Queensland

9.1 Basic conventions and practices

Successive Commonwealth and State Governments have accepted that special arrangements apply in the period immediately before an election, in recognition of the considerations that:

- with the dissolution of the Legislative Assembly, there is no popular Chamber to which the Executive Government can be responsible; and
- every general election brings with it the possibility of a change of government.

By convention, the government assumes a caretaker role from the time that the Legislative Assembly is dissolved, and ensures that decisions are not taken which would bind an incoming government and limit its freedom of action.

The basic caretaker conventions require a government to avoid implementing major policy initiatives, making appointments of significance or entering into major contracts or undertakings during the caretaker period. The basic conventions are directed to the making of decisions, and not to policy announcements. The caretaker conventions do not, of course, apply to new policy promises which a government may announce as part of its election campaign.

There are other established practices, usually regarded as part of the caretaker conventions, which govern activities in the election period. These are mainly directed at ensuring that departments should avoid any partisanship during an election campaign. They address matters such as the nature of requests that Ministers may make of their departments, procedures for consultation by the Opposition with departmental officers, travel by Ministers and their Opposition counterparts and the continuation of government advertising campaigns.

Adherence to the conventions and practices (which have no formal legal standing) is ultimately the responsibility of the Premier. Where Ministers are in doubt about a particular matter, they should raise it with the Premier.

9.2 The caretaker period

The caretaker conventions operate from the dissolution of the Legislative Assembly until the election result is clear or, in the event of a change of government, until the new government is appointed. However, it is also accepted that some care should be exercised in the period between the announcement of the election and the dissolution of the Legislative Assembly.

9.3 Notification of the convention(s)

Shortly after the announcement of an election, the Premier will write to all Ministers, summarising the conventions which will apply from the dissolution of the Legislative Assembly and other matters which relate to the election period. The Director-General of the Department of the Premier and Cabinet will write to all Chief Executive Officers advising them of the caretaker conventions and when they will commence.
The Cabinet Secretariat will also circulate information to all CLLO's advising them of caretaker conventions, as soon as the election is announced.

**9.4 Appointments**

By convention a caretaker government should avoid, wherever possible, making appointments of significance in the caretaker period. Factors in deciding whether or not a particular appointment is significant include the degree to which it may be a matter of disagreement between the major parties contesting the election, as well as the position's inherent importance.

As a rule, significant appointments dated to commence after polling day would not be made in the caretaker period. Appointments which would normally be made after the date of dissolution are deferred until after the election.

Where it is necessary for a significant appointment to be made during the caretaker period, usually for reasons associated with the proper function of the agency concerned, there are several options available.

One is that provisions for an acting appointment, where available, are used to avoid the need for a substantive appointment. Another is that a short term appointment, normally of up to three months' duration, is made.

**9.5 Major new policy implementation, contracts or undertakings**

The broad rule is that governments should avoid implementing new policies, or entering into major contracts or undertakings during the caretaker period. This includes commitments which could bind an incoming government. Major contracts or undertakings should not be considered only in terms of monetary commitment but should also take into account other relevant factors such as the nature of the undertaking and the level of bipartisan support.

Consistent with this requirement, major project approvals within government programs are normally deferred by Ministers.

**9.6 Operations of departments**

The general rule during the caretaker period is that the normal business of government continues until the incoming government's wishes are known. Several aspects of a department's usual activities are, however, affected.

While departments are concerned at all times to avoid partisanship, the circumstances of an election campaign require special attention to the need to ensure the impartiality of the Public Service and its ability to serve whatever government is elected.

During the election period, Ministers would usually sign only necessary or routine correspondence. It is desirable that judgement be used in determining whether correspondence of significance should be signed in this period by the Minister or by the Chief
Executive Officer. Care is taken when preparing departmental replies not to assume that one party or another will form the government after the election. References to post-election action are in terms of the "incoming government".

During an election period, Ministers may not request the development of new policy initiatives but may request factual material from departments. Departmental officers should not use their official position to act in a partisan manner.

Departmental officers who feel there is a difficulty with a particular request from a Minister may raise the matter with the Chief Executive Officer of the Department who may, if necessary, consult with the Director-General of the Department of the Premier and Cabinet.

9.7 Guidelines for consultation by the Opposition

In order to ensure a smooth transition in the event of a change of government, the following guidelines for pre-election consultation between the Parliamentary Opposition and departmental officers should apply.

These guidelines may come into operation before the caretaker period, and apply as soon as the election announcement has been made or two months before the expiry of the term of the Legislative Assembly, whichever date occurs first. Like the practice in all other Australian jurisdictions, consultations during the caretaker period are conducted through informal discussions:

- Consultations with departments are initiated by the Opposition spokesperson making a request for access to the relevant Minister, who will notify the Premier as to the nature of the request and as to whether it has been granted.
- The subject matter of the discussion between officers and the Opposition spokespersons relates to the machinery of government and administration and the resources generally available in the portfolio area as they would relate to the implementation of Opposition policy. Officers are not authorised to discuss the merits of policies of either the government or the Opposition.
- Officers are to inform Ministers when the discussions are taking place and Ministers are entitled only to seek assurances that the discussions are kept within the agreed purposes. The content of the discussion is confidential to the participants.
- Departments will be represented in such discussions by the Chief Executive Officer and an appropriate officer with relevant expertise from the Department of the Premier and Cabinet.
- For the purpose of facilitating consultation, the Chief Executive Officer should seek details of the likely topics for discussion so that relevant information can be made available during the deliberations. Information should only be presented in the form in which it exists at the time of the consultation (eg. annual reports, program statements, etc.). Alternatively, information can be communicated orally.
- The creation of documents for, or records of, consultations should be avoided. The confidentiality of matters raised during discussions should remain insulated from partisan political debate during an election period. Specific material generated for, or notes taken during, the meeting would form an official record of the proceedings and seriously undermine the requisite confidentiality of the consultation particularly if the records subsequently became public.
• Departments will be expected to prepare two sets of briefing documents for the incoming government. One set will be drafted on the basis that the current government is returned, the second set on the basis that a new government is elected. Both sets of briefing documents should aim to provide the incoming Minister with a comprehensive statement of the organisation, structure, budget, functions and major current issues facing the department.
• Queries about approval of particular requests for consultation should be handled between a Minister and the Premier. Requests which involve an unreasonable amount of work by the department may properly be denied.

9.8 Cabinet documents

It is a requirement that Cabinet documents are treated as confidential to the government that created them. Accordingly, such documents are generally not made available to succeeding governments drawn from different political parties, except in specific circumstances related to continuity of administration. Refer to Chapter 4.15.5 "Access to past government's Cabinet documents by the present government" (http://www.premiers.qld.gov.au/publications/categories/policies-and-codes/handbooks/cabinet-handbook/procedures/access-to-cab-docs.aspx#4.15.5)

At the beginning of the caretaker period and in accordance with instructions issued by the Cabinet Secretary, all Cabinet documents previously circulated by the Cabinet Secretariat and held in ministerial and departmental offices should be clearly identified and prepared for possible return to the Cabinet Secretariat for disposal purposes. In the event of a change of government, the outgoing Premier will issue instructions through the Cabinet Secretary about the disposal of documents of the outgoing administration.

9.9 Legislation

All Bills that have been introduced in the Legislative Assembly but are yet to be passed, automatically lapse when the Legislative Assembly is dissolved. Likewise, all Bills passed by the Legislative Assembly and awaiting Royal Assent will lapse with the dissolution of the Assembly.

By convention, the Governor should not proclaim the commencement of any Acts during the caretaker period. It is therefore necessary to ensure that all Bills which are awaiting Royal Assent and/or proclamation receive Assent and/or are proclaimed prior to the dissolution of the Legislative Assembly.

It is possible, where there is a need and where there is no infringement of the basic caretaker conventions, for subordinate legislation to be approved by the Governor in Council during the caretaker period.

9.10 Executive Council during the caretaker period
Ordinary meetings of the Executive Council are not held during the caretaker period. However, with the consent of the Premier and the Governor, special sittings of Executive Council may be held to consider limited business.

Arrangements for Executive Council will be forwarded to all departments by the Executive Council Secretariat at the commencement of the caretaker period.

9.11 Other matters

It has become accepted that the Premier considers whether any government advertising campaigns, which would otherwise be conducted during the caretaker period, should be suspended or curtailed.

Campaigns highlighting the role of particular Ministers or addressing issues which are controversial between the major political parties normally would be discontinued. Advertisements promoting rights or entitlements or which are of an operational nature usually continue.

If necessary, the Premier also considers whether visits to Queensland by foreign dignitaries, involving government hospitality, should proceed. In any case, the dignitaries are advised of the election announcement and any changes in arrangements, including the reduced availability of Ministers.

The Council of Australian Governments or the Ministerial Councils may meet during a caretaker period. If such a meeting is to be held during this time, Ministers should generally refrain from attending and adopting or announcing policy positions. Where the interests of the State need to be represented, it may be prudent for the Chief Executive Officer or another senior official of the relevant agency to attend in an observer role. If a major agreement is scheduled for discussion or ratification, the Chief Executive Officer should seek deferral of the item of rescheduling of the meeting until after the conclusion of the caretaker period.