

# The Treasury

## Budget 2011 Information Release

### Release Document

June 2011

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- [1] 9(2)(a) - to protect the privacy of natural persons, including deceased people
- [2] 9(2)(f)(iv) - to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials
- [3] 9(2)(g)(i) - to maintain the effective conduct of public affairs through the free and frank expression of opinions
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- [6] 9(2)(j) - to enable the Crown to negotiate without disadvantage or prejudice
- [7] 6(a) - to prevent prejudice to the security or defence of New Zealand or the international relations of the government
- [8] 9(2)(h) - to maintain legal professional privilege
- [9] 6(c) - to prevent prejudice to the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial
- [10] 9(2)(d) - to avoid prejudice to the substantial economic interests of New Zealand
- [11] 9(2)(i) - to enable the Crown to carry out commercial activities without disadvantage or prejudice.

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In preparing this Information Release, the Treasury has considered the public interest considerations in section 9(1) of the Official Information Act.

## **Vote Attorney-General**

# Four-year Budget Plan

Version [1]

30 November 2010

Submitted by:

**The Solicitor-General and Crown Law**

## Section 1: New Baseline and Summary of Changes

### Direction of Change

The priorities for Vote Attorney-General over the next four years are:

- Review of funding of the Crown prosecution service;
- Review of the structure of the Crown prosecution service;
- Review of the law of contempt;
- Investigation of changes to civil procedure;
- Maintaining and enhancing the capacity of Crown Law to defend legal challenges to Government decisions (including challenges to tax assessments).

These priorities are aligned to the Justice Sector and Government priorities. The priorities will maintain public confidence in the justice system and help address cost pressures and revenue opportunities. The priorities are discussed in more detail in section 2.

Additional baseline funding is sought for 2010/11 and 2011/12 to meet existing volume-driven cost pressures and maintain the prosecution services provided by the Crown Solicitors.

### **JUSTICE SECTOR OVERVIEW**

- Over the next four years, the priorities for justice sector Ministers are to focus on maintaining public confidence in the justice system, continuing to implement performance improvement actions across the sector, and to progress new initiatives which will reduce volumes and cost across the justice sector.
- In Budget 2011, there are a number of justice sector cost pressures which require immediate funding to ensure that existing services are maintained – including legal aid, Crown Solicitor services, Community Law Centres, and the Serious Fraud Office, coronial services. Other funding pressures reflect high government priorities: the constitutional review, and a number of justice sector performance improvement actions. Options are also being developed to reduce the size of these pressures and reduce the very significant sector-wide pressures across the forecast period.
- Justice sector Ministers have agreed that allocation of the new \$160 million operating allowance will be prioritised to maintain existing services and high priority government policy. The preliminary allocation of the new allowance (outlined in justice sector agency's four year plans) may change following Cabinet decisions on the range of options to manage legal aid cost pressures in December 2010. Justice sector Ministers will consider the implications of these decisions before finalising the proposed sector allocation in early 2011.

Overall Impact

Operating	Impact (\$000s)				
	2010/11	2011/12	2012/13	2013/14	2014/15
Departmental Revenue	22,900	22,900	22,900	22,900	22,900
Crown Revenue	43,067	42,688	42,864	42,400	42,394
<b>Current Baseline</b>	<b>65,967</b>	<b>65,588</b>	<b>65,764</b>	<b>65,300</b>	<b>65,294</b>
Cost of new/increased activities	10,675	11,775	-	-	-
Amount reprioritised	-	-	-	-	-
<b>New baseline</b>	<b>76,642</b>	<b>77,363</b>	<b>65,764</b>	<b>65,300</b>	<b>65,294</b>

Capital	Impact (\$000s)				
	2010/11	2011/12	2012/13	2013/14	2014/15
Capital proposals seeking new funding in Budget 2011.	3,227	-	-	-	-
Capital proposals seeking decisions in Budget 2011 funded within baselines.	-	-	-	-	-
<b>Total capital intentions</b>	<b>3,227</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>

## Section 2: Vote Priorities and Pressures

The Law Officers and Crown Law:

- ensure that government is conducted constitutionally and implemented lawfully, and
- work with the justice sector agencies to address the priorities in criminal and civil justice.

### PRIORITIES AND PRESSURES IN VOTE ATTORNEY-GENERAL

#### Review of Crown Prosecution Service

A review of the Crown Prosecution services is proposed, similar to the review of the Legal Aid System.

#### Adequate Funding of the Crown Prosecution Services

A high priority is ensuring that the current deficit in the appropriation for the Supervision and Conduct of Crown Prosecutions is addressed. Currently, funding is required for the Supervision and Conduct of Crown Prosecutions to meet the increased demand and associated cost. Funding is being sought for the 2010/11 and 2011/12 years only. Longer term funding pressures on the Supervision and Conduct of Crown Prosecution Service is intended to be addressed by the proposed review of Crown Prosecution Services.

For the financial year ended 30 June 2010 Crown Law sought authorisation in terms of s26A and s26B Public Finance Act (PFA) for the unexpected increase in demand. After the end of the financial year the total expenditure required validation in terms of s26C of the PFA.

Expenditure in excess of the level approved in the Supplementary Estimates of Budget 2010 was funded out of Crown Law's Taxpayers funds. As a result of this expenditure the actual level of taxpayers' funds has been reduced to an unsustainable level. In Budget 2011, a capital injection is sought to restore the level of taxpayers' funds to a prudent level.

The cost pressures in this output class, similar to those for criminal legal aid, are driven by:

- 1.1 increasing volumes of indictable prosecutions (4.5% p.a. over the past 4 years) that flow through the pipeline from policy changes and operational decisions at other points in the criminal justice sector (e.g. in relation to apprehension, charges, jury election, committal, court capacity).
- 1.2 Increasing complexity (e.g. sentencing submissions, sentencing options, victim needs, forfeiture applications, judicial warnings regarding three strikes, sentence indication hearings, call over memoranda, evidence issues, criminal disclosure, longer jury deliberation, more Youth Court prosecutions, hearings on fitness to plead, length of cognitive interviewing evidence).

[2]

Justice sector agencies current predict a 10.3% increase in the number of indictable prosecutions over the next four years.

To maintain a trusted Justice system that is effective and efficient requires that funding be provided to address the current service delivery problems. One of the outcomes sought from the review of Crown Prosecution services will be the long term sustainable funding of the service.

[2]

### **Review of the Law of Contempt**

The Attorney-General initiated a review of the law of contempt, with an emphasis on addressing the current issues and changes in the law of contempt.

[2]

### **Capacity to Defend against Legal Challenges to Government**

It is vital to the Crown's legal, fiscal and policy interests that it retains the capacity to defend itself against legal challenges. In particular, legal challenges to tax assessments have a significant potential to affect the Crown's fiscal position, as illustrated by the \$2.2 billion settlement with the banks last year. The Solicitor-General has been tasked with responsibility to ensure that the Crown's capacity to defend itself against legal challenges is maintained and enhanced within existing baselines.

### **Section 3: Proposed Changes for Budget 2011 (Reprioritisation)**

There are no new activities proposed for Budget 2011.

The challenges for the Justice Sector are the current cost pressures and the projected increase in indictable prosecutions over the budget period.

Similar to Police and criminal legal aid, there are cost pressures in the Supervision and Conduct of Crown Prosecutions. Measures aimed at reviewing and containing these costs include:

[2]

[2]

In addition, cost pressures totalling \$4.05m have been or will be absorbed in 2010/11 and 2011/12 totalling: \$3.05m in the Law Officer appropriation (including law of contempt project and the increasing costs of extraditions and mutual assistance) and \$1.4m in Legal Advice category (anticipated) by holding fee rates charged to Government clients. Costs of \$8.9m in criminal prosecution costs have been deferred (including by holding Crown Solicitor rates).

## Section 4: Summary of Financial Movements

### Summary of 2011 Budget Initiatives for Vote: Attorney-General

ID	Theme	Sub	Minister	Title	Description	Operating (\$ millions)					Capital (\$ millions)				
						2010/11	2011/12	2012/13	2013/14	2014/15	2010/11	2011/12	2012/13	2013/14	2014/15
6699	Decision Budget 2011	Meet Demand	Hon Christopher Finlayson	Crown Law Capital Injection	Restore Crown Law's taxpayers' funds to a prudent level following the gross write down of \$3.227 million for the year ended 30 June 2010.	-	-	-	-	-	3.227	-	-	-	-
6700	Not Required	Not Required	Hon Christopher Finlayson	Supervision and Conduct of Crown Prosecutions	Funding is required to meet the increased demand and associated cost. Funding is being sought for the 2010/11 and 2011/12 years only. Long term funding for the Supervision and Conduct of Crown Prosecution Service is expected to be addressed by the proposed review of Crown Prosecution Services.	10.675	11.775	-	-	-	-	-	-	-	-
<b>Total Initiatives</b>						<b>10.675</b>	<b>11.775</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>3.227</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>