of detailed information about how the money will be spent. However, the Imprest Supply Acts that precede them need not and do not provide any such information. They are the constitutional equivalent of a blank cheque with an upper limit.
- 7.009 This procedure has evolved to overcome practical difficulties that have existed in the past to ensure that the Executive has the funds to continue to operate. However, the sums currently provided through imprest supply are very large<sup>40</sup> and give the Executive considerable latitude to operate without other parliamentary authority.
- 7.010 Parliament may wish to consider whether or not the current arrangements for the approval of supply could usefully be refined. The present arrangements appear to confer a degree of pseudo-precision and control on what is, in practice, a relatively unfettered use of public money by the Executive.

## Can the Procedure Be Improved?

- 7.011 It would be possible to distinguish between expenditure on activities that have already been approved by Parliament in a previous Appropriation Act and activities that are new initiatives.<sup>41</sup> Imprest supply could be applied to the first category without restriction, since it would merely reflect a continuation of a status quo that Parliament had already approved.

40 For example, the Imprest Supply (First for 1998/99) Act 1998 provided authority to incur expenses of up to \$6,000 million.

41 Amongst Ministers and officials, such initiatives are commonly described as requiring "new money".

7.012 However, Parliament could require that it be informed of expenditure in the second category (for example, by presenting to the House statements of Cabinet approvals in much the same manner as regulations made under other Acts are presented). This would provide Parliament with an opportunity to debate and, if it judges it appropriate, to prohibit such expenditure at an early stage.

## Summary of Conclusions

7.013 Under the Constitution Act 1986 and the Public Finance Act 1989, all the expenditure incurred by the Government must eventually be appropriated by an Act of Parliament. However, when expenditure needs to be incurred before an Appropriation Act can be passed, the Executive may use the general authority of an Imprest Supply Act. Appropriation Acts are specific about what the Executive may do with the money; Imprest Supply Acts are not.

7.014 The current arrangements and timetable for enacting Appropriation Acts mean that the Government frequently uses large amounts on imprest supply for quite long periods. We believe Parliament would benefit from more, and more timely, information about how the Executive proposes to use imprest supply, particularly in cases where the Executive is incurring expenditure in a way that has not previously been debated and approved by Parliament.

