



**A GUIDE
FOR MINISTERS
AND
SECRETARIES OF STATE**

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A Guide for Ministers and Secretaries of State

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PRIME MINISTER • PREMIER MINISTRE

A MESSAGE TO MINISTERS AND SECRETARIES OF STATE

I believe it is essential to maintain the integrity of elected public office and, more generally, of public life in Canada. The members of the Ministry represent many cultures and perspectives, and our activities must be guided by trust, integrity and respect. Consistent with the demands and expectations of Canadians, I hold you, as Ministers and Secretaries of State, accountable for maintaining the highest standards of conduct for all your ministerial and personal actions.

Public confidence in our government institutions is vital to democracy. *A Guide for Ministers and Secretaries of State* explains the principles of ministerial responsibility and actions that are intended to guide you in undertaking your official duties. The conduct of Ministers and Secretaries of State is to be guided by the following principles:

- Ministers and Secretaries of State must act with honesty. They must uphold the highest ethical standards so that public confidence and trust in the integrity, objectivity and impartiality of government are conserved and enhanced. Ministers and Secretaries of State, in particular, have an obligation to perform their official duties and arrange their private affairs in a manner that bears the closest public scrutiny. This obligation is not fully discharged merely by acting within the law.
- Ministers are responsible for preserving public confidence in the integrity of management and operations within their departments. They must carry out the powers, duties and functions of their portfolios in accordance with the constraints provided by statute and convention.
- Ministers are accountable to Parliament for the use of powers vested in them by statute. This requires their presence in Parliament to answer questions about the use of those powers. They must accept the responsibilities that flow from those powers. It is of paramount importance for Ministers to give honest, accurate and truthful information to Parliament. They must take steps to correct any inadvertent error at the earliest opportunity.

- Ministers and Secretaries of State are bound by their oath as Privy Councillors. This oath requires them to uphold the rules and confidentiality of Cabinet decision making and to share equally in the collective responsibility for their actions.
- Ministers and Secretaries of State must respect the non-partisan nature of the Public Service of Canada. They can rely on it to provide the support they need to fulfil their ministerial functions and mandate without regard to political partisanship.

A Guide for Ministers and Secretaries of State will assist you in fulfilling your commitment to the Canadian public to perform your duties in an open and ethical manner that will withstand public scrutiny and maintain a culture of integrity.

Jean Chrétien
Prime Minister of Canada

June 2002

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Introduction

This Guide sets out the duties and responsibilities of the Prime Minister, Ministers including Ministers of State, and Secretaries of State. It also outlines key principles of responsible government in Canada. This essential information will help members of the Ministry individually and collectively support the Prime Minister in managing the business of the Government of Canada.

Ministers and Secretaries of State who want further information or advice about the subject matters of this document may consult the Secretary to the Cabinet or their deputy minister. This document has been prepared by the Machinery of Government Secretariat in the Privy Council Office, which is responsible for supporting the Secretary to the Cabinet and deputy ministers by advising them on matters contained in this Guide.

I

Ministerial Responsibility and Accountability

Ministers of the Crown are chosen by the Prime Minister, who may ask for their resignation at any time. The Ministry includes Ministers, Ministers of State and Secretaries of State, who together help carry out the mandate of the government. Government policy is established by the Cabinet, which is made up of Ministers and Ministers of State, but not Secretaries of State.

Ministers of the Crown are responsible and accountable to the Prime Minister and Parliament in two fundamental ways:

- Individually, for their performance in carrying out the responsibilities of the portfolio assigned to them by the Prime Minister.
- Collectively, in support of the Cabinet team and its decisions.

Ministers' individual and collective responsibility is an essential principle guiding the rule of Cabinet government in Canada, and is at the core of the standards for ministerial behaviour.¹

I.1. Individual Ministerial Responsibility

Parliament confers power on a Minister through parliamentary statutes that set out the duties and functions for which the Minister is individually responsible. In addition to these enabling statutes, there are “unwritten” conventions or precedents governing the ways in which Ministers fulfil their

¹ Details may be found in *Responsibility in the Constitution*, Privy Council Office, 1993.

responsibilities and account for their actions in exercising their statutory authority.

In addition to statutory powers conferred on them by Parliament, Ministers may also have other responsibilities assigned to them by the Prime Minister.

I.2. Collective Ministerial Responsibility

All members of the Ministry, including Ministers of State and Secretaries of State, are collectively responsible for carrying out the government's policies as established by the Cabinet. They are therefore expected to work in close consultation with their ministerial colleagues. This principle is the foundation of a key "unwritten" constitutional convention known as Cabinet solidarity. Co-ordinated and consistent communication with Parliament and the public is another essential requirement of Cabinet government.

Policies presented to Parliament and to the public must be the agreed policies of the Cabinet. Ministers cannot dissociate themselves from or repudiate the decisions of their Cabinet colleagues unless they resign from the Cabinet.

Cabinet solidarity is further reinforced by the Privy Councillor's oath requiring Ministers to declare their opinion as decisions are being made, and to strictly observe the rules of Cabinet confidentiality once decisions are taken. Collective decision making therefore requires extensive consultation among Ministers.

Ministers also make decisions collectively for practical reasons. In working towards achieving government objectives, ministerial responsibilities may overlap or have implications for other Ministers. The increasing complexity of issues means that, if the government's objectives are to be achieved, policies and programs must be reviewed in relation with each other. Ministers also have responsibilities for representing the different perspectives and interests of their regions, and these inevitably cut across the departmental division of government activities.

Ministers also share two limited assets: parliamentary time and financial resources of the Consolidated Revenue Fund. Only a relatively small number of major initiatives can be handled at one time. Thus, the government's overall policy agenda necessarily impinges on the portfolio goals of individual

Ministers. Ministers therefore need to work closely together to ensure their goals are considered in the broader objectives of the government's agenda.

I.3. Ministerial Accountability and Answerability

In providing good government for the people of Canada, Ministers are responsible and *accountable to Parliament* for the use of those powers vested in them by statute. Ministers must be present in Parliament to respond to questions on the use of those powers, as well as to accept responsibility and account for that use. Whether a Minister has used the powers appropriately is a matter of political judgment by Parliament. The Prime Minister has the prerogative to evaluate the consequences and to reaffirm support for that Minister or to ask for his or her resignation.

Ministers are also required to *answer to Parliament* by providing information to Parliament on the use of powers by bodies that report to Parliament through them. In providing the information, Ministers must take into account all implications, including the lawful protection of privacy and the Minister's statutory authority over the organization. The Public Service supports Ministers by providing information that assists them in answering to Parliament.

II

Portfolio Responsibilities and Support

In appointing a Minister to a portfolio, the Prime Minister may assign a broad range of responsibilities, from their immediate departmental powers, duties and functions to other special assignments or roles. In exercising the powers conferred by Parliament and in implementing Cabinet decisions, Ministers are supported by a deputy minister and departmental officials. They are also provided with resources for exempt staff,² whom they personally appoint to assist them in constituency and political work.

Given his role as head of government, the Prime Minister has a responsibility for the effective operation of the whole of government and often has to answer in the House for the operation of all departments and agencies. This may mean that, in carrying out this overarching responsibility, the Prime Minister will be involved in matters within the responsibility of individual Ministers.

This Chapter provides information on the framework and management of ministerial portfolios and on the Public Service resources that provide support to Ministers.

II.1. Powers, Duties and Functions

Departmental *powers, duties and functions* are vested in Ministers through statute. Many of these powers are normally delegated to deputy ministers and departmental officials, who act on their behalf. Ministers are individually responsible to Parliament and the Prime Minister for their own actions and those of their department, including the actions of all officials under their management and direction, whether or not the Ministers had prior knowledge. In practice, when errors or wrongdoings are committed by officials

² See Chapter VI, section 1 regarding exempt staff.

under their direction, Ministers are responsible for promptly taking the necessary remedial steps and for providing assurances to Parliament that appropriate corrective action has been taken to prevent reoccurrence.

Ministers' responsibilities may include a variety of non-departmental bodies such as Crown corporations or tribunals. In accordance with the enabling legislation, Ministers exercise varying degrees of control and responsibility for the agencies that are part of their portfolio.

The Prime Minister may assign additional responsibilities to a Minister, either through an Order in Council³ or as a result of a designation by the Prime Minister (for example, political regional responsibilities). Consequently, ministerial responsibilities can encompass a *portfolio* of diverse activities, some based on statute, others on specific direction provided by the Prime Minister.

II.2. Portfolio Management

The quality of the delivery of programs and services to the public that is in keeping with the government's objectives depends strongly upon Ministers' ability to manage their respective portfolios. They must ensure that all organizations under their responsibility work together in a coherent fashion within the portfolio, yet with varying degrees of independence.

The Minister is always responsible for all aspects of his or her portfolio, even in situations where the Minister is assisted by Ministers of State or Secretaries of State.

II.3. Ministers of State and Secretaries of State

A Minister of State can be appointed to assist another Minister or to undertake responsibilities assigned by the Prime Minister. While a Minister of State does not have a portfolio independent of the Minister he or she assists, the Minister of State is a colleague and peer, not a subordinate, of that Minister. Ministers of State are members of the Cabinet, participate in collective decision making and are bound by the doctrine of collective responsibility.

Secretaries of State can be appointed to provide additional support to Ministers and to the government as a whole. Although they are not members of the Cabinet, Secretaries of State are part of the Ministry, are bound by collective responsibility and may attend Cabinet meetings as requested by the

³ See Annex B, section 5 regarding Orders in Council.

Prime Minister. They must protect any Cabinet information to which they have access.

When Ministers of State and Secretaries of State are appointed to assist a Minister, the Prime Minister provides them with a mandate letter. It is left to the portfolio Minister to outline their specific roles, bearing in mind that it is the Minister who is legally responsible and accountable for the entire portfolio as well as for responding to any broad direction on priorities conveyed by the Prime Minister. Since Secretaries of State and, generally, Ministers of State do not themselves formally preside over a department or any other portion of the Public Service, the deputy minister of the portfolio Minister's department is responsible for providing them with departmental support.

II.4. Parliamentary Secretaries

Parliamentary Secretaries are chosen by the Prime Minister and are assigned to assist Ministers for a specified period of time.

Although they assist Ministers on a broad range of ministerial responsibilities, Parliamentary Secretaries are not members of the Ministry. Consequently, they cannot speak for the Ministry as a whole. They are not bound by collective responsibility and they cannot participate in Cabinet or Cabinet committee decision making. They may be members of House Committees but are excluded by House rules from chairing committees, with the exception of the Parliamentary Secretary to the Government House Leader. While Parliamentary Secretaries may explain their Minister's policies, departmental "powers, duties and functions" cannot be delegated to them. Since they cannot have delegated departmental responsibilities, Parliamentary Secretaries do not have authority over officials, nor can they initiate departmental actions.

The responsibilities of Parliamentary Secretaries are carried out within the policy and program frameworks set out by their Minister. They may also be called upon to support other Ministers in the portfolio. Parliamentary Secretaries generally support a Minister in a range of House of Commons responsibilities and can help the Minister maintain contacts with other members and senators. However, they do not normally reply to sensitive policy questions during Question Period; in the Minister's absence, such questions are answered by the acting Minister. Given that they work under the direction of a Minister, Parliamentary Secretaries cannot introduce a Private Member's bill or motion, because such action may give the appearance that the government endorses the initiative.

Parliamentary Secretaries are subject to the *Conflict of Interest and Post-Employment Code for Public Office Holders* and are sworn not to disclose privileged information. Further information on these matters can be obtained from the Ethics Counsellor or the Privy Council Office.

II.5. Deputy Ministers

Deputy ministers are professional, non-partisan public servants. They are chosen and assigned by the Prime Minister on the advice of the Clerk of the Privy Council and are appointed by the Governor in Council.⁴ Their role is to provide their Minister with the broadest possible expert advice and support needed for the Minister's portfolio responsibilities, and to undertake the day-to-day management of the department on behalf of their Minister. However, deputy ministers do not exercise direct authority over non-departmental bodies within the portfolio.

Deputy ministers are responsible and accountable for a wide range of duties including policy advice, program delivery, internal departmental management, and interdepartmental co-ordination. In performing these duties, deputy ministers have a fundamental responsibility to support both the individual and collective responsibilities of their Minister. They are accountable, in the first instance, to their Minister, and a co-operative relationship between the two is critical. The advice that deputy ministers provide should be objective and must respect the law. If conflict occurs between the Minister's instructions and the law, the law prevails.

As a result of their role in the collective management of the government, deputy ministers are also accountable to the Prime Minister for responding to the policies of the Ministry as a whole and to the requirements of the Treasury Board and the Public Service Commission. This includes ensuring that appropriate interdepartmental consultation occurs on any matter that may touch upon broader ministerial responsibilities. In this capacity, deputy ministers are required to keep the Secretary to the Cabinet informed of any matter they consider significant enough to affect their responsibilities or those of their Minister. If the issue is of sufficient concern, the Secretary to the Cabinet will inform the Prime Minister.

⁴ See Annex A, section 3 for a definition of Governor in Council.

II.6. Departmental Officials

The department reports to the Minister through the deputy minister in a clear chain of command. Deputy ministers are chosen by the Prime Minister, whereas assistant deputy ministers, other executives and departmental officials are appointed according to conditions set out by the Public Service Commission. The accountability of departmental officials is to the Minister through the deputy minister, but it is the Minister who is accountable to Parliament.

Federal officials must work within the laws of Canada, and are expected to maintain the tradition of the political neutrality of the Public Service. This ensures their continuing ability to provide professional, candid and frank advice. In no circumstances should departmental officials be asked to participate in partisan political activities.

II.7. Non-departmental Bodies

Most Ministers are responsible for several non-departmental bodies such as Crown or departmental corporations, agencies, commissions, tribunals or boards. A Minister's degree of control and responsibility for a non-departmental body is defined in the Act that establishes that body. While a Minister's relationship with a non-departmental body is at arm's length, the Minister must still provide the organization with general guidance on the government's objectives and expectations. *Ministers need to know both the details of their responsibilities, as well as the limits of their powers, for those bodies.* Deputy ministers can provide advice to Ministers on these issues.

The nature of the relationship between a Minister and an administrative tribunal with independent decision-making or quasi-judicial functions is a particularly sensitive issue. Ministers must not intervene in specific decisions of those bodies.

Heads of non-departmental bodies are appointed by the Governor in Council, on the recommendation of the responsible Minister, after consultation with the Prime Minister. Their responsibilities and duties, and those of the designated Minister, vary with each governing statute. Many are responsible not to Ministers, but *through* Ministers, to Parliament. While their degree of independence from the portfolio Minister may vary, all have a responsibility to answer to Parliament. Heads of non-departmental bodies and their officials appear before parliamentary committees and do so in accordance with the principles of ministerial responsibility and the political neutrality of public servants. Many non-departmental bodies are required to report annually to

Parliament, through their designated Minister, on their performance and planning.

II.8. Acting Ministers

The Prime Minister establishes a standing roster of acting and alternate Ministers who assume additional duties when their colleagues are unable to perform their duties. The roster is formalized by an Order in Council. The Prime Minister can act for any Minister, but normally does so only when the designated acting Minister or the alternate Minister is not available.

Ministers acting on behalf of their colleagues may exercise the full powers of the Minister, but are advised not to make major decisions in the Minister's temporary absence. In urgent cases, they traditionally consult the Minister, the Prime Minister or other Cabinet colleagues as appropriate.

III

Ministerial Relations with Parliament

Ministers' accountability to Parliament is fundamental to responsible government.⁵ Parliament confers powers of the State on Ministers on the condition that they, and through them the officials under their management and direction, are accountable to Parliament for their actions. The framework for ministerial responsibility lies in the statutes establishing the departments and organizations within a Minister's portfolio.

III.1. Ministerial House Duties

The daily proceedings in the House of Commons are key to the government's effectiveness. Consequently, the Prime Minister expects Ministers to place a high priority on their House duties. These duties include the following activities:

- *Daily attendance at all Question Periods.* Any proposed absences must be cleared with the Prime Minister's Office before other commitments are made. When a Minister is absent, a designated Minister or Parliamentary Secretary answers for him or her.
- *Attendance.* Attendance at other specified times is required according to a *mandatory schedule* of House duties prepared by the Government House Leader. Ministers are personally responsible for arranging replacements if they have to be absent and for notifying the Government House Leader and the Chief Whip of the arrangements.

⁵ See Chapter 1 and Annex A for more information about responsible government.

- *Piloting legislation.* The Prime Minister expects Ministers to pilot their own legislation through the House and to appear before parliamentary committees of both Houses as required. Ministers should consider the procedure of referring bills to committee before Second Reading whenever the circumstances allow it.
- *Private Members' business.* The government has implemented its 1993 election commitment for a free vote on all Private Members' business. At the same time, Ministers are responsible for ensuring that Members of Parliament, including caucus members, are informed about the government's position on all House and Senate Private Members' items related to their portfolio.
- *Other House duties.* The House Leader assigns and co-ordinates other House duties to Ministers, such as attendance at votes and leading the government's response to Opposition Day motions.

Ministers' duties and relations with Parliament are very demanding and require significant support, particularly for Question Period and committee work. They require careful daily and long-term co-ordination with the Prime Minister and the government's Leaders in the House and Senate. Ministers normally assign a senior member of their exempt staff to support their relations with Parliament. This person ensures ongoing liaison with the Whip's Office and the Government House Leader's Office regarding House business, and acts as a key contact to obtain information from departmental staff for Question Period.

In the context of their accountability to the House of Commons, Ministers are required to answer parliamentary questions within their areas of statutory authority as clearly and fully as possible. It is of paramount importance for Ministers to give accurate and truthful information to Parliament, and to correct any error at the earliest opportunity. Parliamentary questions cannot be directed to a former Minister concerning policies or transactions in a portfolio he or she no longer holds. However, current Ministers are answerable for actions taken by previous incumbents.

Ministers cannot be answerable for matters over which they have no authority. The statutes governing many non-departmental bodies such as regulatory commissions or tribunals may assign only limited ministerial responsibility for internal management and operations. In these cases, Ministers' accountability is limited. Where Ministers do not have direct responsibility for addressing issues raised by Parliament, they must nevertheless ensure that the non-departmental body concerned does address those issues.

III.2. Ministerial Senate Duties

The Government Senate Leader is responsible for managing the government's agenda in the Senate, and Ministers are expected to work with the Government Senate Leader on legislation and private bills for which they are responsible. In carrying out these duties, the Government Senate Leader is supported by political staff and the Privy Council Office. Ministers are responsible for ensuring that their legislation is piloted through the Senate and that questions related to their portfolio are answered in the Senate.

III.3. Parliamentary Committees and the Role of Departmental Officials

Appearances before House and Senate committees by Ministers and their officials are an essential part of informing Parliament of government policies and enable Parliament to hold the government accountable for these policies. Ministers and their officials must co-operate with the committees in their work.

The principles of ministerial accountability and responsibility guide Ministers and their officials appearing before parliamentary committees. Ministers are responsible for providing answers to Parliament on questions regarding the government's policies, programs and activities, and for providing as much information as possible about the use of powers assigned to them or delegated by them to others.

Ministers *are also responsible for deciding which questions* they should answer personally and which questions may be answered by officials speaking on their behalf. Officials can assist Ministers by factually answering questions at parliamentary committees, but they are to explain rather than defend or debate policies. When appearing before a parliamentary committee, officials maintain the traditional impartiality of the Public Service. The authoritative political presence of either the Minister or his or her political representative is required if politically controversial matters are likely to arise.

Ministers should ensure that appearances by their officials before parliamentary committees are fully consistent with the ministerial responsibility assigned by Parliament in statute. Public servants are ultimately accountable to Ministers and not directly to Parliament.⁶ In this regard, officials do not

⁶ See *Notes on the Responsibilities of Public Servants in Relation to Parliamentary Committees*, available from the Privy Council Office.

appear before committees without clear guidance from their Minister. Officials have a duty and specific legal responsibility to hold in confidence information that may have come into their possession in the course of their duties. Therefore, when appearing before parliamentary committees, they are bound by these legal obligations, as well as an obligation to the Minister and to the government, not to disclose information that is confidential for reasons of national security or privacy, or because it consists of advice to Ministers. In practice, officials should endeavour to work with Members of Parliament, in cooperation with Ministers and their offices, to find ways to respond to legitimate requests for information from Members of Parliament, within the limitations placed on them. In the context of a committee hearing, information that is not in the public domain can only be made available on the specific authorization of the Minister, and within the context of statutory obligations.

Through their own initiative or in response to a request from a parliamentary caucus, Ministers can also inform Parliament by directing departmental officials to provide factual briefings to parliamentary caucuses. Briefings organized for one caucus are made available to other caucuses and, accordingly, House leaders or Leaders of each party are kept informed of such briefings.

IV

Consultation and Co-ordination

This Chapter provides information on the roles of central agencies to support the Prime Minister and the work of the Cabinet. The Prime Minister expects Ministers and their departments to work closely with all central agencies to co-ordinate issues and to establish an overall program supported by the Cabinet.

IV.1. Central Agencies

a) Privy Council Office

The Privy Council Office provides the Prime Minister with public service support and directly assists the Prime Minister in performing all of his or her duties and responsibilities as head of government. It is also the Cabinet secretariat. Through ongoing consultation with departments and agencies, the Privy Council Office provides the Prime Minister with comprehensive information and analysis on contemplated policies and priorities. Specifically, it provides information on organization of the government and its relations with Parliament and the Crown, appointment of holders of senior offices, overall spending program of the government, functioning of the Cabinet decision making system, development of major policies, management of intergovernmental relations and other specific issues.

The Privy Council Office also provides the necessary support to the Deputy Prime Minister and to the other Ministers in the Prime Minister's portfolio.

The Privy Council Office is headed by the Clerk of the Privy Council and Secretary to the Cabinet, a non-partisan public servant selected by the Prime Minister. The Clerk of the Privy Council and Secretary to the Cabinet acts as the Prime Minister's deputy minister and is also the custodian of the records of the current and previous Ministries. In addition, this person is also

Head of the Public Service, as designated by statute. In that capacity, he or she is responsible for the quality of expert, professional and non-partisan advice and service provided by the Public Service to the Prime Minister and the Cabinet. He or she reports annually to the Prime Minister on the state of the Public Service.

b) Department of Finance

The Department of Finance is responsible for the government's macro-economic policy, including tax policy and tax expenditures, as well as the overall fiscal framework, and for analysing the economic and fiscal impact of proposals by any Minister. The Department of Finance supports its Minister and maintains a broad socio-economic analytical capacity.

c) Treasury Board Secretariat

The Treasury Board Secretariat supports the President of the Treasury Board. As the administrative agency of the Treasury Board, the Secretariat supports the Board, which is a committee of the Privy Council, and assumes its legal responsibilities under the *Financial Administration Act* and other statutes.

The Treasury Board Secretariat submits recommendations and provides advice to the Treasury Board on all matters relating to general administrative policy and organization in the Public Service of Canada, financial management policies and procedures, review of annual and long term expenditure plans and programs and determination of related priorities, and human resources management in the Public Service of Canada, including determination of terms and conditions of employment.

d) Other Departments

In addition to the three central agencies described above, there are two departments that exercise certain central agency functions. The *Department of Justice* makes available legal services and advice to all Ministers and their departments. The *Department of Foreign Affairs and International Trade* provides government-wide co-ordination of activities and issues that involve foreign policy.

IV.2. The Prime Minister's Office

The Prime Minister's Office consists of the Prime Minister's political staff. The Office serves the Prime Minister and is fully accountable to him or her.

The Prime Minister's Office supports the Prime Minister in exercising his or her duties as head of government, leader of a political party and Member of Parliament. The political staff in the Prime Minister's Office provide advice on policy development and appointments, discuss House of Commons proceedings with him or her, and facilitate the Prime Minister's relations with Ministers, the caucus and the party as a whole. In addition, the Prime Minister's Office schedules the Prime Minister's time, organizes his or her public statements and relations with the media, and handles his or her correspondence.

In general, the Prime Minister's Office plays an important role in enabling the Prime Minister to guide the political strategy of the government and is the central point of communication and co-ordination with Ministers, Secretaries of State, Parliamentary Secretaries and Members of Parliament. It also works closely with the Privy Council Office. Together, these two organizations provide advice and support from different perspectives on the issues of daily concern to the Prime Minister.

IV.3. Federal-Provincial-Territorial Relations and Regional Co-ordination

The Prime Minister is responsible for the overall management of federal-provincial-territorial relations, since they touch on virtually all areas of the federal government's activities. The Prime Minister is assisted by the Minister of Intergovernmental Affairs in co-ordinating intergovernmental relations. The Privy Council Office is the public service department that advises and assists the Prime Minister and the Minister in carrying out their responsibilities related to intergovernmental affairs.

In general, the Prime Minister expects each Minister to be responsible for the federal-provincial-territorial aspects of policies and programs within his or her own portfolio, and to ensure co-ordination with other intergovernmental initiatives.

The Prime Minister may also designate *regional Ministers* for each province or major area, who play an important role in co-ordinating regional or provincial issues with the federal government's activities. However, the administration of departmental programs in every region remains the individual responsibility of departmental Ministers.

IV.4. Appointments

Governor in Council appointments are made to a wide range of positions from deputy ministers and heads of agencies to chief executive officers and directors of Crown corporations. Many of these positions are very demanding, requiring extensive work and difficult decisions. It is essential for appointees to be well qualified.

Appointments by the Governor in Council are handled through a distinct approval process that recognizes the Prime Minister's prerogative to carry out a review of all Ministers' appointments. This process applies to the approximately 500 full-time Governor in Council appointments and 1,900 part-time appointments to departments, boards, tribunals, agencies, commissions and Crown corporations. In addition, the Governor in Council makes other appointments such as judges and heads of missions.⁷

IV.5. Communications and Public Announcements

Communicating with the public is an important responsibility of the government. Communications must be timely and clear. All government communications must therefore be co-ordinated to ensure they are consistent with overall government objectives and decisions.

The communications implications of an announcement are among the issues considered by the Cabinet when it decides on a policy. The content and timing of each public statement of a policy or the announcement of some government action (including appointments, grants or agreements) is co-ordinated by the responsible Minister, acting with the Minister's office and department, the Privy Council Office and the Prime Minister's Office.

The Prime Minister expects Ministers to consult also with regional Ministers and affected caucus members on impending announcements and to work with their own deputy ministers.

⁷ See Annex C for additional information on appointments.

V

Standards of Conduct

The Prime Minister holds Ministers and Secretaries of State to the highest standards of conduct for all their actions, including those that are not directly related to their official functions. Ministers and Secretaries of State are therefore expected to adhere to the following standards in all circumstances, whether they are acting as a Minister or Secretary of State, a member of the House of Commons, a senator or a private citizen. This Chapter outlines key areas where established government standards of conduct apply to Ministers and Secretaries of State.

V.1. Ministerial Conduct

Ministers and Secretaries of State must act with honesty and must uphold the highest ethical standards so that public confidence and trust in the integrity, objectivity and impartiality of government are maintained and enhanced. Ministers and Secretaries of State, in particular, have an obligation to perform their official duties and arrange their private affairs in a manner that will bear the closest public scrutiny. This obligation is not fully discharged merely by acting within the law.

V.2. Conflict of Interest

Ministers and Secretaries of State are subject to the requirements of the *Conflict of Interest and Post-Employment Code for Public Office Holders*.⁸ The Ethics Counsellor is responsible for administering the Code, investigating allegations against Ministers, Secretaries of State and other senior officials involving conflicts of interest, applying compliance measures and briefing

⁸ Available from the Ethics Counsellor, deputy ministers or the Privy Council Office.

Ministers and Secretaries of State on their responsibilities under the Code. The obligations of the Code apply to Ministers, Secretaries of State, their exempt staff and Parliamentary Secretaries as well as Governor in Council appointees, but not to other members of the House of Commons or senators.

Ministers and Secretaries of State are held accountable by the Prime Minister for their adherence to the Code's provisions. In general, the Code addresses basic principles of conduct. It requires Ministers and Secretaries of State to provide a *confidential report* to the Ethics Counsellor on their assets and liabilities, their former and current activities and those of their spouse. It outlines *rules* regarding which assets may or may not continue to be directly managed, and sets *limitations* on outside activities, acceptance of gifts and hospitality, and post-employment activities.

V.3. Relations with the Judiciary and Other Government Agencies

As Members of Parliament, Ministers and Secretaries of State have responsibilities to their constituents. However, there are limitations on their ability to act on behalf of constituents or others, including themselves, when dealing with certain government agencies.

The Prime Minister expects Ministers, Secretaries of State and their staff not to intervene, or appear to intervene, on behalf of anyone, including constituents, with the *judiciary* concerning any matter before the courts. The Minister of Justice can provide detailed information on relations with the judiciary.

Ministers, Secretaries of State and their staff are also expected not to intervene, or appear to intervene, on behalf of anyone, including constituents, with *federal quasi-judicial tribunals* on any matter before them that requires a decision in their quasi-judicial capacity, unless otherwise authorized by law. Ministers and Secretaries of State are therefore responsible for ensuring that they and their staff understand and respect the need for non-interference and an arm's length relationship with these organizations.

While Ministers need to be in contact with the agencies within their own portfolios on a broad range of matters, governing statutes give some bodies such as Crown corporations a degree of independence from ministerial direction. A Minister's degree of control and responsibility for these organizations is defined in the Act that establishes them. Ministers need to know both the details of their responsibilities and the limits of their powers for these organizations. They must also understand and respect their arm's length relationship with them.

In matters regarding another Minister's portfolio, a Cabinet convention precludes a Minister from speaking about or otherwise becoming involved in a colleague's portfolio without first gaining the colleague's approval. This does not preclude the Minister from speaking directly to the Minister responsible. Nor does it prevent the Minister's staff from raising the concerns of constituents either with the staff of the Minister or through channels in the departments or agencies that are specifically intended for dealing with matters of constituents.

There are situations when the office of a Minister or Secretary of State can expect requests for assistance from other members of the Ministry on behalf of their constituents. When such an intervention with an agency is not appropriate because the request concerns a quasi-judicial matter, the office should indicate that an intervention is not possible by any Minister or Secretary of State and suggest that the constituent deal directly with the agency.

However, Ministers, Secretaries of State and their staff may seek information that is available to the public. Guidance can be obtained from the Ethics Counsellor, who provides detailed briefings on this subject to Ministers, Secretaries of State, their executive assistants and other members of their staff, including those dealing with constituency issues.

V.4. Invitations

Ministers and Secretaries of State often receive invitations to participate in or endorse events, community initiatives or publications, to meet with people or to travel to various countries. Ministers and Secretaries of State must be aware that some invitations may come from individuals or groups who have links to terrorism, crime, or violent or unsavoury foreign regimes.

Ministers and Secretaries of State are expected to exercise discretion at all times. They are responsible for ensuring the *bona fides* of those with whom they have dealings. When there is any doubt about accepting an invitation, inquiries should be directed to the Director of Security Operations in the Privy Council Office. The Director will make inquiries, offer general advice to the Minister or Secretary of State and, when necessary, arrange detailed briefings by the Royal Canadian Mounted Police, the Canadian Security Intelligence Service or the Department of Foreign Affairs and International Trade.

VI

Administrative Matters

Ministers and Secretaries of State have direct administrative responsibilities flowing from their ministerial duties. This Chapter provides information on administrative matters concerning Ministers and Secretaries of State and their offices.

VI.1. Ministers' and Secretaries of State's Offices and Exempt Staff

Ministers and Secretaries of State are personally responsible for the conduct and operation of their office. They hire their own office staff, who are known as "political" or "exempt" staff. The staff are outside the official Public Service and are exempt from Public Service Commission staffing and other controls. They are nevertheless subject to a broad range of terms and conditions set by the Treasury Board for the government as a whole.

The purpose of establishing a Minister's or Secretary of State's office is to provide Ministers and Secretaries of State with advisers and assistants who are not departmental public servants, who share their political commitment, and who can complement the professional, expert and non-partisan advice and support of the Public Service. Consequently, they contribute a particular expertise or point of view that the Public Service cannot provide. The exempt staff do not have the authority to give direction to public servants, but they can ask for information or transmit the Minister's instructions, normally through the deputy minister. Good working relations between the Minister's office and the department are essential in assisting the Minister and deputy minister in managing departmental work.

A Minister's or Secretary of State's office may also include a limited number of Public Service *departmental assistants*. Departmental staff are public servants in the employ of their departments who are assigned to the Minister's or Secretary of State's office and who are expected to carry out their duties in a non-partisan manner. Their role is to liaise with the department as

well as to provide administrative support and general assistance to the Minister on departmental or other government matters.

As members of Parliament, Ministers and Secretaries of State receive other support provided by the House of Commons or the Senate. Such support is provided and used only in accordance with established House of Commons and Senate rules.

VI.2. Security

The Prime Minister holds Ministers and Secretaries of State personally accountable for the secure operation of their offices, personnel and documents. Deputy ministers are accountable to their Ministers for the security of departmental facilities, and any real or apparent security breach would be of direct concern to Ministers. All members of Ministers' and Secretaries of State's political staff require security clearances *prior to appointment*. These clearances are arranged by the deputy minister.

Departments or the Royal Canadian Mounted Police can undertake various appropriate measures to safeguard the *personal physical security of Ministers* in the course of their duties and at their residences. The Department of Foreign Affairs and International Trade also provides briefings on the special precautions required prior to any foreign travel.

Ministers and Secretaries of State are required to notify the Secretary to the Cabinet or their deputy minister immediately of any possible *security breach* in order to initiate appropriate investigations. Deputy ministers or the Secretary to the Cabinet can provide Ministers and Secretaries of State with further information on security matters.

VI.3. Cabinet, Institutional and Personal Records

Ministerial papers fall into four categories: Cabinet documents, institutional records, ministerial records, and personal and political records.⁹ Records in these categories are filed separately, for reasons of operating efficiency and confidentiality and to facilitate compliance with statutory requirements. Each category of documents may be subject to different provisions and treatment under some of the relevant laws, such as the *Access*

⁹ Annex D provides a detailed description of the four categories of documents.

to Information Act, the Privacy Act, the Canada Evidence Act and the National Archives Act.

Ministers and Secretaries of State are expected to ensure that the provisions for handling the four categories of ministerial documents are met. For the most part, however, Ministers and Secretaries of State delegate this responsibility, relying on their staff to manage and control the documents. Deputy ministers can provide advice on the procedures.

VI.4. Access to Cabinet and Ministerial Confidences

The confidences and papers of one Ministry are to be protected from its successors. Cabinet proceedings are secret, based on the constitutional principle that the government's business is protected by the Privy Councillor's oath and by the *Security of Information Act*, as well as by the traditional confidentiality of frank discussion among Ministers.

When a change of government occurs, the outgoing Prime Minister traditionally leaves the Cabinet records of the government in the custody of the Clerk of the Privy Council and Secretary to the Cabinet. The Clerk of the Privy Council and Secretary to the Cabinet plays a central role in the convention governing access to Cabinet and ministerial papers.

Officials are responsible for ensuring continuity in government operations. In accordance with the custodial convention, they provide all necessary information for Ministers by briefing them on required background and on the substance of decisions and actions taken by previous governments.¹⁰

VI.5. Public Access to Information and Privacy

The *Access to Information Act* provides a right of public access to information in records under the control of government institutions, subject only to certain necessary exceptions limited and specified in law. Ministers, their deputy ministers and heads of agencies are ultimately responsible for the application of the Act in their respective institutions and within the overall ministerial portfolio.

¹⁰ See Annex D for more information on access to Cabinet and ministerial confidences.

Ministers are expected to operate entirely in accordance with the law when dealing with requests from the public for information. Ministers are responsible for ensuring that necessary actions are taken with respect to departments meeting deadlines and consulting other departments, including the Privy Council Office, for access requests that involve Cabinet confidences. Decisions on those requests can be reviewed by the Information Commissioner and, ultimately, by the Federal Court.

The *Privacy Act* imposes conditions that protect personal information held by government institutions. Under the Act, decisions can be reviewed by the Privacy Commissioner and, ultimately, by the Federal Court. In accordance with the legislation, Ministers may delegate these matters to their deputy minister or other senior officials, but may wish to be advised of particularly important files.

When producing *papers in Parliament*, Ministers are expected to ensure that requests for information (for example, in response to a Notice of Motion) are met. Matters related to the production of papers in Parliament are co-ordinated with the Government House Leader.

VI.6. Financial Management

Ministers' and Secretaries of State's expenditures are subject to statutory and Treasury Board policies governing the use of public moneys. These conditions cover matters such as budgets, salary levels, office facilities and expenditure authorization.¹¹ Ministers' and Secretaries of State's expenditures are also subject to scrutiny by Parliament. Ministerial responsibilities include ensuring that all expenditures in Ministers' and Secretaries of State's offices are properly and prudently managed and are related to the conduct of official business. Deputy ministers and the Treasury Board Secretariat can provide further information.

VI.7. Ministerial Travel Co-ordination

All proposed ministerial travel is co-ordinated with the Prime Minister's Office well in advance and before making commitments. Ministers are also expected to consult the Government House Leader or the Chief Government Whip and to ensure the availability of acting Ministers.

¹¹ Details are available in the Treasury Board Secretariat's *Guidelines for Ministers' Offices*.

Generally speaking, Ministers and Secretaries of State should limit travel abroad, especially while Parliament is in session. The actual arrangements for official foreign travel are co-ordinated by the Department of Foreign Affairs and International Trade.

Ministers and Secretaries of State planning *private travel abroad* also need to inform the Minister of Foreign Affairs well in advance, since security or policy considerations may be involved. All goods acquired by Ministers and Secretaries of State abroad are subject to normal customs requirements and examination, and must be declared on arrival.

VI.8. Foreign Honours

Long-standing government policy requires Ministers and Secretaries of State not to seek the offer of, nor to accept, a foreign order or decoration, either personally or on behalf of a colleague.

Annex A

Federal Government Institutions: The Executive

Canada is a constitutional monarchy and a democracy with a system of responsible parliamentary government based on the British Westminster model. As such, the structures and conduct of executive authority are governed both by Canada's "written" constitution (the *Constitution Acts, 1867–1982*) and by an "unwritten" constitution composed of conventions and customs that have been established and have evolved over the history of responsible government in Canada.

The "unwritten" constitution establishes key elements of Canadian democracy regarding executive authority in government as exercised by the Prime Minister and the Cabinet, who are responsible to the House of Commons, which is made up of the elected representatives of the people of Canada. This Annex outlines the basic roles and responsibilities of executive authority in that system.

A.1. The Crown, the Governor General and the Queen's Privy Council for Canada: The Formal Constitution

In formal terms, executive government in Canada is vested by the *Constitution Act, 1867* in the Queen of Canada, who is the head of state. The Governor General is the representative of the Queen, and exercises the power and functions of the Crown on her behalf.

In Canada's democratic system of government, the Governor General is almost always bound to act only on the advice of the elected representatives who belong to the party that has the confidence of the House of Commons. Advice is offered directly by the Prime Minister on some matters, or is provided formally by the Ministry or government as a whole. It is the personal prerogative of the Prime Minister to convey the view of the government to the

Governor General. The Governor General's consent must be obtained, when required, *before* decisions can take legal effect or be announced.

In constitutional terms, the chief advisory body to the sovereign is the Queen's Privy Council for Canada,¹² composed of all those sworn in as Privy Councillors. It is exceedingly rare for the full Privy Council to meet as a body and, even then, does so only for ceremonial purposes.

A.2. The Prime Minister's Functions and Powers: The Effective Constitution

The Prime Minister, as the leader of the political party that has the confidence of the House of Commons (usually by holding a majority of the seats), is commissioned by the Governor General to form a government.

The Prime Minister is, above all, responsible for organizing the Cabinet and for providing the direction necessary to maintain the unity of the Ministry. This unity is essential if the government is to retain the confidence of the House of Commons.

The following principal functions and exclusive powers of the Prime Minister are essential in making Cabinet government work:

- The Prime Minister leads *the process of setting the general direction of government policy*. The Prime Minister is responsible for arranging and managing the processes that determine how decisions in government are made, and for reconciling differences among Ministers. The Prime Minister establishes the government's position before Parliament by recommending to the Governor General the summoning and dissolution of Parliament, by preparing the Speech from the Throne outlining the broad policy agenda for each new parliamentary session and by determining whether proposed government legislation approved by the Cabinet is subsequently put before Parliament. The Prime Minister approves the Budget presented by the Minister of Finance.
- The Prime Minister *chooses the principal holders of public office*. The Prime Minister selects Ministers and Secretaries of State and

¹² This institution differs from the Privy Council Office, which is a department in the Public Service.

may ask for their resignation at any time. The Prime Minister also recommends *senior public sector appointments* to the Governor General.

- The Prime Minister decides on the organization, procedures and composition of the Cabinet. This includes establishing Cabinet committees, selecting their membership and convening the Cabinet itself. In practical terms, the Prime Minister forms a team, decides on the process for collective decision making, and builds and adapts the machinery of government in which the team will operate.
- The Prime Minister determines *the broad organization and structure of the government* in order to meet its objectives. The Prime Minister is responsible for allocating Ministers' portfolios, establishing their mandates, clarifying the relationships among them and identifying the priorities for their portfolios through mandate letters. The Prime Minister's approval is required for the creation of new institutions and the elimination of existing organizations, some of which may also be subject to parliamentary decisions. Any proposals made by Ministers for significant organizational change or for altering their own mandates or those of other Ministers must first be approved by the Prime Minister.
- The Prime Minister has the overall responsibility for the government's relations with Parliament.
- The Prime Minister establishes *standards of conduct* for Ministers and Secretaries of State.
- As head of government, the Prime Minister has *special responsibilities* for national security, federal–provincial–territorial relations and the conduct of international affairs. The Prime Minister may also take a special interest in any other area of a portfolio responsibility as circumstances require. Ministers should pay special attention to activities within their own portfolio that touch on these special responsibilities or otherwise involve the Prime Minister.

A.3. The Ministry, the Cabinet and the Governor in Council

Members of the *Ministry* include Ministers, Ministers of State and Secretaries of State. Ministers and Ministers of State are also members of the

Cabinet, whereas Secretaries of State are not. Members of the Ministry are appointed by the Governor General on the Prime Minister's recommendation. Before taking up their responsibilities, they are sworn in as Privy Councillors by the Clerk of the Privy Council and Secretary to the Cabinet at a ceremony presided by the Governor General. In this ceremony, Privy Councillors swear the oath of allegiance, the Privy Councillor's oath and, in the case of Ministers, the oath of office for their respective portfolio. The Privy Councillor's oath includes the undertaking to maintain Cabinet secrecy. Privy Councillors are entitled to be styled "The Honourable" and to use the initials "P.C." after their names for life.

Unlike the Privy Council, the Cabinet has no standing in statute. In practice, the Cabinet is the fundamental and final forum for reaching a political authoritative consensus on government issues under the Prime Minister's leadership.

The *Governor in Council* is the term for the Cabinet acting in a legal capacity. Formally, it is the Governor General acting on the advice of the Cabinet. Parliament does not assign powers to the Cabinet or to Ministers collectively, but rather to the Governor in Council.

A.4. Ministers and the Law

Legal requirements form part of the framework that establishes daily practices and sets parameters on how decisions are made in government. Whether acting individually or collectively, the Prime Minister and Ministers act pursuant to parliamentary authority and within limits laid down by Parliament. All government activity must take place in accordance with the law. Ministers having any doubts on the legality of a particular action should ask their deputy minister and obtain the view of the Department of Justice. The following key constitutional provisions or statutes impact on decisions and their implementation:

- The *Constitution Act, 1982*, which includes the *Canadian Charter of Rights and Freedoms*.
- *Acts of Parliament* (principally departmental Acts) create the offices and responsibilities of Ministers, establish the departments over which they preside, and provide a basic framework of powers, duties and functions for which Ministers are accountable.
- The *Public Service Employment Act* establishes a continuing, professional and non-partisan Public Service of Canada.

- The *Financial Administration Act* shapes virtually all aspects of government management through the powers it grants to the Treasury Board to oversee departments and other organizations. The Treasury Board is the Cabinet committee responsible for managing the Public Service of Canada and for approving expenditures of departments and agencies. Many of its decisions have the force of law, limiting Ministers' discretion to manage and direct their departments.
- The *Access to Information Act* establishes a public right to access general information contained in government documents. Under its provisions, the government may withhold material only if disclosing the information could adversely affect the public interest. The *Privacy Act* protects personal information held by the government from unauthorized disclosure.
- Other important Acts include the *Official Languages Act*, the *Canadian Human Rights Act* and the federal *Employment Equity Act*.

Annex B

Cabinet Decision Making

The Cabinet is the political forum where Ministers reach a consensus and decide on issues. It is the setting in which they bring political and strategic considerations to bear on proposed ministerial and governmental actions. Once a consensus is reached, Ministers can fulfil their collective responsibility to Parliament. This Annex addresses the main elements of the organization and conduct of decision making in the Cabinet.

B.1. Basic Rules for Cabinet Business

A number of basic ground rules for the conduct of Cabinet business are essential to maintain Cabinet solidarity and enhance its practical effectiveness.

Decision making is *led* by the Prime Minister. Through the Cabinet and its committees, the Prime Minister provides Ministers with the principal forum in which they can resolve different perspectives. The Prime Minister *organizes* Cabinet and Cabinet committee decision making, determines the agenda for Cabinet business and chooses committee chairpersons to act on his or her behalf. The Privy Council Office is the Cabinet's secretariat and administers the Cabinet decision making process on behalf of the Prime Minister.

Cabinet government works through a process of compromise and consensus building, which culminates in a Cabinet decision. The Cabinet and Cabinet committees do not vote on issues before them. Rather, the Prime Minister (or committee chairperson) "calls" for the consensus after Ministers have expressed their views. As the Cabinet secretariat, the Privy Council Office records and communicates the decision.

Consultation among the Ministers concerned (or among their departments) *must precede* the submission of a proposal to the Cabinet by the responsible Minister or Ministers. Ministerial discussions in the Cabinet or

Cabinet committee focus on the decisions required and provide Ministers with an opportunity to participate in and influence that decision.

Ministers have the right to seek their colleagues' consideration of proposals for government action in their area of responsibility. This is, of course, subject to the agenda set by the Prime Minister for government priorities. Cabinet committee agendas are set by the committee chairpersons acting on the Prime Minister's behalf.

Upcoming business, deliberations and decisions of the Cabinet are secret. The Cabinet's collective decision making process has traditionally been protected by the rule of confidentiality, which enhances Cabinet solidarity and collective ministerial responsibility. Confidentiality ensures that Ministers can frankly express their views before a final decision is made. This is reinforced by the Privy Councillor's oath and the *Security of Information Act*. Therefore, the Prime Minister expects Ministers to announce policies only after Cabinet decisions are taken, in consultation with the Prime Minister's Office.

Cabinet business is extensive, and Cabinet consensus at times is difficult to achieve. Given the limited time available to Ministers and given the importance of clear decisions to government operations, Cabinet business must be conducted efficiently and according to accepted ground rules that are fully understood and respected. Cabinet discussion is not used to air introductory or preliminary discussions of issues. Deputy ministers are expected to ensure that other affected departments are adequately informed in advance so that other Ministers are prepared for Cabinet discussion. When departments directly involved differ on a matter, the dispute should not be referred to the Cabinet until all other means of resolving it have been exhausted.

B.2. Decision Making Process and Procedures

a) The Frameworks

Cabinet decision making is steered by certain key statements of government policy and priorities as well as by electoral commitments. The Speech from the Throne, delivered by the Governor General at the beginning of each session of Parliament, outlines the government's program for Parliament. As a reflection of the overall priorities of the government and the Prime Minister, the Speech provides a general *policy framework* for the upcoming parliamentary session.

The Minister of Finance presents the government's annual Budget, reflecting the *fiscal framework* agreed to by the Cabinet. It is based on

recommendations made by the Minister of Finance, in consultation with the President of the Treasury Board and Cabinet committee chairpersons. The President of the Treasury Board subsequently tables the Main Estimates.

These frameworks provide for the overall direction of the government. They both shape and reflect the ongoing work of Cabinet committees.

b) The Process

The Cabinet process begins when an issue is raised by a Minister in the form of a memorandum to Cabinet, an aide-mémoire or through general discussion at a meeting. The supporting documents are normally circulated to all Ministers by the Privy Council Office before the issue is discussed at the appropriate Cabinet committee. As well, Ministers may take the opportunity to update their colleagues on the progress of certain key initiatives being developed or implemented in their departments.

The Cabinet committee's report is subject to confirmation by the Cabinet. Records of final decisions are circulated to all Ministers and their deputy ministers for action under Ministers' individual authority. *Policy announcements are made after a Cabinet decision and after the Treasury Board's approval of any resources required to implement the decision.*

B.3. Legislative Program

The content of the government's legislative program is ultimately the responsibility of the Prime Minister, assisted by the Government House and Senate Leaders. The main thrusts of the program are determined by the Cabinet. The Government House Leader co-ordinates the process of translating the Cabinet's policy decisions into bills to be placed before the House of Commons.

The first stage in this process is Cabinet approval of a Minister's policy proposal. A bill is then drafted by the Department of Justice to reflect the Cabinet decision. Priorities in drafting are established by the House Leader. Final scrutiny of the bill is undertaken by the House Leader before it is approved by the Cabinet for introduction in Parliament on his or her recommendation.¹³ The House Leader has flexibility in establishing priorities for consideration of bills by the House, although Cabinet discussions of House

¹³ See *Cabinet Directive on Law Making*, available from the Privy Council Office.

business provide the overall direction for the government's legislative program. The House Leader is supported in this regard by his or her own exempt staff and by the Privy Council Office.

B.4. The Cabinet and Cabinet Committees

Cabinet committees are an extension of the Cabinet itself. The Prime Minister establishes both standing and temporary (or special purpose) committees, chooses their membership, prescribes their procedures and changes them as he or she sees fit. The Privy Council Office provides Ministers with information on the Prime Minister's decisions regarding the structure and operations of Cabinet committees.

Currently, most collective ministerial deliberations take place in Cabinet committees. Committee chairpersons act for the Prime Minister with his or her authority, including setting the committee agenda. For the most part, decisions are taken by the appropriate committee, subject to confirmation by the Cabinet. This system settles as many questions as possible at the committee stage in order to lessen the workload of the Cabinet and to allow it to concentrate on priority issues and broad political concerns.

The Treasury Board is established by law as a committee of the Privy Council, and many of its decisions have force of law. It may act as the Cabinet committee for the Public Service and expenditure management (under the *Financial Administration Act*). The Board is the employer for the Public Service, and establishes policies and common standards for administrative, personnel, financial and organizational practices across government. It also controls the allocation of financial resources to departments and programs.

Ministers may attend any Cabinet committee meeting except Treasury Board meetings. Secretaries of State may be invited to accompany their portfolio Ministers to particular Cabinet or Cabinet committee meetings or to attend Cabinet committee meetings on behalf of their Ministers. The Prime Minister may make other exceptions to these conventions. Parliamentary Secretaries do not attend Cabinet or Cabinet committee meetings, since they are not members of the Ministry, nor do Ministers' political staff. The Prime Minister designates certain Ministers as ongoing members of each committee, and they are expected to attend these regularly. If Ministers are not able to attend a meeting, there is a precedent to inform the Chair of their views by letter.

Meetings are conducted as informally as possible in both official languages. Most Cabinet committees meet on a regular schedule. This allows for effective planning and ensures that meetings and decisions can proceed without delay. As the Cabinet secretariat, the Privy Council Office provides the Cabinet and its committees the support required to prepare for and conduct meetings including arranging meetings, circulating agendas, distributing documents, providing advice to the chairperson of each committee on agenda items and recording Cabinet minutes and decisions. A record of a Cabinet decision is considered a Cabinet confidence.

B.5. Orders in Council

Some actions of the executive require a more formal process. Orders in Council are legal instruments made by the Governor in Council pursuant to statutory authority (or, infrequently, royal prerogative). Recommendations to the Governor in Council are signed by the responsible Minister. They take legal effect only when signed by the Governor General.

B.6. Financial Procedure

According to the Constitution, revenue can be raised and moneys can be spent or borrowed by the government only with the authority of Parliament. A money bill, for the raising or spending of revenue, must originate in the House of Commons, as the House is the custodian of the public purse. The Constitution also requires money bills to be recommended to the House by the Governor General in the form of a Royal Recommendation. This ensures executive control over revenue raising and spending initiatives and is obtained by the Leader of the Government in the House.

Parliament exercises its authority over government financial administration by means of a package of instruments comprising enabling legislation such as the *Appropriations Act*, financial documentation such as the Main Estimates (Parts I, II and III and the Public Accounts), and a review process by the House of Commons, the Senate and the Auditor General.¹⁴

¹⁴ For more details, see Robert Marleau and Camille Montpetit, *House of Commons Procedure and Practice*, House of Commons, Ottawa, 2000, chap. 18.

Annex C

Appointments

The Prime Minister has the following key responsibilities regarding appointments:

- All appointment recommendations are *subject to the Prime Minister's approval* before they go forward to the Governor in Council.
- *Remuneration* for most Governor in Council appointments, both full-time and part-time, is set or approved by the Governor in Council on the recommendation of the Prime Minister. On this matter, the Prime Minister is supported by the Privy Council Office. Remuneration for some Governor in Council appointments is set by Crown corporations' by-laws or other means.

In addition, the following are important aspects of the appointment process:

- To open the process and identify candidates, vacancies for full-time, fixed-term Governor in Council positions are generally advertized in the *Canada Gazette*.
- Representational criteria such as regional considerations are taken into account when recommending appointments. Another relevant factor is employment equity, to better represent women, visible minorities, Aboriginal peoples and people with disabilities.
- Full-time appointees must meet the requirements of the *Conflict of Interest and Post-Employment Code for Public Office Holders*. The Ethics Counsellor administers the Code and provides advice to office holders and potential appointees. Part-time appointees are subject to the principles of the Code.

- All Governor in Council appointees are subject to a *criminal and security records check* prior to appointment.
- *Announcements* of appointments are co-ordinated by the Prime Minister's Office, after they have been approved by the Governor General.
- Governor in Council appointments (except judicial positions) are tabled in the House of Commons after each appointment is made in order to give the appropriate standing committee the opportunity to call the appointee and examine his or her qualifications.

Annex D

Cabinet, Institutional and Personal Records

This Annex describes the four categories of ministerial papers and the access to document rules that apply to former Ministers and Secretaries of State.

Cabinet documents belong to the Prime Minister. The efficient operation of the Cabinet and the necessary confidentiality of ministerial discussions, depend, in part, on the proper handling of Cabinet documents. Ministers must ensure that their (and their colleagues') memoranda to Cabinet, Cabinet committee reports or records of Cabinet decisions are always in the custody of an authorized and security-cleared staff member or official. Secretaries of State must also respect this protocol when they are given access to such confidential documents. When a Cabinet item has been dealt with, the associated Cabinet papers must be returned to the Privy Council Office. Ministers must assign members of their staff with specific responsibility for controlling the flow and storage of Cabinet papers.

Certain Cabinet documents that are clearly marked for Minister's eyes only cannot be reviewed by exempt staff. Some Cabinet documents must remain in the Cabinet room. Cabinet documents must not be photocopied, electronically scanned or sent by facsimile, and they must be carried in a secure briefcase.

Institutional records relate to the continuing business of the department and associated agencies, and are kept in a separate registry. They cannot be removed from the institution when the Minister leaves or changes office.

Ministerial records include records of an official government nature pertaining to Ministers' and Secretaries of State's offices (for example, internal discussions between a Minister and exempt staff on portfolio issues where there

is no referral to the department). The *National Archives Act* sets out the required procedure for the handling of such records when Ministers leave office, in consultation with the National Archivist. Normally, they are transferred to the National Archives of Canada.

Personal and political records, or papers that are primarily political rather than official in nature, are kept in separate ministerial files. Ministers and Secretaries of State generally remove them when leaving office. Like ministerial records, personal and political records are normally excluded from the application of the *Access to Information Act*, provided that they are maintained separately from institutional records.

When a Minister leaves office, Cabinet documents are returned to the Privy Council Office, institutional records are left with the department, and ministerial records are disposed of in consultation with the National Archivist. Ministers may remove only their personal and political papers. However, to ensure the security of sensitive documents, Ministers and Secretaries of State most often use storage facilities and archival services offered by the National Archives of Canada for these documents.

Former Prime Ministers have control over the confidences of the government they headed. Former Ministers have a more limited conventional right of access to Cabinet papers and to departmental files in which they were involved and which were prepared during their tenure in office.

Former Ministers intending to write about their ministerial experiences are still bound to respect their oath as Privy Councillors and remain subject to the *Security of Information Act*. They must also honour their commitments to other Ministers and colleagues. To ensure that they are not disclosing matters that remain confidential, former Ministers must vet any departmental material through the department's Access to Information Office. Any questions should be addressed to the Secretary to the Cabinet.

The Secretary to the Cabinet provides advice on all questions of Cabinet and ministerial confidences, including access by former Ministers and any requests under the *Access to Information Act* relating to Cabinet confidences.