

**Giving out BR1M not bribery, says AG**  
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The BN caretaker government giving handouts like 1Malaysia People's Aid (BR1M) is not bribery, as long as it had been approved in Budget 2013, said Attorney-General Abdul Gani Patail.

In explaining his understanding of a caretaker government to Bernama, he said it could make agreements, contracts, and pledges, on condition that the allocation was approved by the government and parliament under the Tenth Malaysia Plan (10MP) and Budget 2013. "These include making payments approved by the government before parliament was dissolved as it is among routine matters under the responsibility of the caretaker government.

"For example, the 1Malaysia People's Aid (BR1M) has been decided. It is the right of the people to receive them.

"So, what is this issue of bribery. Bribery is only applicable when a person does not have the right and I give in return of your favour."

It could also continue to implement policies and programmes with the financial allocation provided such as public housing projects for the poor, microcredit loans and giving land ownership.

Last week, PAS vice president Mahfuz Omar said that with the dissolution of Parliament, BN chief Najib Razak as the caretaker PM can no longer campaign as prime minister.

Mahfuz said that the caretaker cabinet members should go down to the ground only in their capacities as BN leaders, not as ministers.

Among others, this therefore implies they should not announce or give any form of assistance or allocation from federal funds whether in the form of cash, grants, bonuses or material gifts.

AG: No major contracts

However Abdul Gani said the federal constitution did not specifically provide for a caretaker government and its functions, but it exists via constitutional convention as implied by provisions of the constitution.

"The caretaker government consisting of the cabinet starts after parliament is dissolved and ends on the date of appointment of the new prime minister after the general election or until the new parliament session starts, whichever is earlier," he said.

Asked whether there were countries which enacted laws regarding a caretaker government,

Abdul Gani said, "So far, to my knowledge, none."

The AG however appears to concur with some of Mahfuz's views, when he said the caretaker government cannot enter into major government contracts and make major policy decisions that have financial implications.

"Basically, there are three things that the caretaker government should not do. Make major policy decisions that will likely commit the incoming government and make significant appointments such as appointment of the new chief justice by the Yang di-Pertuan Agong.

"It cannot advise any appointments. Thirdly, entering major government contracts for undertaking," he told Bernama in an interview at his office here recently.

Abdul Gani said the caretaker government could carry out the administration subject to certain limitations.

"The caretaker government can hold official meetings in relation to routine administrative (duties) but it cannot make any major decisions and policies that have financial implications on the new government.'

He said the caretaker government could make decisions if the national security, stability, and economy and public order were being threatened.

Members of the caretaker government could organise or attend official functions and host scheduled reception for projects or programmes set by using government expenditure by complying with the treasury directives.

Abdul Gani said members of the caretaker government could also attend functions such as the opening of roads, schools and bridges that had been scheduled.

They could also officiate events including in areas they are contesting including those under the responsibility of ministers of the federal government when parliament was dissolved.

In addition, the caretaker government could also set the dates for the start of laws passed by parliament.

'Court precedence for continued cabinet'

Abdul Gani (below) explained why a caretaker government must exist when parliament is dissolved, as it was needed to advise the Yang di-Pertuan Agong and to function as the government.

He said although the federal constitution did not specifically provide for a caretaker government, Article 43 (1) provides that the Yang di-Pertuan Agong shall appoint a cabinet of ministers to advise him in exercising his functions.

This was in line with Article 40 of the federal constitution which provides that the Yang di-Pertuan Agong shall act in accordance with advice of the cabinet of ministers or a

minister acting under the authority of the cabinet.

"We also look at the case of Abdul Ghani Ali v Public Prosecutor (2001) where the Federal Court ruled that the word 'shall' in Article 43 (1) of the federal constitution shows that the cabinet must exist at all times to advise the Yang di-Pertuan Agong though parliament has been dissolved.

"There must be a government continuously, cannot be a gap. (There must) always be a government to advice the Yang di-Pertuan Agong. This is the court's decision. On this basis, there must be a government at all times hence the establishment of a caretaker government," he told Bernama in an interview at his office recently.

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