



# Cabinet Office Circular

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**Enquiries:**

*Treasury Vote team, Ph: 04 472 2733*

*Legislation Coordinator,*

*Cabinet Office, Ph: 04 471 9643*

## The Financial Veto and 24 Hour Rule

### Introduction

- 1 Cabinet has recently agreed to changes in the Financial Veto procedure. This Circular updates and replaces Cabinet Office Circular CO (98) 15, "Financial Veto Procedure" 15 October 1998. It provides:
  - an outline of the Crown financial veto procedure contained in Standing Orders 318 to 322 of the House of Representatives;
  - advice on the administrative arrangements within government to support the veto power and on the responsibilities of Ministers, Ministers' offices and departments under those arrangements.
- 2 In summary, the actions required of departments and Ministers' offices are:
  - to have processes in place for monitoring developments in the House and select committees affecting their Minister's portfolio or Vote, and for identifying initiatives which may impact on the government's fiscal aggregates or the composition of a Vote;
  - to alert their Minister and the Treasury immediately to any such initiatives;
  - to provide prompt advice to Ministers on the implications of such initiatives.
- 3 Please ensure that copies of this Circular are made available to all staff in Ministers' offices and departments who are involved in the passage through the House of legislation and votes administered by the department, or are involved in advising on private members' or local bills within their Minister's portfolio area. Copies should also be made available to any Crown entities within the portfolio which have direct dealings with the House.

- 4 Some of the notice requirements impose very tight timelines on government decisions about whether to exercise a veto: notice can be given the day before and in some circumstances with less than 24 hours' notice. Paragraph 21 provides further information on timelines and paragraphs 27 and 40 provide information on timelines for when the House is in urgency.

## Background

- 5 The Financial Veto procedure is contained in the Standing Orders of the House of Representatives ("the Standing Orders"). Amendments to the Standing Orders affecting the use of the Financial Veto were made in 2003 and 2005.
- 6 In order for the government to have control over the expenditure of public money, the Standing Orders provide two mechanisms for dealing with measures that are proposed and that may affect the fiscal aggregates. These are:
- the financial veto, whereby the government may exercise a veto over any bill, amendment, motion, or change to a Vote by issuing a veto certificate;
  - the 24 hour rule, whereby an amendment to a bill or a change to a Vote may be automatically ruled out of order if 24 hours' notice of the amendment or change has not been given (note: Standing Order 322 provides two exceptions to this rule, see paragraphs 20 and 40).
- 7 A financial risk is created for the government by the ability of non-Ministerial Members of Parliament to propose initiatives that affect key fiscal aggregates or Vote composition. The government, and in particular the Minister of Finance, will rely on Ministers' offices and departments for the earliest possible warning of initiatives where the government may need to consider using the veto.
- 8 All Ministers' offices and departments will need systems to actively monitor all Parliamentary initiatives, in the House and select committees, which could give rise to exercise of the veto. Chief executives are responsible for ensuring that their departments can respond promptly to any Parliamentary initiative with financial implications.

## What is the Financial Veto procedure?

### *The Parliamentary rules*

- 9 Standing Orders 318 to 322, which deal with the Financial Veto procedure, are set out in Annex 1 to this Circular. The background to these Standing Orders is discussed on pages 61-64 of the *Report of the Standing Orders Committee on the Review of Standing Orders* (AJHR (1995) I.18A). Modifications made to Standing Orders are discussed in the 1996 report (AJHR (1996) I.18B) and pages 67 to 69 of the 2003 Review of Standing Orders.

**Opportunities for initiatives affecting fiscal aggregates**

- 10 Under the Standing Orders, non-Ministerial Members of Parliament can initiate proposals and amendments involving increases or reductions in expenditure, increases or reductions in taxation or otherwise affecting government fiscal aggregates. Such proposals can take the form of:
- introducing a bill;
  - recommending amendments to a bill in a select committee;
  - recommending a change to a Vote in a select committee report on the examination of a Vote;
  - giving notice of amendments to a bill in a committee of the whole House;
  - giving notice of proposals to change a Vote during a committee of the whole House;
  - a motion which, if passed as a resolution, would have the force of law, including in particular, some motions under the Regulations (Disallowance) Act 1989.
- 11 Where such a bill, amendment or motion would have, in the government's view, more than a minor impact on the Crown's fiscal aggregates and the government does not concur in that proposal, the government can veto it by delivering a certificate to the Clerk of the House (in an emergency in the House itself). The fiscal aggregates concerned are those specified in the Public Finance Act 1989:
- the Crown's total operating expenses;
  - the Crown's total operating revenues;
  - the balance between total Crown operating expenses and total Crown operating revenues;
  - the level of total Crown debt;
  - the level of Crown net worth (i.e., the balance between Crown assets and liabilities).
- 12 Where a change is proposed to a Vote in the Estimates, the government can use the veto if that change would have, in the government's view, more than a minor impact on that Vote's composition.

**Who can sign a Financial Veto certificate?**

- 13 A veto certificate may be signed by the Minister of Finance or any other Minister on behalf of the government [Speakers' ruling 115/2].
- 14 A certificate may be withdrawn at any time by written notice to the Clerk of the House.

**The exercise of the veto**

15 It will be up to the government, in the light of the circumstances of the time, to determine what it considers “more than a minor impact”. The Standing Orders Committee stated in its 1995 report (page 62), however, that:

“the sorts of members’ proposals the committee has in mind as being allowed to proceed under this procedure are:

- in the case of a bill or an amendment to a bill, a proposal whose main objective is not expenditure, but which will incidentally involve some expenditure in its implementation or administration, for example, a proposal to allow and facilitate access by citizens to information held only by the State; and
- in the case of a change to a Vote, a small fiscally neutral transfer between two appropriations within a Vote which in the government’s view do not have more than a minor impact on the composition of the Vote as a whole”.

**Content of a veto certificate**

16 A veto certificate must state with some particularity the nature of the impact that the proposal being vetoed would have on the general fiscal aggregates (or, in the case of a change to a Vote on the composition of that Vote), and say why the government does not concur in the initiative and has exercised the veto [Standing Order 319(1) and (2)].

17 In the case of a bill, amendment or motion, the reason the government gives could relate solely to the impact of the initiative being vetoed on a particular fiscal aggregate. Alternatively, it could relate to the cumulative effect of previous initiatives by non-Ministerial Members which have been passed by the House, other initiatives currently before the House or a select committee, and the likelihood of further such initiatives later in the financial year (see Standing Orders Committee 1995 report, pp 62-63).

18 The government is able to use a single certificate to veto multiple amendments to the same bill or multiple changes to the same Vote.

19 A bill, amendment, motion or change to a Vote, when subject to a veto certificate, is not able to proceed to a vote. The reason given by the government in the veto certificate can, however, be debated the next time the bill, amendment, motion or change to a Vote is being considered by the House.

**When can a Financial Veto be exercised?**

20 The government can veto initiatives at a number of stages:

- Amendments to a bill recommended by a select committee can be vetoed before those amendments are agreed to by the House. Normally the debate on the select committee’s report and the vote on amendments recommended by the select committee take place not less than the third sitting day after the select committee has reported the bill back to the House.

- Amendments to a bill to be proposed in the committee of the whole House can be vetoed as soon as notice is given of those amendments. Twenty-four hours' notice of such amendments is required, unless the bill's committee of the whole House stage is taken, by leave or under urgency, immediately after the preceding stage. In that case, no advance notice is required.
- A bill as a whole or particular provisions of a bill can be vetoed only when the bill is awaiting its third reading. The government can, however, foreshadow much earlier in the bill's progress which provisions it is likely to veto.
- Proposed changes to a Vote can be vetoed before those changes are moved. Such changes require 24 hours' notice unless the proposed change was recommended in the report of the select committee that examined the Vote.
- A motion which, if passed as a resolution, would have the force of law can be vetoed before the motion is moved. Unless leave is granted to move such a motion without notice, notice would have to be given at the latest on the previous sitting day.

***Timelines for notice of veto can be very tight***

- 21 Some of the notice requirements impose very tight timelines on government decisions about whether to exercise the veto power. Notice could, for example, be given as late as:
- 2pm on a Monday for changes to a Vote to be considered on Tuesday, or for amendments to be proposed to a bill set down for consideration in a committee of the whole House on Tuesday;
  - 2pm on a Tuesday for changes to a Vote to be considered on Wednesday, or for amendments to be proposed to a bill set down for consideration in a committee of the whole House on Wednesday;
  - 2pm on a Wednesday for changes to a Vote to be considered on Thursday, or for amendments to be proposed to a bill set down for consideration in a committee of the whole House on Thursday.

**Administrative arrangements to support the veto power**

***How will the Financial Veto procedure operate?***

- 22 Recognising the potential risks associated with this procedure, Cabinet has decided that:
- there should be a primary point of co-ordination for the government's exercise of the Financial Veto;
  - that point should be the Minister of Finance.

Except in the situation outlined in paragraph 40, all Financial Veto certificates will be issued by the Minister of Finance.

- 23 The Office of the Clerk has undertaken to distribute papers to the following Ministers as soon as possible after they are authorised to circulate them:
- the Office will transmit to the office of the Minister of Finance:
    - i all notices of amendments to bills or changes to Votes to be proposed in a committee of the whole House which are received in reasonable time for transmission before the start of that committee stage;
    - ii all notices of motions which, if passed as resolutions, would have the force of law;
  - the Office will deliver, into the bill box of the Minister whose portfolio or Vote is affected, all notices of amendments to bills or changes to Votes to be proposed in a committee of the whole House which are received before that committee stage begins. These amendments have the date and time of lodging marked on them.
- 24 All notices of amendments to bills or changes to Votes proposed to be moved in a committee of the whole House and received during that committee stage, are handed to the Minister in charge of the bill or Vote.

### **Monitoring responsibilities of Ministers' offices and departments**

- 25 To allow maximum time for decisions about whether to use a Financial Veto, each Minister's office and department must closely monitor all House and select committee developments which affect their Minister's portfolio or Vote and may impact on the government's fiscal aggregates or Vote composition. Information about possible initiatives may also come from consultation with political parties on proposed or current bills.
- 26 Ministers' offices should alert the Minister of Finance's office as early as possible to any such developments or initiatives. Departments should alert their normal point of contact in the Treasury. Chief Executives are responsible for ensuring that their departments have reliable processes which promptly identify initiatives with fiscal implications, and for advising Ministers and the Treasury of those implications. Departments will be required to make assessments of the fiscal implications of initiatives proposed by members of political parties which are not part of the government. These assessments differ from the costing of political party election proposals in that they will be required as part of the normal business of government.
- 27 Early notification will be particularly important where amendments or proposals are to be put forward in a committee of the whole House. Only 24 hours' notice of such amendments or proposals is required, leaving the government less than 24 hours to react. Not even 24 hours' notice occurs if the committee stage of a bill is taken, by leave or under urgency, immediately after the preceding stage. (Procedures for the committee of the whole House stage are discussed further in paragraphs 32-42.)

**Costing responsibilities of The Treasury**

- 28 The Treasury will be responsible for co-ordinating advice to Ministers on the likely cost range of each non-ministerial initiative identified. If limited time is available for Ministers to make a decision about using veto powers, the Treasury's advice on costings will be accompanied by a completed draft veto certificate, in case Ministers decide to veto the initiative. Where more time is available, the Treasury will complete a draft veto certificate only after Ministers have made a decision to veto an initiative.

**Roles of Ministers in veto process**

- 29 It is for Ministers to decide in any particular circumstance what they regard as "more than a minor impact" on the government's fiscal aggregates or Vote composition. Because of the tight timeframe surrounding decisions on the exercise of a Financial Veto, Cabinet has decided that the decision will be made in the first instance by the Minister of Finance and the Minister whose portfolio or Vote is affected by the initiative. Where the decision is to exercise the Financial Veto, the Prime Minister and Leader of the House will be consulted.
- 30 The need for a veto decision could arise at short notice at virtually any time while the House is sitting. All Ministers' offices will therefore need arrangements in place to be able to contact Ministers away from their office, or for other Ministers to act on their behalf in their absence.

**Effect of Veto**

- 31 A veto, once issued, cannot be overturned by the House and an initiative subject to a veto certificate cannot proceed to a vote. The reasons Ministers have given in the veto certificate for exercising the veto may, however, be debated the next time the House is debating the bill, amendment, motion or Vote in respect of which the veto has been exercised.

**Particular care needed during committee of the whole House**

- 32 Particular care will be required by Ministers and departmental officials advising them in two situations which relate to proposed amendments to bills during a committee of the whole House. These situations are:
- where a non-Ministerial Member proposes, without giving the required 24 hours' notice, an amendment which may have an impact on the government's fiscal aggregates;
  - where the committee of the whole House stage of a bill is taken immediately after the preceding stage, either under urgency or by leave.

**Amendments without 24 hours' notice**

- 33 The Office of the Clerk ensures the office of the Minister of Finance receives copies of amendments which are received in reasonable time before the start of the committee stage, and places in the bill box of the portfolio Minister copies of amendments which are received before the committee stage begins. These amendments have the date and time of lodging marked on them.

- 34 The Minister in charge of a government bill, and the officials advising that Minister, will need to examine carefully all the amendments being proposed for which 24 hours' notice has not been given to assess whether an amendment may have an impact on the government's fiscal aggregates.
- 35 The test of whether an amendment for which 24 hours' notice is not given has a fiscal impact is lower than the test for a Financial Veto. A Financial Veto must state with some particularity how the fiscal aggregates are affected; where 24 hours' notice is not given and there is any doubt or possibility that it has a fiscal impact, the amendment is out of order [Speakers' ruling 115/3].
- 36 Proposed changes to a Vote require 24 hours' notice unless the proposed change was recommended in the report of the select committee that examined the Vote.
- 37 The Minister will need to inform the chairperson either informally or by point of order that an amendment for which 24 hours' notice has not been given may have an impact on the fiscal aggregates and should be ruled out of order on the grounds of insufficient notice. However, the Minister may choose not to do so. If this is the case, the amendment may proceed to a vote.
- 38 If the committee of the whole House stage of a bill extends into a subsequent sitting day, amendments which may have been ruled out of order on the grounds of insufficient notice on the first day and which have not yet been dealt with will be in order on a subsequent sitting day. If they are to be ruled out of order on fiscal grounds, a veto certificate will be required.
- 39 During the committee of the whole House stage of bills other than government bills, a similar approach will need to be taken by the Minister required by Standing Order 38 to be present in the House. That Minister will need to ensure that adequate advisory support is available to help assess whether proposed amendments where 24 hours' notice has not been given may impact on the government's fiscal aggregates.

***Where Committee stage immediately follows preceding stage***

- 40 Where the committee of the whole House stage of a bill is taken, under urgency or by leave, immediately after the preceding stage, there is no requirement for 24 hours' notice of amendments that may impact on the government's fiscal aggregates. Amendments may be handed in at the Table at any time up until voting begins. Treasury may not therefore have the opportunity to provide advice on costings or to prepare a draft veto certificate in advance.
- 41 In that case, the Minister in charge of the government bill, or the Minister required to be in the House (in the case of other bills), will need to monitor very carefully any amendments proposed and decide, if necessary, whether to use a Financial Veto and issue a veto certificate on behalf of the Minister of Finance. They must ensure that appropriate advisory support is available to them during the committee of the whole House stage in order to meet the requirement for the fiscal impact to be specified "with some particularity" [Standing Order 319(1)].

- 42 The Leader of the House or the Minister in charge of a bill, before agreeing to take a bill's committee of the whole House stage immediately after the preceding stage, must ascertain from the Minister of Finance and other relevant Ministers that those Ministers and advisory support are in fact available to be consulted on a veto decision if necessary. Ministers who make veto decisions in this situation should, wherever possible, consult the Minister of Finance before doing so, or inform the Minister of Finance as soon as possible afterwards.

***Financial Veto certificates and summary of key steps in exercising Financial Veto***

- 43 Copies of the Financial Veto certificates and of an accompanying sheet setting out the key steps in the Financial Veto procedure are attached in Annex 2 to this circular.

**Financial authority from Cabinet**

- 44 A government decision not to use the Financial Veto on an initiative that affects fiscal aggregates or Vote composition does not remove the requirement for Cabinet approval of any baseline change involved in the initiative before implementing it. Changes to baselines sought as a result of a government decision not to exercise the Financial Veto remain, like all other changes to baselines, subject to the guidelines set out in Cabinet Office Circular, CO (02) 17, "Guidelines for Changes to Baselines", 12 December 2002.

Diane Morcom  
Secretary of the Cabinet

Extract from Standing Orders of the House of Representatives  
(August 2005 edition)

## **CHAPTER VI**

### **FINANCIAL PROCEDURES**

#### **CROWN'S FINANCIAL VETO**

##### **318 Financial veto**

(1) The House will not pass a bill, amendment or motion that the government certifies it does not concur in because, in its view, the bill, amendment or motion would have more than a minor impact on the government's fiscal aggregates if it became law.

(2) In addition, the House will not make a change to a Vote that the government certifies it does not concur in because, in its view, the change would, if made, have more than a minor impact on the composition of the Vote.

(3) In this Standing Order, and in Standing Orders 319 and 320, motion means a motion that, if passed as a resolution of the House of Representatives, would have the force of law.

##### **319 Financial veto certificates**

(1) A certificate by the government not concurring in a bill, amendment or motion on the ground that, in its view, the bill, amendment or motion would have more than a minor impact on the government's fiscal aggregates must state with some particularity the nature of the impact on the fiscal aggregate or aggregates concerned and the reason why the government does not concur in the bill, amendment or motion.

(2) A certificate by the government not concurring in a change to a Vote on the ground that, in its view, the change would have more than a minor impact on the composition of the Vote must state with some particularity the nature of the impact on the composition of the Vote and the reason why the government does not concur in the change.

(3) A certificate is given by delivering it to the Clerk.

(4) Any certificate may be debated on the House's next consideration of the bill, amendment, motion or Vote.

(5) The government may withdraw a certificate at any time by notifying the Clerk in writing.

**320 Application of financial veto rule to bills and motions**

(1) A certificate relating to a bill may be given only when the bill is awaiting its third reading.

(2) The certificate may relate to the bill as a whole or to a particular provision or provisions of the bill.

(3) The Speaker will not put any question for the third reading of a bill to which such a certificate relates unless the House has first amended the bill to remove any provision that the government has certified that it does not concur in.

(4) A certificate relating to a motion may be given before the motion is moved. Where a certificate is given, the motion is out of order and no question is put on it.

**321 Application of financial veto rule to amendments to bills and changes to Votes**

(1) A certificate relating to amendments recommended to a bill by a select committee may be given before the House agrees to those amendments. Where a certificate is given, those amendments are omitted from the bill.

(2) A certificate relating to an amendment to a bill or a change to a Vote to be proposed by a member in a committee of the whole House may be given before the question on the amendment or change is put. Where a certificate is given, the amendment or change is out of order and no question is put on it.

(3) A certificate relating to amendments recommended to a bill by a select committee also applies to those amendments if proposed in a committee of the whole House.

**322 Notice of amendment to bill or change to Vote**

(1) Any member intending to propose an amendment which may have an impact on the government's fiscal aggregates or to move a change to a Vote must give notice of the amendment or change by lodging it with the Clerk at least 24 hours before the House meets on the day on which the amendment is to be proposed or the change is to be moved. In the case of a motion to change a Vote, 24 hours' notice is not required where the proposed change was recommended in the report of the select committee that examined the Vote.

(2) If a member seeks to propose an amendment or move a change to a Vote without having given the required notice of it, the amendment or change is out of order and no question is put on it.

(3) This Standing Order applies in respect of an amendment to a bill only when the bill is set down for consideration in committee on the next sitting day.

## Financial veto key steps and checklist

### In deciding whether to exercise Financial Veto

- Get assessment of proposal's fiscal impact from the Treasury (except where a decision has to be made urgently in a committee of the whole House)
- Consult and reach agreement with the Minister of Finance and portfolio Minister on whether to exercise financial veto (except where decision must be made urgently in a committee of the whole House and the Minister of Finance is unable to be contacted)
- Where decision is to exercise the financial veto, consult with Prime Minister and Leader of the House

### Initials




### In exercising Financial Veto

- Complete veto certificate for signature by the Minister of Finance (or by another Minister if certificate must be issued urgently in a committee of the whole House)
- **In the case of a bill, an amendment to a bill or a motion**, certificate must state the nature of the impact of the particular proposal being vetoed on one or more Crown's fiscal aggregates (total operating expenses, total operating revenues, Crown's operating balance, total Crown debt, Crown net worth). This may include the cumulative impact of all such proposals in a financial year
- **In the case of a proposed change to a Vote**, certificate must state the nature of the impact of the particular proposal being vetoed on the composition of the Vote concerned (that is, on its size and/or on the mix of the appropriations it contains) and the reason why the government does not concur in the change
- Lodge veto certificate with the Clerk or the Deputy Clerk of the House or (in an emergency in the House) with the Clerk at the Table
- If veto certificate has been issued by a Minister other than the Minister of Finance and the Minister of Finance has not been consulted in advance, inform the Minister of Finance as soon as possible
- Inform the Prime Minister, and the Leader of the House of decision to exercise veto, if they have not already been involved in the decision or consulted



## **Certification Under Standing Order 319 relating to a Bill**

Under Standing Order 319, the government does not concur in the following provisions of the [Title of Bill]

Bill in the name of [Name of Member]

MP:

**Provision(s) not concurred in:**

**Impact on fiscal aggregate(s) concerned and reason for the government not concurring:**

In the government's view, these effects have more than a minor impact on the Crown's fiscal aggregates and for this reason the government does not concur in the provisions specified above.

Minister of Finance  
Date:



## **Certification Under Standing Order 319 relating to amendments recommended by a select committee**

Under Standing Order 319, the government does not concur in the following amendments recommended to the [Title of Bill]

Bill by the [Name of Committee]

Committee:

**Recommended amendment(s) not concurred in:**

**Impact on fiscal aggregate(s) concerned and reason for the government not concurring:**

In the government's view, these effects have more than a minor impact on the Crown's fiscal aggregates and for this reason the government does not concur in the provisions specified above.

Minister of Finance

Date:



**Certification Under Standing Order 319 relating to  
amendments proposed to be moved in a committee of the  
whole House**

Under Standing Order 319, the government does not concur in the following amendments proposed to the [Title of Bill]

Bill in a committee of the whole House:

**Proposed amendment(s) not concurred in, and member(s) proposing to move amendment(s):**

**Impact on fiscal aggregate(s) concerned and reason for the government not concurring:**

In the government's view, these effects have more than a minor impact on the Crown's fiscal aggregates and for this reason the government does not concur in the amendments specified above.

Minister of Finance  
Date:



## Certification Under Standing Order 319 relating to a motion

Under Standing Order 319, the government does not concur in the following motion:

### **Motion not concurred in:**

Members' notice of motion number [insert number of motion]  
in the Order Paper for [Date of Order Paper]  
in the name of [Name of Member]

MP.

### **Impact on fiscal aggregate(s) concerned and reason for the government not concurring:**

In the government's view, these effects have more than a minor impact on the Crown's fiscal aggregates and for this reason the government does not concur in the motion specified above.

Minister of Finance  
Date:



## **Certification Under Standing Order 319 relating to a change to a Vote**

Under Standing Order 319, the government does not concur in the following  
change to Vote [Name of Vote]

proposed by [Name of Member]

MP:

**Change not concurred in:**

**Nature of impact on composition of Vote and reason for the  
government not concurring:**

In the government's view, these effects have more than a minor impact on  
the composition of Vote: and for this reason the government does not concur  
in the proposed change specified above to Vote.

Minister of Finance

Date: