



Cabinet Office

CO (11) 04

Circular

23 September 2011

Intended for

- All Ministers
- All Chief Executives
- All Senior Private Secretaries
- Speaker of the House of Representatives
- Chief Parliamentary Counsel
- Controller and Auditor-General
- Chief Ombudsman
- Official Secretary, Government House

Management of parliamentary business after the dissolution of Parliament

Introduction and key points

- 1 This circular provides guidance on the management of parliamentary business after Parliament has been dissolved.
- 2 The key points are:
 - 2.1 all parliamentary business will lapse on 20 October 2011, when Parliament is dissolved, but may be reinstated in the next Parliament by a resolution of the House;
 - 2.2 to assist the government in deciding which business will be proposed for reinstatement, departments should advise incoming Ministers of the implications of reinstating or not reinstating particular items of business;
 - 2.3 during the period between the dissolution of one Parliament and the opening of the next (the interregnum), departments need to be aware of the requirements relating to publishing papers and reports, the release of select committee information, and correspondence to select committees. Advice on these issues is provided in this circular at [paragraphs 9 to 15](#).

Lapse and reinstatement of parliamentary business

Lapse of parliamentary business

- 3 [Section 20 of the Constitution Act 1986](#) provides that all parliamentary business before the House or its committees lapses on the dissolution or expiration of that Parliament, but may be reinstated in the next session of Parliament by a resolution of the House. This provision enables the new House to determine which business it will consider.
- 4 The 49th Parliament will be dissolved on Thursday, 20 October 2011. All parliamentary business before the 49th Parliament will then lapse.

Items for reinstatement

- 5 Past experience of the extent of business that was carried over to or reinstated in a new Parliament suggests that the majority of business before the 49th Parliament will be reinstated in the 50th Parliament. To assist with the reinstatement process, departments are expected to advise their Minister(s) on:
- 5.1 the items of parliamentary business within their Minister's portfolio that will lapse on 20 October 2011; and
 - 5.2 the implications of a decision to reinstate or not to reinstate an item of business.
- 6 Departments may wish to consider including this advice in their briefing for their incoming Minister(s). The Cabinet Office, assisted by the Office of the Clerk, will provide the Leader of the House with a schedule of business that has lapsed and is available for reinstatement, to assist in deciding the business to be proposed for reinstatement to the House.
- 7 The Office of the Clerk of the House of Representatives will compile a list of items of parliamentary business that will lapse on dissolution. The list will be available on [Parliament's website](#).

Stage at which parliamentary business is resumed

- 8 The [Standing Orders](#) provide that parliamentary business is resumed at the stage that it had reached in the previous Parliament (SO 79). Departments may wish to note the following timing guidelines:
- 8.1 *select committee reporting dates* – select committee final reporting dates on Bills that are reinstated in the 50th Parliament will be addressed by the Business Committee in the new Parliament;
 - 8.2 *government responses to select committee reports* – government responses to select committee reports that were presented in the previous Parliament, and which are reinstated in the new Parliament, will be due 90 days after the report was presented in the previous Parliament (see SO 248), excluding the days between 20 October 2011 (the day Parliament is dissolved) and the date of reinstatement. The Cabinet Office will liaise with Ministers' offices about the timing of government responses, and will advise on the date of the reinstatement motion (when it is known).

Issues arising during the interregnum

- 9 The interregnum is the period between the dissolution of one Parliament and the opening of the next. Ministers and departments need to be aware of the process for managing the publication of reports, the confidentiality of lapsed select committee business, and correspondence with select committees during this period.

Publishing papers and reports after the dissolution of Parliament

- 10 Papers cannot be presented to the House during the interregnum. Ministers may, however, be required by statute to publish reports or papers during this period. Departments need to be aware of any statutory requirements of this nature, and advise their Minister accordingly. If there is a specific statutory requirement to publish a report or paper before it is presented to the House, the report or paper may be delivered to the Office of the Clerk of the House of Representatives (Bills Office). The usual arrangements must be made for the report or paper to be presented to the House when the new Parliament meets.
- 11 Reports or papers that are not required by statute to be published before presentation should be retained by departments until the government is appointed. When the new Parliament meets, the report or paper can be presented to the House in the usual way.
- 12 The Office of the Clerk has issued guidance on presenting papers up to the dissolution of Parliament and on the publishing of annual reports after the dissolution (attached, at [Appendix One](#)). This guidance is also published on Parliament's website.

Confidentiality of lapsed select committee business

- 13 The [Standing Orders](#) provide that all select committee proceedings remain confidential through the interregnum, until nine sitting days into the new Parliament. Confidentiality will cease after the ninth sitting day of the new Parliament, unless the House resolves to reinstate the select committee business or the committee concerned decides to readopt it (see SO 237). This provision preserves the confidentiality of select committee information and allows committees in the new Parliament to consider whether or not to reactivate inquiries that were before the committees of the previous Parliament.
- 14 To avoid being in contempt of the House, departments (and other agencies that are subject to the Official Information Act 1982) that hold or have access to select committee information should refuse any requests for access to this material made after 20 October 2011 and before the nine sitting days into the 50th Parliament, under [section 18\(c\)\(ii\) of the Official Information Act 1982](#). Departments could also check with staff from the Select Committee Office and refer to them any requests for evidence that has already been released.

Correspondence with select committees

- 15 Departments are asked to direct any correspondence to select committees (e.g. outstanding requests for information or advice) during the interregnum to the Office of the Clerk of the House of Representatives, not to select committees (which no longer exist) or their chairpersons. Any correspondence received by the Office of the Clerk during the interregnum will be held in the custody of the Clerk until the 50th Parliament meets, select committees are established, and the correspondence can be referred to the appropriate committee.

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Appendix One

13 September 2011

Officers of Parliament
General Manager, Parliamentary Service
Chief Parliamentary Counsel
Chief Executives, Government Departments
Chief Executives, Crown entities
Chief Executives, State-Owned Enterprises
Chairperson, Abortion Supervisory Committee
Senior Private Secretaries

Questions for written answer, presentation of papers and the dissolution of Parliament

The purpose of this memorandum is to provide departments and Ministers' offices with information about the lodging of questions for written answer and presentation of parliamentary papers during the period leading up to the end of a Parliament. A Parliament is dissolved by proclamation issued by the Governor-General. The proclamation states the date of dissolution. All business before the House lapses when the Parliament is dissolved.

Questions for written answer

Questions for written answer can be lodged and will be circulated to Ministers' offices in the normal way up to 10.30am on the day of dissolution.

Replies to questions for written answer

Replies to questions for written answer will be accepted up to the time of dissolution. Replies will continue to be published to the website for three days after dissolution to ensure all replies lodged are published. After that time all questions which have not had replies lodged will be shown on the website as "Parliament dissolved: no reply received".

Questions for written answer and their replies will remain accessible on the Parliament website.

Enquiries suze.jones@parliament.govt.nz or 817 9017

Papers

Papers may be presented to the House up to the time of the dissolution. The fact that a paper has been presented will be recorded in the *Parliamentary Bulletin*, and the paper will be published on the Parliament website.

Publishing of annual reports after dissolution

Once Parliament is dissolved it will not be possible to present annual reports to the House until the new Parliament meets. However, annual reports are required to be published. The following provisions govern this process:

- Section 44 of the Public Finance Act 1989 requires departments to publish their annual reports if they have not been presented to the House no later than 15 working days after the audit report has been provided by the Auditor-General under section 45D of that Act. A notice that a report has been published must be inserted in the *Gazette*.
- Section 150(4) of the Crown Entities Act 2004 requires Crown entities to publish their annual reports of Crown no later than 10 working days after the report is received by the responsible Minister.
- Section 17(2A) of the State-Owned Enterprises Act 1986 requires responsible Ministers to cause the annual reports, audited financial statements and audit reports of State enterprises to be published if they have not been presented to the House within five weeks of the responsible Minister receiving all of them. A notice that the statements have been published must be inserted in the *Gazette*.

The copies of annual reports required for the House may be delivered to the Office of the Clerk (Bills Office) once the notice of their publication has been published in the *Gazette*. However, Ministers' offices will still need to make arrangements in the usual manner for annual reports to be presented to the House when the new Parliament meets. See instructions on the Parliament website: www.parliament.nz/en-NZ/PB/Presented/

The legal protection conferred on parliamentary papers by the Legislature Amendment Act 1992 will not apply to such papers until they are presented to the House. There is no opportunity for this to occur before the first meeting of the new Parliament.

Enquiries

katherine.chard@parliament.govt.nz or 817 9437

Government responses to reports of select committees

The requirement for the Government to respond to recommendations in select committee reports on petitions or inquiries lapses on dissolution. In a new Parliament, reinstatement of an item of business containing recommendations to the Government reapplies the obligation to provide a government response. The 90-day period for responses stops at dissolution and starts again from the point at which it stopped, if the item of business is reinstated.

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Mary Harris
Clerk of the House of Representatives