

# Caretaker Government Conventions

The following guidelines were issued by the Department of Prime Minister and Cabinet following the calling of the 1998 Election.

## THE HANDLING OF BUSINESS - 1998 ELECTION PERIOD

The following notes are for guidance only in the handling of business during the caretaker period, ie between the dissolution of the House of Representatives at 12 noon on Monday, 31 August 1998, and the time when the election result is clear. Where questions or difficulties arise, these should be discussed in the first instance with:

‡ John Doherty (telephone 6271 5532)  
Assistant Secretary  
Legal and Culture Branch; or

‡ Barbara Belcher (telephone 6271 5786)  
A/g First Assistant Secretary  
Government Division.

Queries received from other departments and agencies should also be referred to one of these officers.

## Caretaker Conventions

1. In a general sense the business of government must continue during the election period and ordinary matters of administration are still dealt with. However, under the caretaker conventions, governments have refrained from certain activities during an election period, and some matters have been deferred until after the election.
2. In summary, the conventions are:

(a) following the dissolution, the Government assumes a "caretaker" role and avoids:

- taking major policy decisions likely to commit an incoming government;
- making appointments of significance; and
- entering major undertakings or contracts.

(b) in the case of appointments of significance due to take effect after the date of dissolution, ministers should:

- defer the appointment; or
- if an appointment needs to be made for continuity purposes, appoint for a short term only to carry through until after the election period; or,
- if a short term appointment is not practicable, appoint for the full term following consultation with the relevant Opposition spokesperson.

(c) some government advertising campaigns may need to be suspended or curtailed depending on the nature of the campaign.

(d) consultation by the Opposition with departmental officers should be consistent with the guidelines in Attachment A (that form part of the tabled *Guidelines for Official Witnesses Before Parliamentary Committees and Related Matters*).

(e) particular cases where ministers may be in doubt on the application of the caretaker conventions should be raised by the minister with the Prime Minister's office.

3. In relation to the foregoing, any proposals, including borderline cases, which may involve new policy initiatives or appointments should be raised in the first instance with John Doherty or Barbara Belcher. To ensure consistency of approach, officers should take particular care to refer queries from other departments and agencies on these matters to one of those two officers. A general description of the application of the caretaker conventions is contained in the department's 1986-87 annual report (pp 39-44). Note also that the *Guidelines on Official Conduct of Commonwealth Public Servants*<sup>1</sup> deal with the position of public servants and the Government during the pre-election period (chapter 1, page 11).

### **Correspondence**

4. In the case of external correspondence, the general principle is that correspondence should be answered now rather than left to accumulate. Correspondence which would normally be signed by the Prime Minister, and because of its contents or the office held by the correspondent, should not be signed by officials, may be signed by a Minister Assisting or the Parliamentary Secretary. Such correspondence should be kept to a minimum and channeled through Myra Croke, Senior Adviser, Parliamentary and Government Branch.
5. Replies simply explaining previous government action can be signed by Malcolm Hazell in the Prime Minister's office, or a departmental officer, depending on the level of signature required. In all cases where no issue of policy arises (for example, in relation to the preparation of replies to routine incoming correspondence), departmental replies should be prepared.
6. Replies should not assume that the Government will or will not be returned to office and must not commit the Government to post-election action. Any necessary reference to post-election action should be in terms of the "incoming government". After the dissolution it may be appropriate in occasional circumstances to include a sentence along the lines of:

"The matter you raised is one that will be taken up with the incoming government."

7. Letters that require replies explaining government policy should either be referred to the relevant minister for reply or replied to substantively without committing the Government to post-election action or implying that the policy will continue if the Government is re-elected. It is not sufficient merely to say that the matters is one for the incoming government, although the substantive reply may contain these words to avoid any implication of continuing policy.

### **Tabling of and Responses to Reports**

8. Responses to outstanding parliamentary committee reports are to be taken up with the incoming government. Departments should, however, undertake as much ground work and consultation at the departmental level as appropriate during the caretaker period so they are in a position to provide early advice to the incoming government.
9. Reports of an administrative nature, eg annual reports, can be tabled out of session during the caretaker period. Where a report contains information that is likely to be controversial, tabling should be delayed until after the caretaker period.

### **Forms of Address**

10. To avoid confusion, and as a matter of courtesy, members of the House of Representatives who are standing for re-election should continue to be addressed as "MP" until it is known whether they have been re-elected. Newly elected members should be addressed as "MP" as soon as it is known they are elected. Members who are not standing for re-election should not be addressed as "MP" following the dissolution of the House of Representatives. The Parliamentary and Government Branch and the Ministerial Correspondence Unit will be able to provide advice on which Members are not seeking re-election.
11. The same rules apply to senators for the Northern Territory and the Australian Capital Territory, with the exception that retiring Territory senators may continue to be addressed as "Senator" up until election day.
12. Different rules apply to senators for the States. State senators who are facing election (the election is for half the Senate) will continue in office at least until 30 June 1999 and should continue to be addressed as "Senator".
13. Senators who resign before the election (for example, to contest a House of Representatives seat) should not be addressed as "Senator" from the date that nominations for the House of Representatives close (Thursday, 10 September 1998). Paragraph 11 above applies to them if they are elected to the House of Representatives.

### **Publications and Internet Websites**

14. Any programmes for distributing publications or pamphlets should be reviewed at the commencement of the caretaker period in accordance with the guidance outlined in Attachment B. These policies are aimed at avoiding unnecessary controversy over the distribution of material, which may be seen as political. Care also needs to be exercised about the content of information displayed on Internet websites maintained at Commonwealth expense. The relevant principles are outlined in Attachment C.

### **Political Participation by Officers**

15. The attention of officers is drawn to the *Guidelines on Official Conduct of Commonwealth Public Servants*<sup>1</sup>, particularly the sections on "Participating in Political Activities" (chapter 6) and "Use of Official Facilities" (chapter 10). Attachment D provides guidance on the use of departmental premises for electioneering.
16. Officers should ensure that no use is made of official facilities for promotion of a political party. Distribution of literature purporting to represent the views of a political party in the forthcoming election is not permitted within the precincts of this building.

## **Departmental Liaison Officers**

17. Departmental Liaison Officers are provided by departments to assist ministers' offices with necessary liaison work. Insofar as there is ongoing work of that kind for them during the campaign they may remain with ministers' offices. They are, however, public servants and not Members of Parliament (Staff) Act employees. As such, it is important that they understand that their duties do not extend to assisting in ways which could lead to allegations that public servants are being employed for party political purposes.

## **Requests from Ministers' Offices for Material**

18. Material relating to the day to day business of government is supplied to ministers in the usual way. Requests for factual material, including factual material to be incorporated in speeches, are also met.
19. Relevant guidelines can be found in the section on "Public Servants and the Government during the pre-election period" (chapter 1) in the *Guidelines on Official Conduct of Commonwealth Public Servants*<sup>1</sup>.
20. It has been established practice that relevant departments may be asked to cost government and opposition policy proposals. Since the passage of the *Charter of Budget Honesty Act 1998*, there is a new framework for the costing by the Departments of the Treasury and Finance and Administration of Government and Opposition election commitments. The framework applies only to those two departments and only in relation to the commitments of the Government and Opposition. A more detailed description of the implications of the Charter is in Attachment E.

## **Caretaker Conventions relating to Cabinet Papers**

21. In relation to Cabinet records, successive governments have followed the convention that such papers are confidential to the government that created them and access to them by succeeding governments drawn from different political parties would not normally be given.
22. Consistent with this and against the background of the need to give the necessary assurance to the Government about the custody of its papers, all Cabinet papers, including Cabinet files, Submissions, Memorandums, Minutes, Business Lists and Notebooks are to be returned to the Cabinet Secretariat, as soon as possible. All such papers are to be in the custody of the Cabinet Secretariat by close of business on Monday, 14 September 1998. Where an officer then requires access before polling day, approval should be sought from Tim Hainsworth, Cabinet Secretariat (telephone 6271 5318), to whom any other enquiries regarding Cabinet documents should be directed.
23. Similar arrangements are to apply to draft Cabinet documents including Draft Cabinet Document files.

## **Material for the Prime Minister**

24. From now on, only material of the highest priority or material specifically requested by the Prime Minister should be forwarded to him. In all cases, it must be channeled through Myra Croke who will obtain the necessary clearance from the Secretary, the

Acting Secretary or from one of the Executive Co-ordinators. If urgent material is sent directly to the Prime Minister, a copy must be sent to the Prime Minister's office in Canberra.

M W Moore-Wilton  
Secretary

30 August, 1998

### **Attachment A**

#### **GUIDELINES FOR PRE-ELECTION CONSULTATION WITH THE OPPOSITION**

- (i) The pre-election period is to date from three months prior to the expiry of the House of Representatives or the date of announcement of the House of Representatives election, whichever date comes first. It does not apply in respect of Senate elections only.
- (ii) Under the special arrangement, shadow ministers may be given approval to have discussions with appropriate officials of government departments. Party leaders may have other Members of Parliament or their staff members present. A departmental Secretary may have other officials present.
- (iii) The procedure will be initiated by the relevant Opposition spokesperson making a request of the minister concerned, who is to notify the Prime Minister of the request and whether it has been agreed.
- (iv) The discussions will be at the initiative of the non-government parties, not officials. Officials will inform their ministers when the discussions are taking place.
- (v) Officials will not be authorized to discuss government policies or to give opinions on matters of a party political nature. The subject matter of the discussions would relate to the machinery of government and administration. The discussions may include the administrative and technical practicalities and procedures involved in implementation of policies proposed by the non-government parties. If the Opposition representatives raised matters which, in the judgement of the officials, sought information on government policies or sought expressions of opinion on alternative policies, the officials would suggest that the matter be raised with the minister.
- (vi) The detailed substance of the discussions will be confidential but ministers will be entitled to seek from officials general information on whether the discussions kept within the agreed purposes.

### **Attachment B**

#### **INFORMATION CAMPAIGNS DURING THE ELECTION PERIOD**

The relevant legislation governing the conduct of information campaigns during the election period is:

- the *Broadcasting Services Act 1992*, section 42, for radio and television broadcasts; and
- the *Electoral Act 1918*, section 328, for printed material.

In broad terms, the legislation requires authorisation details to be provided with any advertisement or literature which is actively distributed and contains material likely to affect voting in an election. In general, Departments should discontinue campaigns to distribute such material during the caretaker period.

#### **For paid advertising on radio, TV or newspapers (including inserts)**

- In general, the Ministerial Committee on Government Communications (MCGC) will have approved all advertising campaigns.
- In accordance with previous practice, the Office of Government Information and Advertising (OGIA) in the Department of Finance and Administration and PM&C will review all campaigns at the commencement of the caretaker period and provide a recommendation on those campaigns which should cease, continue or be placed on hold until after the election.
- Bipartisan agreement will be sought for those campaigns which are to continue.
- Generally, the types of campaign that do continue are those of a clear community benefit, such as Defence Force recruitment or public health campaigns.

#### **For printed material (other than advertising)**

- Departments and agencies should review arrangements for distribution of printed material at the beginning of the election period and avoid active distribution (for example, bulk mail out) of any material which is likely to affect voting during the caretaker period. Passive display and distribution (for example, in an agency's offices or in response to individual requests) can continue.

For further information contact the Office of Government Information and Advertising on (02) 6263 3486

### **Attachment C**

#### **INTERNET AND ELECTRONIC COMMUNICATION ISSUES IN CARETAKER PERIOD**

The following information should be taken as a broad guide only, as individual departments have adopted different arrangements for what is placed on departmental websites, ministerial websites and electronic bulletin boards. Individual issues should be addressed on a commonsense basis, having regard to the principles underlying the caretaker conventions and the general directions indicated below.

## Ministerial websites

- Where a department currently maintains, or funds the maintenance of, the minister's website, that should continue, but only matters of existing ministerial/government policy should be placed on the website **by the department**.

(i) The following material should not be added to the minister's homepage by the department:

(a) future policies, election commitments and how-to-vote material; or

- a. political media releases, speeches or transcripts of interviews that include criticism of opponents, promote the government or its policies generally, or pursue an argument arising in the campaign.

(ii) Purely factual material, including costings prepared and published under the Charter of Budget Honesty Act, would appropriately be added to the website by the department.

(iii) The following material may be retained on the minister's website:

(a) any material placed on the minister's homepage before the caretaker period (this material should not be up-dated by the department to reflect developments during the campaign unless the updates are purely factual and relate to existing policy); and

(b) links between the minister's website and the department's website.

(iv) Consideration might be given to indicating on ministerial websites that election-related material is not being placed on the site and that the websites of political parties can be checked for further information (note that ministers may add material to their website, subject to the limitations set out below). The address of the website of the minister's Party, or a link to that website may be given.

- Ministers and ministerial staff may add any material, in addition to factual information on existing policies, to the minister's website provided that:

(i) there is no cost to the Commonwealth for the addition of the material; and

(ii) a disclaimer is added to the effect that, since the commencement of the caretaker period, the maintenance of the website has become the responsibility of the minister or minister's staff, rather than being with the public service.

- Where a minister's website is personal, and not maintained by the department, a disclaimer should be placed on the website to avoid assumptions that Commonwealth resources are being used to communicate political material.

## Departmental websites

- Ongoing portfolio-related announcements may be placed on the departmental website if that is the usual practice.

- Definition of "portfolio-related" will require judgement within each department, but PM&C guidance distinguishes between election promises (not to be placed on the departmental website) and a press release giving information on an event or decision relevant to existing government policy.
- Purely factual material, including costings prepared and published under the Charter of Budget Honesty Act, would appropriately be placed on the website.
- Information on existing policies would normally be acceptable, including material promoting an existing programme unless it included attacks on opponents or other political material.
- Material on the website before the commencement of the caretaker period would in most cases remain. Exceptions might be recent ministerial statements that criticised the Opposition, not on an individual policy issue, but in broad and strong terms.
- Any material on the website, including the wording on icons and links, that is not portfolio-related and purely factual should be removed.

### **Electronic Bulletin Boards and E-mail**

- Departments should ensure that any electronic bulletin boards and E-mail systems provided by the Department for staff are not used to publish political material. The objectives are to avoid disharmony in the workplace and any perception that official facilities are available for use for partisan purposes.
- Material from political parties and how-to-vote material, whether produced by a union, a church or any other organisation should not be displayed.

The Public Service Commissioner's *Guidelines on Official Conduct of Commonwealth Public Servants*<sup>1</sup> as they relate to displaying of political material also provide guidance to staff.

### **Attachment D**

#### **USE OF DEPARTMENTAL PREMISES FOR ELECTIONEERING**

There may be occasions where public service premises can appropriately be used by political parties for public events, such as media conferences, or where they are the obvious place for a function (for example, the opening of a building by a minister or parliamentary secretary). In the latter case, it would generally be appropriate for the Opposition member or candidate to be given the opportunity to be present.

While there should be no difficulty, therefore, with the responsible use, by all parties campaigning in an election, of premises that are normally open to the public, it is most important during an election campaign that public servants not become caught up with party political activity. For that reason, it is not appropriate that use of premises extend to such activities as engaging public servants in political dialogue, or using public servants for



logistical support for political functions. Nor, of course, should use of premises unreasonably disrupt the normal operations of the offices concerned.

Ministerial visits to departments for consultations would, of course, be in order for the conduct of routine government business, in accordance with the caretaker conventions.

## **Attachment E**

### **CHARTER OF BUDGET HONESTY: IMPLICATIONS FOR PORTFOLIOS**

The Charter of Budget Honesty was enacted by Parliament on 25 March 1998 to improve fiscal outcomes through greater fiscal discipline, transparency and accountability.

The Charter of Budget Honesty requires the preparation and public release of a Pre-Election Economic and Fiscal Outlook Report. It also provides a framework for the costing of Government and Opposition election commitments.

#### **Pre-Election Economic and Fiscal Outlook Report**

When a general election is called, the Secretaries of the Departments of the Treasury and Finance and Administration are required to release publicly a Pre-Election Economic and Fiscal Outlook Report within 10 days of the issue of the writs for the election.

The report will include updated budget estimates and the risks to the fiscal outlook. Accordingly, all spending decisions and commitments made by the Government will be made public before the election, as will all material fiscal risks.

To assist the Secretaries in their task, the Treasurer and the Minister for Finance and Administration are required to disclose to the responsible Secretaries details of any Government decision or any circumstance that the Ministers know about that has fiscal or economic implications and about which the responsible Secretaries could not be expected to know.

Commonwealth bodies are obliged to comply with any request made by the Secretaries for information to be used in the preparation of the report, unless this contravenes another Commonwealth law.

#### **Costings of Election Commitments covered by the Charter**

During the caretaker period for a general election, the Prime Minister or the Leader of the Opposition may request the Secretaries of the Departments of the Treasury and Finance and Administration to prepare costings of their respective publicly announced policies. The Prime Minister can ask only for costings of the Government's publicly announced policies and the

Leader of the Opposition (through the Prime Minister) can ask only for costings of the Opposition's publicly announced policies.

In preparing the costings, the Secretary to the Department of the Treasury is responsible for the aspects of a policy which affect revenue and the Secretary to the Department of Finance and Administration is responsible for the aspects of a policy which affect government outlays and expenses. The costings are to be released publicly by the Secretaries as soon as practicable.

The Secretaries of the Departments of the Treasury and Finance and Administration, as envisaged by the Charter of Budget Honesty, have prepared guidelines on procedures to be followed in costing election commitments. These guidelines will be issued before or at the commencement of the caretaker period.

### **Policy costings not covered by the Charter**

Costings outside the caretaker period. The costings provisions of the Charter of Budget Honesty are restricted to the caretaker period, and to the policies of the Government and Opposition. Outside the caretaker period, and consistent with established convention, the Government may ask the Department of the Treasury, the Department of Finance and Administration, or any other relevant agency, to cost any policies of the Government, the Opposition, minor parties or independents.

Costing information produced by other departments on Government or Opposition policies. During the caretaker period it would still be appropriate and within the caretaker conventions for departments other than Treasury and Finance and Administration to b