

MANUAL OF CABINET AND MINISTRY PROCEDURE

PART I

CABINET

I. Collective Responsibility

1. Article 72 of the Constitution provides that there shall be a Cabinet which shall have the general direction and control of the government of The Bahamas and shall be collectively responsible therefor to Parliament.

This doctrine of collective responsibility is the basis on which the system of ministerial government rests. Without it the ministerial system cannot be effective and cannot survive as a method of Government developed to work in accordance with the wishes of the people.

2. All major decisions of policy must be made by Cabinet.

3. A fundamental principle of "Cabinet Government" is unity. It is important to present a united front to the public; if any Minister feels conscientiously unable to support a decision taken by Cabinet, he has one course open to him and that is to resign his office

4. This principle is not affected by the assignment of responsibility to individual Ministers.

Decisions made by a Minister about any matter in his portfolio, when it is not within policy already decided by Cabinet, must always be such as could, without doubt, be defended and supported by Cabinet.

5. All major matters of policy, and matters on which there may be doubt regarding the attitude of other members of Cabinet, and all subjects on which there is unresolved difference of opinion between Ministries, should be put before Cabinet. Moreover, should any Minister not agree with an action taken by a fellow Minister without prior consultation with Cabinet, Cabinet will decide whether or not the action should be upheld.

6. So long as a Minister remains a Minister he may not speak in public or in private against a decision of Cabinet or against an individual decision of another Minister. As he is a member of the Government Bench in the House of Assembly or in the Senate, he must not speak or vote on any measure debated in either House otherwise than on the lines agreed by Cabinet.

7. No Minister may, in the Parliament or in public speeches, commit the Government to any course of action save in accordance with the policy of Cabinet.

MANUAL OF CABINET AND MINISTRY PROCEDURE

8. A Minister should bear these principles in mind in making public speeches and not commit the Government in advance to any legislation or major policy which has not been put before Cabinet and approved directly or indirectly.

9. In many Acts there is provision for the Governor-General or the Minister to make subsidiary legislation such as Rules, Regulations or Orders. If the power lies with the Governor-General, the Minister responsible for the subject would put the draft subsidiary legislation to Cabinet. Similarly, unless the matter is very minor, a Minister, having the authority to make subsidiary legislation, would put the draft to Cabinet for collective approval.

10. Bearing these points in mind, Ministers and their Permanent Secretaries should ensure that major policy matters are referred to Cabinet while sparing that body the need to consider routine or trivial subjects.

MANUAL OF CABINET AND MINISTRY PROCEDURE

II. Ministerial Responsibility

11. The most elementary qualification demanded of a Minister is honesty and incorruptibility. It is necessary not only that Ministers should possess this qualification but also that they should appear to possess it.

12. The first duty of Ministers is to play a full part in reaching the decisions on policy matters which only Cabinet can take.

13. Under Article 77 of the Constitution, the Governor-General, on the advice of the Prime Minister, may charge any Minister with responsibility for any matter or department of Government.

14. A Minister is expected to introduce in Cabinet any memorandum that covers a subject within his portfolio and to undertake and discharge business concerning his Portfolio in Parliament.

15. The individual responsibilities assigned to Ministers must, however, be exercised in accordance with the principle of collective responsibility of Cabinet, as stated in paragraph 3.

The taking of a decision whether to submit a matter to Cabinet or not places a considerable responsibility on a Minister. If he submits too much to Cabinet, the burden of Cabinet business for all Ministers is increased, and it might be said that he is not prepared to carry his share of responsibility. If he submits too little, and appears to act too independently he might lose the confidence of his colleagues and, moreover, if he makes a decision which they are unable to support, he might be called **upon** to resign, or in a very serious matter it might mean that Cabinet, as a body, would have to resign.

16. There will be, of course, many matters which have to be put to Cabinet because the law says so; for example, where the Constitution or an Act empowers the Governor-General without specifying that it is in his discretion or on the advice or recommendation of some other body or person (e.g. a Service Commission): in such cases when there is no qualification the Governor-General

III. Secrecy

17. On taking office every Minister is required to take the Oath of Allegiance and the Ministerial Oath, which includes an oath of secrecy.

In no circumstance may the nature of the discussion or of the opinions expressed by individual members of Cabinet be divulged.

Discussion between Ministers under a common obligation of secrecy about subjects to which that obligation applies, should always be so conducted that there is no

MANUAL OF CABINET AND MINISTRY PROCEDURE

reasonable likelihood of a breach of that obligation. It is in this respect relevant to note that:

- (a) A Minister has responsibilities wider than those relating to his own portfolio and will, in the exercise of those responsibilities, receive documents which do not concern the matter listed in his portfolio.
- b) Members of Parliament and Senators who are not members of Cabinet are not members of the Government; accordingly, information given to them must be strictly limited, according to what they need to know, however sympathetic they may be towards the policy of Cabinet or of one of its members.

18. Every paper put before Cabinet, including the Agenda, is secret.

Some subjects, of course, are secret in themselves. Matters of high policy and fiscal measures are secret because premature disclosure would prejudice the issue or give to some persons unfair advantage; but all subjects coming before Cabinet are treated as secret because outside knowledge that Cabinet is considering any subject may hamper free discussion or may give rise to undesirable speculation or may result in embarrassment to, members through attempts by interested parties to influence them. For these reasons the public should not be told what subjects are to be discussed by Cabinet. However, decisions taken by Cabinet are taken for and on behalf of the Bahamian people who have a right to know the decisions taken in their name and on their behalf. This being the case, decisions of Cabinet should be brought to their attention as soon as possible. The exceptions to this would be in matters dealing with national security or matters which would be prejudicial to the economic and financial well-being of the country.

19. Apart from the secrecy regarding subjects to be put before Cabinet, the other important aspect of secrecy is that of the discussions at Meetings. The conciliar responsibility of Cabinet makes it essential that members must be able to express themselves freely in Cabinet without fear that individual opinions put forward may become public knowledge, whether -at an early date or in the distant future. A member of Cabinet may have argued for or against a particular line of action in the secrecy of Cabinet Meeting, but once a decision has been reached, he must support that decision in public. The thought that there might be any departure from this fundamental rule would prohibit frank discussion and nullify collective responsibility.

20 It also follows that it would be wrong for a member of Cabinet to claim or disclaim personal responsibility for any part of a decision by Cabinet.

The oath of a member of Cabinet continues to be binding after the resignation or dismissal of that member or the dissolution of a Government. This is important, for the essential confidence between Ministers would be destroyed if it were known that they were free to air any differences once they were no longer Ministers.

MANUAL OF CABINET AND MINISTRY PROCEDURE

21. If a Minister resigns and, in stating the reasons for his resignation, wishes to refer to discussions in Cabinet, he must through the Prime Minister obtain the consent of the Governor-General before doing so. The Prime Minister, in making his recommendation to the Governor-General would have regard to the public interest and would not in any case advise disclosure of the views put forward by individual members of Cabinet or how a Minister voted if the subject had been put to the vote. Although a Minister cannot erase from his mind what went on in Cabinet, he should avoid taking personal advantage of knowledge acquired in Cabinet that is not public knowledge, whether this is during office or after relinquishing office.

22. An important consideration regarding the security of Government business is that there must be no disclosure to anyone save those who need to know the facts in the course of their official duties. The proceedings of all Committees of Cabinet, including details of their composition and terms of reference, are equally secret.

23. All officials who handle Cabinet documents will have made Secrecy Declarations. Ministers will have taken the Ministerial Oath, and both Ministers and officials are bound by the Official Secrets Act. Cabinet leakages can arise from oral disclosures or as a result of Cabinet papers getting into the wrong hands. They can vary in seriousness from a possible danger to the State to a minor embarrassment to an individual but at the very least can inhibit freedom of discussion in Cabinet if such discussion is not secure.

24. Members of Cabinet and officials should notify the Secretary to Cabinet of any unauthorised disclosure of information about proceedings of the Cabinet or of Committees of Cabinet or of any breach of security involving Cabinet matters that may come to their notice. The Secretary to Cabinet will immediately inform the Prime Minister and will take his instructions regarding the degree of investigation necessary, whether by the Secretary to Cabinet himself, or whether the matter should be reported to the Attorney General or the Commissioner of Police for action by the Criminal Investigation Department. Much will depend on the circumstances and seriousness of the leakage.