

Ref. AO92/1012

Labour
Not Sent

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PRIME MINISTERMACHINERY OF GOVERNMENT CHANGESMinisterial appointments

1. Only 20 Ministers plus the Prime Minister and the Lord Chancellor can be paid as Cabinet Ministers; in addition salaries are available for 29 Ministers of State, 33 PUSs, and 24 Whips.

2. The manifesto does not propose to wind up any of the Departments headed by Cabinet Ministers. It proposes three new Ministers of Cabinet rank:

Minister for International Development

Minister for Women

Minister for Environmental Protection.

3. One Cabinet post is available if the Office of Chancellor of the Duchy of Lancaster, held by the Party Chairman in the previous administration, is no longer required for that purpose.

4. The problem of the two extra posts can be solved in one of three ways:

- (i) One or more Ministers attend Cabinet without being members of Cabinet. They are paid at Minister of State level.
- (ii) One or two Cabinet Ministers hold more than one office.

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- (iii) One or two Ministers serve without pay.

5. There is no requirement that the Lord Privy Seal (a convenient title for the Leader of the Lords) should sit in Cabinet, but this has been the usual practice.

6. The Office of Lord Chancellor must be filled. The holders' salary is prescribed separately, so there would be no increase in the number of salaries available if the Lord Chancellor were no longer a Member of the Cabinet.

Department for International Development

7. The Minister in charge of the Overseas Development Administration had a seat in Cabinet at various times in the 60s and 70s. There are two ways of implementing the manifesto commitment:

a) to appoint a Secretary of State for International Development, transferring relevant functions from the Foreign Secretary, so that a renamed ODA becomes a separate Department; this can only be done by using the one vacant Cabinet post;

b) to create the Department of International Development as a separate Department under the Foreign Secretary, while giving day to day responsibility to a Minister of State in the Foreign Office with the title "Minister for International Development". This is effectively the approach followed in the 70s, and has the advantage that, if no Cabinet level salary is available, the Minister can for the time being attend Cabinet without being a full member.

Only the first of these would be consistent with the words in the Labour manifesto.

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The Ministry for Women

8. A small Ministry is envisaged, which would pursue its policies largely by coordinating and monitoring others. The Ministry may however take the lead in replacing Fair Pay and Sex Discrimination legislation with new Sex Equality legislation. Equal pay is at present a responsibility of the Department of Employment. The Home Office is responsible for sex discrimination law and sponsorship of the Equal Opportunities Commission, and for inter-departmental co-ordination on women's issues. OMCS supports the Women's National Commission. I recommend that their functions and associated staff (totalling about 20) should be brought together under the new Minister.

9. Much of the Minister's and the Department's role has close links with the Department of Employment. Possible approaches are:

a) to give the Secretary of State for Employment the additional post of Minister for Women, supported by a small independent unit within the Department of Employment or co-located with it; this would enable the Manifesto commitment to be met without an additional Cabinet post being required.

b) the Minister for Women could be a Minister of State within the Department of Employment, attending Cabinet but not paid a first tier salary, with the supporting unit treated as above.

c) To appoint a free-standing Minister who would be paid at Minister of State level. In this case the supporting office could be either co-located with the Department of Employment or in one of the central offices.

Options c) would best satisfy the words in the manifesto. and

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Cabinet Minister for Environmental Protection

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However environmental protection cuts across many strands of DoE's work, and in organisational terms there is a case for the Minister serving under the courtesy title "Minister for Environmental Protection" under the Secretary of State for the Environment. This would also solve the problem of places in Cabinet. As a Minister of State the Minister could attend Cabinet without being a member of it. If a full Cabinet place is available the Minister could be appointed as Chancellor of the Duchy of Lancaster assisting the Secretary of State for the Environment.

11. The responsibilities of the Minister would cover DOE's Environmental Protection command (including extensive international representation on environmental issues) and the Directorate of Rural Affairs. A case could be made for adding DOE's land-use planning responsibilities, but as that is essentially a regulatory function which holds a balance between conservation and development, it would be more neutrally located outside the environmental protection portfolio.

Appointing one person to be Secretary of State of Two Departments

12. A Cabinet salary may also be liberated by appointing a single person as Secretary of State for two Departments. There is a manifesto commitment to maintain a separate Department of Energy, but this could be met while appointing the Secretary of State for Trade and Industry also as Secretary of State for Energy. Junior Ministers would serve in one or other Departments

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under him, and the separate identity of the Department of Energy preserved. This would differ from Conservative plans for a full merger of the two Departments.

Minister for Europe

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This would match the position in most other Member States which have such Ministers; when the French experimented with a Minister for Europe outside the Foreign Ministry, the Ministry lacked influence and support and was soon returned to the Foreign Ministry.

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Devolution

15. You will need to consider whether the arrangements for devolution should resemble those in 1976-79, when a Minister of State in the Privy Council Office took a leading role. There is a separate note on the options. The rest of this note assumes that there will be no similar role, and that the Secretary of State for Scotland will lead on the Scotland Bill and the Lord President or Lord Privy Seal will oversee the UK and Westminster dimensions in London. If it is decided that there should be a major role for a Minister of State in the Privy Council Office, the post might have to be provided at the expense of one of the Minister of State posts in the Scottish Office.

Machinery of Government changes below Cabinet level

16. The Manifesto refers to several other new Ministries, Ministerial appointments, or changes in title:

Arts and Media

17. I understand that the proposal is to extend the range of functions at present covered by the Minister responsible for the Office of Arts and Libraries to include DTI's responsibilities for film and other communications industries, and perhaps DoE's responsibilities for the built heritage. In due course when the review of the BBC's Charter is complete, but not immediately, the Home Office responsibilities for broadcasting and the press might be added. The Minister in charge will not, for the time being, be in Cabinet.

18. This change can be implemented either:

a) by creating a new Department under a Minister who does not sit in Cabinet; for technical reasons this is a relatively inflexible arrangement if it is envisaged that at a later stage the Minister might become a member of the Cabinet;

b) by creating a new Department under the holder of one of the non-Departmental Ministerial titles; such as the Chancellor of the Duchy or the Paymaster General there is no requirement that the holders of these posts must sit in Cabinet.

c) by continuing the present arrangements, in which the Minister of State Privy Council Office is in day-to-day charge of OAL, with the functions formally held by the Lord President of the Council; this would be the most convenient format if it were intended that the Arts Minister should continue to be in day-to-day charge of the Prime Minister's responsibilities as Minister for the Civil Service.

Functions will need to be transferred to the new Minister from the Lord President (who now has ultimate responsibility for OAL functions), from DTI (film and export licensing of antiques) and from DOE (now responsible for the built heritage). The Environment Secretary should be invited to express a view before the precise scope of any transfer of heritage functions is decided. One issue is whether statutory responsibilities and consents to the demolition and alteration of listed buildings and schedule monuments, which often arise as part of planning applications, should remain with DOE. The enlarged Department will outgrow OAL's present accommodation in Great George Street. New premises will be found near Whitehall, but will not be available for two to three months, during which time the Minister and ex-OAL staff can continue in Great George Street.

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Civil Service

19. By the Civil Service Order in Council, responsibility for the Civil Service is divided between the Minister for the Civil Service, a post usually held by the Prime Minister, and the Treasury. The Office of the Minister for the Civil Service (OMCS) deals with functions relating to appointments, organisation, standards, and staff development, the Treasury deal with manpower, pay, financial conditions of service and other issues affecting value for money. The Chancellor is usually supported by a junior Treasury Minister. The Prime Minister's Civil Service functions have been delegated at various times to the Lord Privy Seal, the Chancellor of the Duchy, and more recently the Minister of State Privy Council Office, who doubled as Minister for the Arts.

20. Much will turn on whether the Home Office or OMCS has responsibility for Freedom of Information (FOI) legislation. Recently it has been the responsibility of the latter, and in that case OMCS would need a Minister of State in the Commons. If, however, the Home Office is responsible for FOI, OMCS could be covered by the Lord Privy Seal with a Treasury Minister answering questions in the Commons.

21. You will also need to take an early decision on:

- i. what happens to the former Government's Citizen's Charter Unit; a note on this is at Annex A;

- ii. what happens to the former Government's efficiency adviser and efficiency unit; a note on this is at Annex B.

On balance my advice is that the duties of the Citizen's Charter Unit are transferred to DTI and directed to the preparation of the Consumer's Charter, and the Efficiency Unit is wound up with its remnant duties transferred to the Treasury.

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Minister for Children

22. The manifesto proposal is to appoint a Minister for Children in the Home Office. The Minister's role would be essentially coordinating and cross-Departmental. In addition to new initiatives, including the establishment of a Children's Rights Commissioner, I understand that the Minister would take the lead on and have oversight of implementation of the Children Act.

23. Transfer to the Home Office would reverse a transfer to the Department of Health which took place in 1972 following the Seebohm Report. The Home Office now deals with children only in the rather negative contexts of delinquency and crime. The Department of Health leads on the Children Act, it also monitors implementation of the UK implementation of the UN Convention on the Rights of the Child. It has been conducting a review of adoption practices, which may lead on to major legislation, and has many more staff dealing with children's issues than the Home Office. It is responsible for social services and policy on child abuse, and provides a better focus for links with the unified social services departments in local authorities.

24. Location within the Department of Health would therefore give a children's Minister many relevant direct responsibilities, and stronger staff support. It would not in general be practicable to move DoH staff to the Home Office, because their work is closely linked to other social services functions. Within the Department of Health, the portfolio could be combined with that for Community Care, although this is not essential. It will therefore need to be decided whether the responsibility should be transferred to the Home Office or remain with the Department of Health: officials recommend the latter.

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Minister for Disabled People

25. The Manifesto does not specify where the Minister for Disabled People would be located.

26. Under the previous administration Mr Scott served as Minister for Disabled People in the Department of Social Security, where he was able to focus on the introduction of new disability benefits and the £12bn annual expenditure on benefits for long-term sick and disabled people.

27. However the emphasis in the manifesto is on extending anti-discrimination laws to cover disabled people. This suggests a focus on employment and other rights, rather than on benefits.

You may therefore wish to consider locating the Minister for Disabled People in the Department of Employment, rather than the Department of Social Security. The Minister would need to retain close links with DSS and the Department of Health, but there is no reason why this should not be possible.

Food and Farming

28. The Manifesto proposes to change the title of the Minister of Agriculture Fisheries and Food and his Ministry. It will provide a welcome simplification of legislation if the Ministry becomes a Department under a Secretary of State. An Order in Council will be needed and until the Order is made the Secretary of State should continue to be "Minister of Agriculture, Fisheries and Food" as an additional title for legal reasons.

29. One important presentational point is whether the Secretary of State's title should be "Secretary of State for Food and Farming" , or "Secretary of State for Food, Farming and Fisheries". I am advised that the English Fisheries industry would take the omission of fisheries seriously

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amiss, and would see it as downgrading their position compared to the fisheries industry in Scotland.

Health and Community Care

30. The Secretary of State for Health can be appointed as the "Secretary of State for Health and Community Care" as proposed in the Manifesto. An Order in Council will be needed to change statutory references to the Secretary of State for Health, and for legal reasons the Secretary of State should hold both titles for the time being.

31. "Minister of State for Community Care" is a courtesy title which requires the Prime Minister's approval, but entails no legal process. It can be attached to the Minister of State in the Department of Health.

Legal Administration

32. The Manifesto proposes that a Minister for Legal Administration should be appointed within the Lord Chancellor's Department. For the time being the Department in which the Minister for Legal Administration sits should continue to be known as the Lord Chancellor's Department. The main transfer of functions - responsibility for the Magistrates' Courts from the Home Office - is already implemented as a result of action under the previous administration. Transfers of responsibility for remaining courts and tribunals can be arranged in slower time, following the proposed White Paper.

Minister for Science and Technology

33. The core functions of the new Minister will be responsibility for the Science and Technology Secretariat, and the Advisory Committee on Science and Technology, and responsibility for the Science Budget and research councils

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transferred from the Department of Education and Science.

34. The Minister would not be in Cabinet. There appear to be several options for creating the post:

a) to appoint a Minister of Science and Technology as head of a small separate Government Department; as in the case of the Minister for the Arts, there are technical difficulties if it is proposed subsequently to promote the Minister to the Cabinet;

b) to appoint the Minister of Science and Technology as a Minister of State within the Department of Education and Science, supported by a distinctive group of Civil Servants within that Department, including the Chief Scientific Adviser and his staff;

c) to appoint the Minister for Science as Paymaster General; he could then either head a small separate Department or serve in the Department of Education and Science.

35. Option a) or the independent version of option c) would be more consistent with the Manifesto references. There are however strong arguments for b), not least the fact that it would be possible to continue to coordinate closely the element of science research funded through the Research Councils with that funded through the higher education funding councils. The Secretary of State for Education and Science could continue to represent science in Cabinet. A separate office of Science would require Transfer of Functions Orders. They would also imply that the title of the Secretary of State for Education and Science should be changed to Secretary of State for Education.

36. Your predecessors took a personal interest in science, including meetings with the scientific community, Chairmanship of occasional meetings of ACOST, and some involvement in the annual

PES negotiations. The science community will not be slow in asking whether you propose to continue this interest.

37. Some policy papers have mentioned that the Minister for Science would take over Ministerial responsibility for the Central Statistical Office, the Meteorological Office and, perhaps at a later stage, OPCS and also head an Office of Policy Research. If so this would require transfers of functions from the Chancellor and the Secretary of State for Health. The Manifesto is silent on these proposals, although it recommends that the CSO should become fully independent. I recommend that the you do not set up this larger Department before making an analysis of the pros and cons of doing so. This would imply that the initial title of the Minister should be "Minister of Science and Technology", rather than "Minister of Science, Technology, Research and Statistics."

Other matters

38. You may wish to consider transferring certain other minor functions. These are not in the manifesto, but they can be more conveniently transferred when the administration is first formed. They are covered in the following paragraphs. If agreed, they should be cleared with the relevant Secretaries of State on appointment. I have confirmed that the Departments concerned support them at official level.

Small businesses

39. There is at present some confusion between the responsibilities of the Department of Employment and the Department of Trade and Industry in the area of support for small businesses. Some useful rationalisation could be achieved by transferring the Department of Employment's responsibilities for small businesses back to the Department of Trade and Industry,

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reversing a change in responsibility made in 1984. The Department of Employment would remain responsible for the Enterprise Allowance Scheme, and the reformed TEC network could continue to be involved as necessary in delivering small business support measures as agents of the DTI. At Ministerial level the change would allow strategic development of policy on small businesses. On the ground it would remove an artificial and confusing division of responsibility for business starts, small firms and established businesses.

Inner Cities

40. The manifesto contains a commitment to pull together uncoordinated Inner Cities initiatives into a coherent urban programme. The lead on most urban initiatives at present lies with the Department of the Environment, the lead on Inner City Task Forces rests with DTI. As a first step, you may wish to rationalise this by transferring responsibility for the task forces and the central unit which supervises them to DOE.

R.B.

ROBIN BUTLER

9 April 1992

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