

**GUIDELINES ON THE CONDUCT OF MINISTERS,  
SECRETARIES OF STATE, EXEMPT STAFF  
AND PUBLIC SERVANTS DURING AN ELECTION**

2008

**GUIDELINES ON THE CONDUCT OF MINISTERS, SECRETARIES OF  
STATE, EXEMPT STAFF AND PUBLIC SERVANTS  
DURING AN ELECTION**

**TABLE OF CONTENTS**

Introduction: The Convention of Restraint .....	1
Continuing Government Business .....	2
Cabinet Operations .....	3
Departmental Support, Communications and Advertising .....	3
Contracts, Gs&Cs and Appointments .....	4
Travel and Hospitality Expenses .....	4
Status of Parliamentary Secretaries and MPs after dissolution .....	5
Exempt Staff .....	6
Public Servants .....	7
<i>Principles Governing Political Activities of Public Servants</i> .....	7
<i>Seeking Public Office</i> .....	8
Summary .....	9

**GUIDELINES ON THE CONDUCT OF MINISTERS, SECRETARIES OF  
STATE, EXEMPT STAFF AND PUBLIC SERVANTS  
DURING AN ELECTION**

**Introduction: The Convention of Restraint**

Under the Constitution, convention requires that the government command the confidence of the House of Commons at all times. While constitutionally, a government retains full legal authority to govern during an election, as well as the responsibility to ensure that necessary government activity continues, it is expected to exercise restraint in its actions. The rationale is that, following dissolution, there is no elected chamber to which the government can be held accountable, and the government cannot assume that it could command confidence in the next Parliament.

The conventional restriction limiting the extent to which the Government should exercise its authority applies whether it has lost a vote of confidence in the House or whether the Prime Minister has asked for dissolution on his own initiative. It also applies to "caretaker" governments during the post-election transition to a successor government.

This does not mean that government is absolutely barred from making decisions or announcements, or otherwise taking action, during an election. It can and should do so where the matter is routine and necessary for the conduct of government business, or where it is urgent and in the public interest – for example, responding to a natural disaster. In certain cases where a major decision is unavoidable during a campaign (e.g., due to an international obligation or an emergency), consultation with the Opposition may be appropriate, particularly where a major decision could be controversial or difficult for a new government to reverse.

In short, during an election, a government should restrict itself – in matters of policy, expenditure and appointments – to activity that is:

- (a) routine, or
- (b) non-controversial, or
- (c) urgent and in the public interest, or
- (d) reversible by a new government without undue cost or disruption, or
- (e) agreed to by the Opposition (in those cases where consultation is appropriate).

In determining what activity is necessary for continued good government, the government must inevitably exercise judgement, weighing the need for action against potential public reaction, given the absence of a confidence chamber and the possibility that a different government could be elected.

### **Continuing Government Business**

The duties of Ministers of the Crown must continue to be fulfilled during an election period. Officials and departmental resources continue to be at the disposal of Ministers for the purpose of departmental duties.

As is always the case, Ministers, Secretaries of State and exempt staff are obliged to ensure that the resources of the portfolio – financial, material and human resources – are not used for partisan purposes. In the context of an election, they must be especially vigilant with respect to the distinction between *official government business* supported by departmental resources, and *partisan political activities*, taking care to avoid even the appearance that departmental and portfolio resources are being used for campaign purposes.

Deputy Ministers have a key role in ensuring the continuance of necessary government business, for example, by staying in contact with their Minister through the campaign. They must also ensure that departmental and agency facilities and resources continue to be used only for official government business, and that employees carefully apply the principles governing the political activities of public servants.

In order to fulfil their ongoing responsibilities, Ministers must remain in contact with the Deputy Minister to provide direction to the department or portfolio as appropriate. At the same time, in order to respect the convention of restraint as well as the distinction between official government business and partisan activity, they must:

- defer to the extent possible such matters as appointments, policy decisions, new spending or other initiatives, announcements, negotiations or consultations, non-routine contracts and grants and contributions;
- ensure that departmental activities are carried out in a nonpartisan, low-profile manner;
- avoid participating in high profile government-related domestic events, including federal/provincial/territorial events; and

- apply the same criteria concerning international visits, attendance at events, and the signing of treaties and agreements.

### **Cabinet Operations**

Normal procedures must be followed in fulfilling the Minister's official duties. The Minister must not act independently on an initiative that requires Cabinet or Treasury Board approval. Cabinet operations are normally curtailed during an election, meeting only as necessary to deal with essential items.

Ministers should always be accessible in order to deal with any matters that might arise. Those who are located closer to Ottawa should expect to be contacted to sign Orders in Council, as necessary.

### **Departmental Support, Communications and Advertising**

As always, public servants must not be asked to perform political tasks or work normally done by Ministers' or Secretaries of State's exempt staff, and departmental facilities and resources cannot be used for partisan purposes. This includes:

- Ministers' departmental offices, wherever located;
- regional ministerial offices; and
- services such as translation, printing and telecommunications.

Ministers' departmental communications and public affairs units must not be involved in partisan matters. They may provide Ministers with existing factual information, but they must not be asked to perform any additional or expanded services.

Government or departmental announcements are curtailed during an election period:

- exceptions would be made, for example, in the case of a significant international event where the failure to have a Prime Ministerial or Ministerial comment would do damage to Canadian interests or prestige, or announcements relating to the health and safety of Canadians;

- announcements that must proceed are made in the name of the department; and
- any department needing to make an announcement, as approved by the Deputy Head, would need approval by PCO.

Ministers should be careful in the use and distribution of governmental publications during an election campaign. Such publications can be distributed, but only as would occur under normal circumstances in support of official government business.

Public funds may not be used for public opinion research or advertising during the election campaign:

- exceptions may be granted for public notices for legal purposes, or for reasons of public health and safety, employment or staffing notices, and carried out in the name of the department, as approved by the deputy head, and then by PCO.

### **Contracts, G&Cs and Appointments**

The processing of routine and non-controversial contracts and grants and contributions needs to continue. However, there should be heightened vigilance to ensure that contracts and grants and contributions are not used for partisan purposes. No contracts are to be awarded by Ministers' offices to write speeches during the election campaign.

Appointments should normally be deferred. The Prime Minister's Office must be consulted before making any commitments concerning appointments that cannot be deferred.

### **Travel and Hospitality Expenses**

As stipulated in the *Guide for Ministers and Secretaries of State*, all government-paid travel and hospitality expenses for Ministers and their exempt staff must be for official government business. They will continue to be posted on departmental websites.

As set out in section 12 of the *Conflict of Interest Act*:

*No minister of the Crown, minister of state or parliamentary secretary, no member of his or her family and no ministerial adviser or ministerial staff shall accept travel on non-commercial chartered*

*or private aircraft for any purpose unless required in his or her capacity as a public office holder or in exceptional circumstances or with the prior approval of the [Conflict of Interest and Ethics] Commissioner.*

Travel on campaign aircraft is not covered by this provision, as such travel is a commercial transaction.

As with other departmental facilities and resources, government aircraft, cars and expense accounts are for official government business only.

- Government aircraft may only be used when the purpose of the journey, including each leg, is for official business and in accordance with the Treasury Board *Policies and Guidelines for Ministers' Offices*.
- Ministerial vehicles and expense accounts, when government-paid, are for official business use only.

#### **Status of Parliamentary Secretaries and other MPs After Dissolution**

Parliamentary Secretary appointments cease immediately upon dissolution of the House. Consequently:

- while they are no longer subject to the compliance provisions of the *Conflict of Interest Act*, they are subject to the Act's post-employment provisions. The Conflict of Interest and Ethics Commissioner advises them in writing;
- they are no longer entitled to departmental support for previously assigned duties;
- the appointment of any exempt staff in support of Parliamentary Secretaries also ends immediately upon dissolution. The allocation set aside for this purpose in Ministers' offices budgets cannot be used for other purposes and any unspent portion lapses at the end of the fiscal year;
- any functions previously assigned to them must be assumed by responsible Ministers; and
- they can no longer have access to government documents, including Cabinet documents.

Strictly speaking, the status of Members of Parliament also changes with the dissolution of the House.

- When Parliament is dissolved, Members of Parliament also lose their status. However, section 69 of the *Parliament of Canada Act* provides for payment to MPs after dissolution by "deeming" them to continue to be a member of the House until the date of the election.
- In practice, however, MPs continue their representational role for their constituents during the campaign.

### **Exempt Staff**

A member of a Minister's or Secretary of State's exempt staff is not required to request leave without pay or resign from the exempt staff position in order to stand for nomination as a party candidate to run in the election, provided it does not take them away from their paid duties and the nomination takes place before the writs are issued.

However, once the writs are issued, any exempt staff member who is already nominated, or who seeks to be nominated, as a candidate in the election, must be granted leave without pay or resign, at the discretion of the Minister or Secretary of State, before accepting the official nomination as an election candidate.

Exempt staff members who wish to be actively involved in the campaign (e.g., door-to-door canvassing, answering telephones) on a full-time basis are required to either take leave without pay approved by the Minister or the Secretary of State or resign their position.

Those who remain in their position and wish to become involved on a part-time basis may participate in campaign activities on their own time, outside normal working hours, while not carrying out official duties.

The appointment of any exempt staff in support of Parliamentary Secretaries also ends immediately upon dissolution. The allocation set aside in Ministers' offices budgets for this purpose cannot be used for other purposes and any unspent portion lapses at the end of the fiscal year.

Exempt staff may not take vacation leave or any other leave with pay for campaign purposes.



Additional details on election leave requirements are provided in the Treasury Board *Policies and Guidelines for Ministers' Offices*, Section 3.5.4., Election Leave.

Any new staff brought in to replace those who have resigned or are on leave must meet conflict of interest and security requirements before they are hired.

The limits of Ministers' and Secretaries of State's departmental office budgets are fixed, and must not be overspent.

In the context of Ministers' own re-election campaigns, they must ensure that members of their exempt staff comply with the Treasury Board policies, directives and guidelines so that public funds are not spent in support of political or electoral activities. Public resources are not to be used for election purposes.

One exempt staff member may, at public expense, accompany a Minister or Secretary of State at all times in order to ensure that the Minister's or Secretary of State's contact and liaison with the department is maintained. Such contact is important to ensure the continuance of necessary government business. However, it must be clearly understood that the exempt staff member's role is for official government business and not for partisan political activities.

## **Public Servants**

### *Principles Governing Political Activities of Public Servants*

Public servants may engage in political activity as long as it does not impair, or is not perceived as impairing, the employee's ability to perform his or her duties in a politically impartial manner.

Public servants' behaviour is governed by the *Public Service Employment Act* (PSEA). The PSEA defines "political activity", sets out requirements concerning political activity by public servants, and gives the Public Service Commission (PSC) the power to investigate allegations of improper activities. The general principle is that the public servant's political activity must not impair, or be perceived as impairing, his or her ability to perform his or her duties in a politically impartial manner. The PSC will provide detailed advice on these obligations once an election is called, and all questions with respect to the political activities of individuals appointed pursuant to the PSEA fall within the exclusive jurisdiction of the PSC.

Public servants must also respect the *Values and Ethics Code for the Public Service* (or, in cases where the Treasury Board is not the employer, the applicable organizational code). The *Code* provides, *inter alia*, that public servants may engage in outside activities unless such activities are likely to give rise to a conflict of interest or in any way undermine the neutrality of the public service. Where such activities could cast doubt on their abilities to perform their duties in a completely impartial manner, employees shall submit a Confidential Report to their Deputy Head. The Deputy Head may require that the outside activities be curtailed, modified or terminated if it is determined that real, apparent or potential conflict of interest exists.

Judgement must be applied to preserve the non-partisan nature of the public service while respecting the democratic rights of public servants. Political activities of employees must be such as not to impair their ongoing ability to carry out their duties. While considerations may include the nature of the political activities and the nature of the duties of employees, the level and visibility of their positions, and their proximity to decision-making, each public servant will need to ensure that their political activities do not call into question their impartiality in the fulfilment of those duties.

In carrying out their political activities, employees must respect fully the confidentiality requirements of information they have gained working for the Government of Canada.

Deputy Heads must not engage in partisan activities: the PSEA specifies that a Deputy Head shall not engage in any political activities other than voting in an election. Political activity guidelines for GIC appointees, including Deputy Heads, are set out at Annex H of *Accountable Government: A Guide for Ministers and Secretaries of State (2007)*.

#### *Seeking Public Office*

An employee may only be a candidate if he or she first receives permission from the PSC and takes a leave without pay.

The permission and leave without pay may be granted if the PSC is of the opinion that the employee will be able to carry out, and be seen to carry out, his or her duties in a politically impartial way upon return to work. In making this decision, the PSC takes into account factors such as the relative role, level or importance in the hierarchy of the employee's

position; the visibility of the employee's position; and the type of responsibility inherent in the employee's position, such as the provision of policy advice or the exercise of discretion that could be in any matter affected by political considerations.

An employee becomes a candidate when the riding association either acclaims the employee as the nominee or when the voting at a nomination meeting results in the employee being nominated. Therefore, prior to being acclaimed, or prior to attending a nominating meeting, the employee must have already received PSC approval for leave. If nominated without PSC approval, the employee will be in contravention of the *PSEA*.

Failure to act in accordance with the above can lead to disciplinary actions, up to and including the dismissal of the employee.

Additional details on the rights and responsibilities of federal public servants during federal, provincial and territorial elections will be provided in a memorandum to all public servants jointly from the Secretary of the Treasury Board and the President of the Canada Public Service Agency once an election is called. Guidance regarding the application of the *PSEA* will be available from the President of the Public Service Commission on the PSC website immediately upon dissolution.

### **Summary**

By constitutional convention, the government acts with restraint during an election, confining itself to necessary public business (either routine or urgent).

As always, public resources must not be used for partisan advantage. Hence, the distinction between official government business and partisan political activities must be strictly observed: only the former may be supported by departmental resources and the work of public servants.

Exempt staff and public servants wishing to engage in political activities on their own time must adhere strictly to the rules and policies governing such conduct.

Deputy Heads have key responsibility for ensuring that departmental and agency resources are used only for official government business, and that public servants respect the principles of political neutrality in their work.