



# Cabinet Office Circular

CO (08) 6

17 September 2008

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## **Enquiries:**

*For enquiries about the reinstatement motion, contact: Louise Sparrer, Senior Parliamentary Officer (Table), ph 817 9441*

[louise.sparrer@parliament.govt.nz](mailto:louise.sparrer@parliament.govt.nz)

*For enquiries about presenting and publishing papers, contact: Katherine Chard, Office of the Clerk of the House of Representatives, ph 817 9437*

[katherine.chard@parliament.govt.nz](mailto:katherine.chard@parliament.govt.nz)

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[lison.harris@dpmc.govt.nz](mailto:lison.harris@dpmc.govt.nz)

## **Intended for:**

All Ministers  
All Senior Private Secretaries  
All Chief Executives  
Speaker of the House of Representatives  
Clerk of the House of Representatives  
Chief Parliamentary Counsel

## **Management of parliamentary business after the dissolution of Parliament**

- 1 This circular provides guidance on the management of parliamentary business after Parliament has been dissolved.

### **Key points**

- 2 The key points are:
  - 2.1 All parliamentary business will lapse on 3 October 2008, 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 48<sup>th</sup> Parliament will be dissolved on Friday 3 October 2008. All parliamentary business before the 48<sup>th</sup> 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 48<sup>th</sup> Parliament will be reinstated in the 49<sup>th</sup> 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 3 October; 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 the Office of the Clerk's website ([www.clerk.parliament.govt.nz](http://www.clerk.parliament.govt.nz)).

### *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 49<sup>th</sup> 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 published SO 253, new SO 248), excluding the days between 3 October (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](#)).

### *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 published SO 242, new 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 3 October 2008 and before the nine sitting days into the 49<sup>th</sup> Parliament, under [section 18\(c\)\(ii\) of the Official Information Act 1982](#).

### *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 49<sup>th</sup> Parliament meets, select committees are established, and the correspondence can be referred to the appropriate committee.

Rebecca Kitteridge  
Secretary of the Cabinet

# Appendix One



## **Office of the Clerk of the House of Representatives**

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*Te Tari o te Manahautū o te Whare Māngai*

5 September 2008

### **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 the time 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".

Once all replies have been published, the QWA system will be shut down for an upgrade.

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

Enquiries                      [jacky.siddons@parliament.govt.nz](mailto:jacky.siddons@parliament.govt.nz)                      or                      817 6893

### Papers

Papers may be presented to the House up to and including the time of the dissolution. The fact that a paper has been presented will be recorded in the *Parliamentary Bulletin*, but parliamentary papers will not be published on the Parliament website until they have been ordered to be published by the House.

Under the current provisions parliamentary papers presented after 1.00 pm on the last sitting day of the House will not be able to be ordered to be published until the new Parliament. Therefore, the legal protection conferred on parliamentary papers by the [Legislature Amendment Act 1992](#) will not apply to such papers until the sitting day in the new Parliament on which the paper is ordered to be printed. The first opportunity for the announcement of parliamentary papers and for them to be ordered to be published is the day of the State Opening (the second day the House sits).

### 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/](http://www.parliament.nz/en-NZ/PB/Presented/)

Again, the legal protection conferred on parliamentary papers by the [Legislature Amendment Act 1992](#) will not apply until the annual reports are actually presented to the House and the House orders them to be published.

**Enquiries**                      [katherine.chard@parliament.govt.nz](mailto: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.

**Enquiries**                      [tracey.rayner@parliament.govt.nz](mailto:tracey.rayner@parliament.govt.nz)                      or                      **817 9046**

Mary Harris  
Clerk of the House of Representatives