

Proactive Release

Published on or before: 05/11/2024

The following Cabinet papers and related Cabinet minutes have been proactively released by the Minister of Foreign Affairs

| Title | Reference |
|--|------------------|
| <i>Cabinet Minute of Decision – Public Finance (Pacific Co-operation Foundation) Order 2024</i> | CAB-24-MIN-0376 |
| <i>Cabinet Legislation Minute of Decision – Public Finance (Pacific Co-operation Foundation) Order 2024</i> | LEG-24-MIN-0187 |
| <i>Public Finance (Pacific Co-operation Foundation) Order 2024</i> | |



Cabinet

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Report of the Cabinet Legislation Committee: Period Ended 20 September 2024

On 23 September 2024, Cabinet made the following decisions on the work of the Cabinet Legislation Committee for the period ended 20 September 2024:

LEG-24-MIN-0187 **Public Finance (Pacific Co-operation Foundation) Order 2024** CONFIRMED
Portfolios: Foreign Affairs / Finance

Proactively Released by the
Minister of Foreign Affairs

Diana Hawker
for Secretary of the Cabinet

Proactively Released by the
Minister of Foreign Affairs



Cabinet Legislation Committee

Minute of Decision

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Public Finance (Pacific Co-operation Foundation) Order 2024

Portfolio Foreign Affairs, Finance

On 19 September 2024, the Cabinet Legislation Committee:

- 1 **agreed** to remove the Pacific Co-operation Foundation from Schedule 4 of the Public Finance Act 1989 on the grounds that the Crown no longer has the power to appoint a majority of the trustees;
- 2 **noted** that the Public Finance (Pacific Co-operation Foundation) Order 2024 (the Order) will give effect to the decision in paragraph 1 above;
- 3 **noted** that the Minister of Finance will provide further advice on the Pacific Co-operation Foundation's future trustee appointment process;
- 4 **authorised** the submission to the Executive Council of the Public Finance (Pacific Co-operation Foundation) Order 2024 [PCO 26632/9.0];
- 5 **noted** that the Order comes into force on 24 October 2024.

Tom Kelly
Committee Secretary

Present:

Rt Hon Winston Peters (Chair)
Hon Nicola Willis
Hon Shane Jones
Hon Brooke van Velden
Hon Dr Shane Reti
Hon Erica Stanford
Hon Judith Collins KC
Hon Mark Mitchell
Hon Tama Potaka
Hon Casey Costello
Hon Nicole McKee
Hon Matt Doocey
Hon Andrew Bayly
Hon Scott Simpson, MP
Jamie Arbuckle, MP
Todd Stephenson, MP

Officials present from:

Officials Committee for LEG
Prime Minister's Office

~~In Confidence~~

Office of the Minister of Foreign Affairs

Office of the Minister of Finance

Chair, Cabinet Legislation Committee

Public Finance (Pacific Co-operation Foundation) Order 2024

Proposal

- 1 This paper seeks authorisation for submission to the Executive Council secondary legislation by way of Order in Council to remove the Pacific Co-operation Foundation (PCF) from Schedule 4 of the Public Finance Act 1989.

Policy

- 2 This Order in Council is intended to remove the Pacific Co-operation Foundation (PCF) from Schedule 4 of the Public Finance Act 1989. This follows the Crown's decision to end its core funding to PCF as of 30 June 2024 and subsequent agreement to changes in the PCF's Trust Deed that remove the requirement that future trustees be appointed by the Minister of Foreign Affairs or any other Crown Minister, instead vesting the power of appointment in the trustees by unanimous resolution.
- 3 Under section 3A(1)(e) and (2)(c) of the Public Finance Act 1989 the Governor-General may amend Schedule 4 to remove the name of an organisation, by Order in Council made on the recommendation of the Minister, if the Minister is satisfied that the Crown no longer has the power to appoint a majority of the trustees, as is now the case with the PCF.
- 4 The effect of the Order in Council would remove the requirement for the PCF to prepare an annual Statement of Performance Expectations and allow the PCF to operate without the statutory reporting obligations set forth by the Crown Entities Act 2004. This is appropriate given the removal of the Crown's powers in the PCF Trust Deed.
- 5 This Order in Council does not require any new policy decisions.

Timing and 28-day rule

- 6 We propose that the regulations enter into force on 24 October 2024, at least 28 days after they are notified in the *New Zealand Gazette*.

Compliance

- 7 The proposed amendment is consistent with:
- 7.1 the principles of the Treaty of Waitangi;
 - 7.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
 - 7.3 the principles and guidelines set out in the Privacy Act 2020; and,
 - 7.4 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.

Regulations Review Committee

- 8 Officials believe there are no grounds for the Regulations Review Committee to draw the regulations to the attention of the House of Representatives as a Standing Order requirement.

Certification by Parliamentary Counsel

- 9 The draft regulations were certified by the Parliamentary Counsel Office (PCO) as being in order for submission to Cabinet.

Impact Analysis

- 10 The Ministry for Regulation's Regulatory Impact Analysis team has determined that this proposal is exempt from the requirement to provide a Regulatory Impact Statement in accordance with CO (20) 2.

Publicity

- 11 No publicity is planned. The PCF may release a press statement to clarify their new governance arrangements once the changes come into effect.

Proactive release

- 12 The Minister of Foreign Affairs and the Minister of Finance intend to release this paper proactively in whole or part within 30 business days of final decisions.

Consultation

- 13 As this is a routine change to Schedule 4 of the Public Finance Act, consultation has been confined to the Treasury and Ministry of Foreign Affairs and Trade.

Recommendations

- 14 We recommend that the Cabinet Legislation Committee:
- 1 note that on 19 September 2024 the Cabinet Legislation Committee agreed to the removal of the Pacific Co-operation Foundation from Schedule 4 of the Public Finance Act 1989 on the grounds that the Crown no longer has the power to appoint a majority of the trustees;
 - 2 note that the Public Finance (Pacific Co-operation Foundation) Order 2024 will give effect to the decision referred to in paragraph 1 above;
 - 3 authorise the submission to the Executive Council of the Public Finance (Pacific Co-operation Foundation) Order 2024;
 - 4 note that the Public Finance (Pacific Co-operation Foundation) Order 2024 come into force on 24 October 2024;

Authorised for lodgement

Rt Hon Winston Peters

Minister of Foreign Affairs

Hon Nicola Willis

Minister of Finance