

HOUSE *of* REPRESENTATIVES

GUIDE *to*  
PROCEDURES

FOURTH EDITION

OCTOBER 2010

DEPARTMENT OF THE HOUSE OF REPRESENTATIVES  
CANBERRA

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ISBN 978-0-642-79383-6 (Printed version)

ISBN 978-0-642-79384-3 (HTML version)

Cover design by Lisa McDonald  
House of Representatives Publishing Office  
Printed by CANPRINT

## Preface

The *Guide to Procedures* is a concise yet comprehensive introduction to the procedures of the House of Representatives, intended for participants in and observers of proceedings in the Chamber of the House and the Main Committee.

*House of Representatives Practice* is the definitive text on the parliamentary law, procedures, and practice of the House of Representatives. The *Guide to Procedures* does not go into such detail, nor does it include as wide a range of subject matter. Thus, for example, topics such as parliamentary privilege and committees are covered here only in as much as they become involved in proceedings in the Chamber.

This fourth edition of the *Guide to Procedures* has been updated to incorporate the procedural changes introduced at the beginning of the 43rd Parliament following the 2010 general election, and refers to the standing orders as at 20 October 2010.



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## **1. THE STANDING ORDERS**

Section 50 of the Constitution provides that each House of the Parliament may make rules and orders with respect to the order and conduct of its business and proceedings either separately or jointly with the other House.

The standing orders are the formal rules governing the proceedings of the House. They are rules adopted by resolution (order) of the House which have continuing (standing) effect. Standing orders can be amended or omitted, or new standing orders created, by resolution of the House.

Some rules and conventions observed in the House are not imposed by the standing orders. These reflect the traditional practice of the House.

Although the standing orders and practice of the House have their origins in the traditional parliamentary practice which applied in the United Kingdom House of Commons in the years before Federation, procedures and practices have been developed to suit the different needs of the House of Representatives.

Standing order 3(e) states that the Speaker (or other Member presiding) is responsible for ruling when a question on the interpretation of a standing order arises and for deciding cases not provided for in the standing orders. Previous rules of Speakers of the House and established practice are to be considered in all cases.

### **Changing the standing orders**

Standing orders may be amended or omitted, or new standing orders created, by resolution of the House. Standing orders continue in force until altered, amended, or repealed (S.O. 3(a)).

Changes often follow recommendations by the Standing Committee on Procedure, which is appointed to inquire into and report upon the practice and procedures of the House and its committees (S.O. 221).

Sessional orders are temporary standing orders adopted (generally for the remainder of a session) as a means of experimenting with various procedures. If found effective, sessional orders may later be incorporated into the standing orders.

### **Suspending the standing orders**

It is not unusual for the House to want to permit an action which the standing orders would prevent. Common instances are to grant unlimited or extended time for particular speeches, the introduction of particular bills without notice and their passage without delay, and for the House to sit longer hours than

provided for in the standing orders (by suspension of the automatic adjournment). In these cases the House may agree to suspend a particular standing order or standing orders generally for a particular purpose. The standing orders may only be suspended by motion, usually in one of the following forms:

- That so much of the standing [and sessional] orders be suspended as would prevent . . .
- That standing order . . . be suspended for [this sitting].

When a motion for the suspension of any standing or sessional order appears on the Notice Paper, the motion may be carried by a simple majority—i.e. the majority of votes of Members present (S.O. 47(b)).

In cases of necessity a motion for the suspension of any standing or sessional order or orders may be moved without notice. Unless moved by leave of the House (*see below*), this motion must be carried by an absolute majority of Members of the House—76 in a House of 150 (S.O. 47(c)). When the motion is moved by leave a division would not normally be called for, but if it were, it could be carried by a simple majority.

A motion to suspend standing orders may be moved by any Member who has received the call from the Chair, but only if it is relevant to the matter before the House at the time, or if there is no matter before the House (i.e. between items of business).

The suspension of standing orders is limited in its operation to the particular purpose for which such suspension has been sought (S.O. 47(d)).

The standing orders are adopted by the House and cannot be suspended by committees or the Main Committee, which are subsidiary bodies.

## **Leave of the House**

The House or Main Committee may grant leave—if no Member present objects—for certain things to be done which would otherwise be contrary to the standing orders or practice of the House. A Minister or Member may ask for leave, or the Chair, sensing the feeling of the House or the Committee, may initiate the proposal; in either event, the Chair seeks the agreement of Members.

Leave sought may cover a wide field. Common examples are to enable the next stage of a bill to be taken immediately; to proceed immediately from the second reading of a bill to the third reading (i.e. to omit the consideration in detail stage); during the consideration in detail stage to take a bill as a whole or in parts together; to move a motion without notice; or to enable statements to be made to the House. Leave is often sought to present documents to the House—while there is no provision for private Members to table documents, they may do so if they obtain leave of the House, and Ministers too require leave in some circumstances (*see p. 89*).

The limitations of leave have not been defined but, in practice, leave should not be sought to do anything which is too radical a departure from the standing orders. In these cases, it is usual for leave to be sought to move, without notice, a suspension of the standing orders (S.O. 47).

Leave of the House or Main Committee must be granted without any dissenting voice (S.O. 63).

## 2. THE SPEAKER

### Functions

#### *Chair of the House*

The Speaker chairs or presides over the sittings of the House. In this role his or her principal functions are to keep order and enforce the rules of debate, call Members to speak, propose the question from the Chair for debate, put the question at the conclusion of the debate and declare the decision of the House, rule on points of order, conduct divisions, and exercise a general supervision over notices, questions seeking information and other matters connected with the House and its business.

#### *Representation*

The Speaker is the spokesperson for the House in its relations with the other constituent parts of the Parliament—the Senate and the Sovereign (represented by the Governor-General), the other arms of government—the Executive and the Judiciary, and with other outside bodies and persons. On formal occasions the Speaker represents the House and plays a central ceremonial role.

#### *Administration*

The Speaker has overall responsibility for the provision of services to Members in Parliament House and for the administration of the Department of the House of Representatives. In conjunction with the President of the Senate, he or she has overall responsibility for the administration of services provided jointly to both Houses and for the control and management of the parliamentary precincts.

### Election

The first duty of a new House following a general election, after Members have been sworn in, is to elect its Speaker (S.O. 4). Until a Speaker is elected, the Clerk acts as Chair of the House (S.O.s 4(c)(e), 10(b)). The procedure for election of a Speaker is laid down in detail by standing order 11.

A Member, addressing the Clerk, proposes a Member as Speaker. The motion is seconded and the Member proposed is required to say whether he or she accepts nomination. The mover and seconder may speak in support of their candidate for five minutes each.

If there is only one proposal, no further debate is allowed and the Clerk immediately declares the Member to have been elected as Speaker.

If more than one Member is proposed as Speaker, debate relevant to the election may take place, each speech being limited to five minutes duration.

During debate a Minister may move at any time ‘That the ballot be taken now’ and that question is put immediately by the Clerk. If, on division, the numbers are equal, the question is decided in the negative as, until a Speaker is elected, there is no provision for a casting vote.

After debate concludes the House proceeds to a ballot in which Members write on a ballot paper the name of the candidate for whom they wish to vote. The votes are counted by the Clerks at the Table, and if there are only two candidates, the candidate with the greater number of votes is declared by the Clerk to have been elected.

Standing order 11 also provides procedures to meet situations when there are more than two candidates—there has been no instance of this—and when a ballot is inconclusive by reason of an equality of votes. A candidate may, between ballots, withdraw his or her name from the election, which then proceeds as if he or she had not been nominated. If a withdrawal leaves only one candidate, he or she is immediately declared elected.

The elected Member (traditionally with a show of reluctance) is conducted to the Chair by the mover and seconder and, from the upper step, makes acknowledgment of his or her appointment. The new Speaker then takes the Chair, at which point the Mace is placed on the Table. At this stage it is usual for party leaders and others to offer their congratulations, for which the Speaker returns thanks.

### **Vacancy in office**

If a vacancy by death, resignation, or removal from office occurs in the office of Speaker during the life of a Parliament, the Clerk reports the fact to the House and a new Speaker is elected in accordance with the procedures described (S.O. 19).

### **Deputy Speaker and Second Deputy Speaker**

During a sitting the Speaker may be relieved in the Chair by the Deputy Speaker, the Second Deputy Speaker, or by one of the members of the Speaker’s panel (*see below*) (S.O.s 16(b), 17).

In the unavoidable absence of the Speaker from a meeting of the House, for a day or over a period, the Speaker’s duties in relation to proceedings in the House and under the Constitution are performed by the Deputy Speaker as Acting Speaker or, if the Deputy Speaker is also absent, the Second Deputy Speaker as Acting Speaker. In the unavoidable absence of all three, a Member

may be elected to perform the duties of Speaker during that absence, or alternatively the House stands adjourned until the next sitting day (S.O.18).

In the absence of the Deputy Speaker, the Second Deputy Speaker acts as Deputy Speaker (S.O. 16(c)).

In addition to the function of Speaker's deputy, the Deputy Speaker has specific responsibility for chairing the Main Committee (S.O. 16(b)). In the Committee he or she has powers to regulate the conduct of business similar to those the Speaker has in the House (S.O.s 60, 187).

### ***Election***

At the beginning of a Parliament the Deputy Speaker and Second Deputy Speaker are elected in the ballot for the Deputy Speakership, with the Member with the highest number of votes becoming the Deputy Speaker and the Member with the next highest number of votes becoming the Second Deputy Speaker (S.O.s 13, 14). Only a non-government Member may be elected as Second Deputy Speaker (S.O. 13(c)).

If only one Member is nominated, that Member is declared Deputy Speaker and the House may leave the office of Second Deputy Speaker vacant or may in the future agree to a motion to conduct a ballot for the office (S.O. 14(b)).

The procedure for the election of the Deputy Speaker and Second Deputy Speaker is similar to that for the election of Speaker, except that the Speaker and not the Clerk presides. The Speaker has a casting vote when there is an equality of votes in a ballot between two Members.

### **Speaker's panel**

At the start of every Parliament, the Speaker nominates a panel of not less than four Members to assist the Chair, any one of whom may, on request by the Speaker or Deputy Speaker take the Chair of the House as Deputy Speaker, or on request by the Deputy Speaker take the Chair of the Main Committee (S.O. 17). Nominations may be revoked or added to during the Parliament.

In practice about ten Members are nominated (from both sides of the House, those from the government side being in the majority). A roster is maintained for occupants of the Chair. If disorder arises when a member of the Speaker's panel is presiding, the Speaker, Deputy Speaker, or Second Deputy Speaker will often resume the Chair.

### **3. THE CHAMBER**

#### **Seating**

The Chamber has a horse-shoe shaped seating arrangement, with Members from the governing party or parties sitting on the right of the Chair and the Members from the opposition parties and other non-government Members on the left. The front bench seats on the right hand of the Speaker are reserved for Ministers (S.O. 23). Similarly, the front bench seats on the left hand of the Speaker are reserved for the Opposition Executive ('shadow ministers'). The two chairs on the right of the Table are, by practice, reserved for the Prime Minister and the Deputy Prime Minister but are also occupied by other Ministers or Parliamentary Secretaries when they are in charge of the business before the House. Similarly, the two chairs on the left of the Table are reserved for the Leader and Deputy Leader of the Opposition but may be occupied by Members leading for the Opposition in the business before the House.

Other Members have allotted seats. A Member's request for the allocation of a seat should be made to the Serjeant-at-Arms but any question arising regarding the seats to be occupied by Members is determined by the Speaker (S.O. 24(b)). A Member is entitled to retain the seat occupied at the end of the previous Parliament (S.O. 24(a)) (except when a change of government necessitates a change of sides).

#### **The Mace**

The Mace is present in the Chamber at all times the House is sitting, including during suspensions of sittings, and is placed on the Table whenever the Speaker, Deputy Speaker or member of the Speaker's panel is in the Chair. Prior to the election of a Speaker the Mace is placed on brackets below the Table (S.O. 12(c)).

#### **Bar of the House**

The Bar of the House, between the back rows of Members' seats at the main entrance to the Chamber, demarks the area of the Chamber reserved to Members, which non-Members may not enter unless invited by the House. It consists of a cylindrical bronze rail which may be placed across the gap between the two sides of the back row. A witness before the House is examined at the Bar unless the House orders otherwise (S.O. 255(b)).

## **Galleries**

There are open galleries on all four sides of the Chamber at first floor level and enclosed soundproof galleries on three sides at second floor level. All galleries come under the authority of the Speaker and are administered and controlled by the Serjeant-at-Arms.

### ***Distinguished visitors***

The Speaker may admit distinguished visitors to a seat on the floor of the House (S.O. 257(a)). This honour is accorded infrequently—usually to very distinguished visitors including some Heads of State.

### ***Distinguished visitors' galleries***

The distinguished visitors' galleries are at floor level, at the right and left of the rear of the Chamber in the area behind the Members' seating. Access is by invitation from the Speaker (S.O. 257(a)) and has been accorded to dignitaries including Presiding Officers from other Parliaments, Heads of State, and members of visiting official parliamentary delegations. The Speaker's office issues tickets for seats in the distinguished visitors' gallery.

### ***Special visitors' gallery***

The first row on both sides of the middle aisle of the first floor central gallery is designated the 'special visitors' gallery'. Four seats in this area are reserved for Senators. Tickets are issued by the Speaker's office for seats in this gallery at question time and at other busy times. The gallery is for special guests of the Speaker and personal guests of the Prime Minister and Leader of the Opposition. Other guests may include former Members and Senators, senior diplomats and visiting senior parliamentary officers from other parliaments.

### ***Senators***

Senators are welcome to sit in the seats reserved for them in the special visitors' gallery (*see above*). They may also sit in the distinguished visitors' gallery if they prefer to sit at chamber level. Senators wishing to use either gallery at question time should notify the Speaker's office and obtain tickets. At other times they should notify the Speaker's office to ensure enough seats are provided but they do not need tickets. Senators must observe the Speaker's instructions regarding good order (S.O. 257(c)).

### ***Speaker's gallery***

The second and third rows on both sides of the first floor central gallery comprise the Speaker's gallery. This gallery is reserved for guests of the Speaker and Members' guests. Members may request two tickets for question time by applying to the Speaker's office.

### ***Public galleries***

The remaining seats in the central gallery and the two side galleries are open to the public. The central gallery is generally open at all times the House is sitting. Members of the public are able to obtain tickets to the public galleries for peak periods such as question time by booking through the Serjeant-at-Arm's office and collecting the tickets from the cloak room in the public area of the first floor. Those with reservations are normally seated in the undesignated seats in the central gallery first. At question time, people may queue for unreserved seats.

### ***Press gallery***

The rear gallery (behind the Speaker's Chair) is reserved for the press. Members of the media who have photographic security passes for Parliament House may occupy a seat in the press gallery. Special press passes are issued by the Serjeant-at-Arms to non passholders on the recommendation of the Press Gallery Committee. Licence to occupy a seat in the press gallery may be withdrawn at any time at the discretion of the Speaker.

### ***Enclosed galleries***

The enclosed soundproof galleries at second floor level enable the operations of the Chamber to be described to visitors without disturbing the proceedings. They are mainly used by school groups.

## **Visitors**

Visitors are persons in the Chamber who are neither Members nor officials. They were traditionally referred to as 'strangers'. Members may not bring visitors into the areas of the Chamber or of the Main Committee which are reserved for Members (S.O. 257(b)). Visitors must not disturb the operations of the Chamber or the Main Committee and may be removed by the Serjeant-at-Arms if they do so (S.O. 96). In practice those who disturb proceedings are usually removed by one of the security staff who are responsible to the Serjeant for their activities in the chamber and galleries.

## **Broadcasting of proceedings**

### ***Radio***

Since 1946 the proceedings of Parliament have been broadcast live by the Australian Broadcasting Corporation (ABC) on each day on which either House is sitting. As a general rule, the House of Representatives is broadcast on Monday, Thursday and Friday (if sitting) and the Senate on Tuesday and Wednesday. A recording of the question time of the House which is not being broadcast live is also broadcast later in the day (following the live broadcast of proceedings). The Joint Committee on the Broadcasting of Parliamentary Proceedings exercises control over the broadcast in accordance with principles ratified by each House. The resolutions of the House containing the principles governing broadcasting and rebroadcasting (1994) and conditions for broadcasters (1996) are reprinted at the back of the volume of standing orders.

### ***Television***

The televised proceedings of the House and the Main Committee, as well as some of the public hearings of parliamentary committees, are broadcast live on the House Monitoring Service within Parliament House (and externally to government departments) and over the internet. This official broadcast is also available for the use of the television networks. The live proceedings are currently broadcast nationally by A-PAC (Australian Public Affairs Channel), and within Canberra by the TransACT cable network. Generally only question time and special events, such as the Treasurer's Budget speech and the Leader of the Opposition's reply, are broadcast live on free to air television (by the ABC). Other free to air television coverage is usually limited to excerpts in news and current affairs programs.

### ***Internet***

Internet access is available to sound and video broadcasts of the proceedings of both Houses, the House of Representatives Main Committee, and selected public hearings of parliamentary committees taking place in Parliament House (<http://www.apf.gov.au/live/>).

## **The Main Committee**

The Main Committee is a second chamber which operates in parallel with the Chamber of the House to allow two streams of business to be debated concurrently. All Members of the House are members of the Main Committee and eligible to participate in its meetings, although only a minority of Members are present at any one time.

The Main Committee meets in one of the largest House of Representatives committee rooms which has been dedicated to its Main Committee role and is fitted out in a small-scale chamber setting. Like the Chamber of the House the Main Committee has a horse-shoe shaped seating arrangement. Members do not have allocated seats, although in practice government and opposition Members usually sit on the right and left of the Chair respectively. There are seats for 38 Members, and room for additional seating if required. There are galleries (at floor level) for advisers, the media and the public. Proceedings are televised on the House monitoring service.

## 4. SITTINGS OF THE HOUSE AND ORGANISATION OF BUSINESS

### Sittings of the House—terminology

The following definitions cover some of the parliamentary terms associated with sittings of the House and the intervals between sittings:

A *Parliament* commences upon the first sitting day following a general election. The Constitution provides that Parliament must be summoned to meet not later than 30 days after the day appointed for the return of the election writs. The day for the new Parliament to assemble is fixed by the Governor-General by proclamation, in practice on the advice of the Prime Minister of the day.

A Parliament comes to an end automatically at the expiration of three years from the first meeting of the House, or on the earlier dissolution of the House. A general election for the full membership of a new House is then held.

A *session* commences upon the first sitting day following a general election or prorogation and concludes either by prorogation, dissolution or at the expiration of three years from the first meeting of the House. A further session commences upon the first sitting day following a prorogation and concludes in the same manner. In recent times Parliaments have consisted of only one session (S.O. 2).

*Dissolution* is the formal action of ending a Parliament or a House of the Parliament. The House is dissolved by proclamation of the Governor-General, in practice on the advice of the Prime Minister of the day. When the House is dissolved or expires the Senate continues to exist, except in specific circumstances set out in the Constitution when both Houses may be dissolved simultaneously ('double dissolution') following legislative deadlock.

*Prorogation* is the formal ending of a session without dissolving either House and therefore without a subsequent election. Prorogation of the Parliament is by proclamation of the Governor-General, in practice on the advice of the Prime Minister of the day (S.O. 2).

*Sitting periods* occur within a session. The sittings of the House in each calendar year are divided into three distinct periods: the Autumn sittings—usually from February to April; the Winter (Budget) sittings in May/June; and the Spring sittings from August to December. In earlier years the practice was to have two sitting periods: Autumn sittings, from February to June, and Budget sittings, from August to December, and this arrangement, with an August Budget, may still occur when a general election interrupts the usual parliamentary calendar.

A *sitting* commences when the House meets pursuant to the standing or sessional orders, or in accordance with a resolution of the House at a previous sitting, and concludes with the adjournment of the same sitting. The same sitting may extend over more than one day (S.O. 2).

*Suspension of sitting*—a sitting may be suspended, that is, interrupted, with the Speaker or Member presiding leaving the Chair, for a variety of reasons, including meal breaks (if occurring).

An *adjournment* is said to occur when the House stands adjourned for any period of time. Thus the term covers the period between the end of one sitting and the commencement of the next; the gap (usually of two weeks) between sitting weeks within a sitting period; and also the much longer periods of time between the main sitting periods each year, which are technically not recesses although they are often referred to as such.

A *recess* is a period between sessions of the Parliament or the period between the close of a session by prorogation and the dissolution or expiry of the House (S.O. 2).

## Days and hours of sitting

### *Sittings of the House*

The House sits in accordance with a program of sittings agreed to by the House for that year, unless otherwise ordered (S.O.s 29, 30). The normal hours of sitting are currently as follows (S.O. 29):

<i>Day</i>	<i>Meeting commences</i>	<i>Adjournment proposed</i>	<i>House adjourns</i>
Monday	10 a.m.	9.30 p.m.	10.30 p.m.
Tuesday	2 p.m.	9.30 p.m.	10.30 p.m.
Wednesday	9 a.m.	7.30 p.m.	8 p.m.
Thursday	9 a.m.	4.30 p.m.	5 p.m.

There are normally no suspensions of sittings for meal breaks.

A motion to vary the time and/or day of the next meeting of the House is needed whenever the House departs from the agreed sitting pattern. Such a motion may be moved by a Minister at any time without notice (S.O. 30).

### ***Sittings of the Main Committee***

The usual days and hours of sitting of the Main Committee, the House's second debating chamber are as follows (S.O. 192):

<i>Day</i>	<i>Meeting commences</i>	<i>Usual time of adjournment</i>
Monday	10.30 a.m.	10 p.m.
Wednesday	9.30 a.m.	1 p.m.
Thursday	9.30 a.m.	1 p.m.

The Main Committee can meet only while the House itself is sitting. Its sitting times are set by the Deputy Speaker (S.O. 186) to accommodate the amount of business to be considered. Additional sittings are possible, and can be expected at Budget time to provide additional time for the Budget and estimates debates.

### **Meeting of the House**

Before a meeting of the House the bells ring for five minutes to call Members to the Chamber. At the time fixed for the House to meet, the Speaker, preceded by the Serjeant-at-Arms with the Mace, enters the Chamber and takes the Chair (S.O. 54). Having ascertained that a quorum is present, the Speaker makes the acknowledgement of country and reads the Prayers specified in S.O. 38, with Members standing, then calls on the first item of business.

### **Adjournment of sitting**

The House is adjourned by agreement to the motion 'That the House do now adjourn', which may only be moved by a Minister (S.O. 32(a)), or in accordance with the automatic adjournment provisions (S.O. 31).

At the time set for the adjournment to be proposed (S.O. 29) the Speaker interrupts proceedings to propose the question 'That the House do now adjourn' (S.O. 31). If a division is occurring at the time of interruption, the division (and any consequential division) is completed and the result announced.

A Minister may require the question to be put immediately (to allow it to be negatived to enable the business before the House to continue). If the question is then negatived the House resumes its proceedings at the point they were interrupted. Otherwise the interrupted business is set down on the Notice Paper for the next sitting, and debate may then take place on the question 'That the House do now adjourn'. This is the adjournment debate during

which the rule of relevance does not apply, giving Members the opportunity to speak on matters of their own choosing (*see p. 100*).

The adjournment debate is interrupted by the Speaker at the time scheduled for the House to adjourn. At this point a Minister may require the debate to be extended for up to 10 minutes to enable Ministers to speak in reply to matters raised in the debate. If the debate is not extended, or if it is extended after 10 minutes or the earlier ending of debate, the Speaker automatically adjourns the House until the time of its next meeting.

If the adjournment motion is negatived when first proposed and the business of the day is not finished by the time set for the adjournment of the House) a Minister moves the adjournment motion at the conclusion of ordinary business and debate on the motion (adjournment debate) may then occur without any limitation of time.

If the day's business finishes before the time at which the motion to adjourn would be automatically proposed, the adjournment motion is moved by a Minister immediately. Debate on the motion may continue until the time for the adjournment of the House set by standing order 29.

### ***Restriction on new business***

After the normal time of adjournment (that is, the latest scheduled time of adjournment, currently 10.30 p.m.) business is restricted to matters before the House at that time. To permit new business to be considered after that time, a motion to this effect must be agreed to beforehand. (S.O. 33).

### **Quorum**

The quorum is the minimum number of Members which must be present to constitute a meeting of the House for the exercise of its powers. The size of the quorum is defined by the *House of Representatives (Quorum) Act 1989* as at least 1/5 of the whole number of the Members of the House. The quorum of the current House of 150 Members is thus 30 Members. The quorum includes the occupant of the Chair and is not reduced by the death or resignation of a Member.

A quorum must be present to constitute a meeting of the House (S.O. 54) and for a valid recorded vote (i.e. division) (S.O. 58), but it is not necessary to maintain a quorum continuously. The House regularly conducts its business when less than a quorum of Members is present in the Chamber. However, any Member is entitled at any time to call for the presence of a quorum by formally taking notice that a quorum is not present (S.O. 55)—*see below*.

In ascertaining whether or not a quorum is present, all Members within the physical limits of the Chamber (all areas on the floor of the Chamber, including officials' seats) are counted (S.O. 56).

### ***Lack of quorum at time of meeting***

If a quorum is not present when the Chair is taken at the time fixed for the meeting of the House, the bells are rung and a period of five minutes is allowed for a quorum to form (S.O. 54). If, after the five minutes have elapsed a quorum is still not present, the House is suspended or adjourned (*see p. 16*) (S.O. 57).

### ***Lack of quorum on division***

If the result of a division reported to the Chair by the tellers shows that the number of Members voting was less than a quorum, the House has not made a decision on the question (S.O. 58) and the House is suspended or adjourned as described below.

### ***Quorum called for by Member***

A Member calls for a quorum to be formed by drawing the Chair's attention to 'the state of the House' (S.O. 55). It is out of order to debate the situation or to draw attention while the Speaker is in the process of putting a question. Once a quorum has been called for the call cannot be withdrawn and the House must be counted. The Chair counts the House or has it counted and, if a quorum is not present, has the bells rung for four minutes, as for a division. Members may not leave the Chamber until a quorum has been formed or four minutes have elapsed (S.O. 56). If there is not a quorum after the bells have rung for four minutes, the House is suspended or adjourned as described below.

A call for a quorum when a quorum is in fact present is regarded as disorderly, and it is normal in these circumstances for the offending Member to be named by the Chair and suspended from the service of the House (S.O. 55(c)).

### ***Quorum count deferred***

On Mondays quorum calls between 10 a.m. and 12 noon are deferred until 12 noon. On Mondays and Tuesdays quorum calls between 6.30 and 8 p.m. are deferred until 8 p.m.

If a Member calls for a quorum during these times the Chair announces that he or she will count the House at 12 noon or 8 p.m., respectively, if the Member then so desires (S.O. 55).

### ***Adjournment or suspension of House because of lack of quorum***

In all cases, when a lack of quorum has been established the Speaker may either:

- adjourn the House to the next day of sitting, or
- if satisfied there is likely to be a quorum within a reasonable time, announce that he or she will take the Chair at a stated time, and the sitting is suspended until that time. If, at that time, there is still not a quorum, the Speaker adjourns the House until the next sitting day (S.O. 57).

### ***Quorum in the Main Committee***

The quorum in the Main Committee is three, including the occupant of the Chair, one government Member and one non-government Member (S.O. 184(b)). This quorum must be present at all times. If the Chair notes that a quorum is not present he or she must suspend the Committee until a stated time or adjourn it until the day of the next sitting of the House (S.O. 190(b)).

### **Attendance of Members**

The attendance of Members at each sitting of the House is recorded in the Votes and Proceedings (S.O. 27(c))—in practice the names of Members not present are listed. A Register of Members' Attendance is maintained by the Serjeant-at-Arms. For a Member's attendance to be registered he or she must be physically present in the Chamber of the House at some time during the sitting (attending the Main Committee only does not count for House attendance purposes). Members' attendance is normally registered at question time, and Members who only enter the Chamber outside question time need to ensure that their attendance has been recorded.

### ***Leave of absence***

A Member's place becomes vacant if, without permission of the House, he or she does not attend the House for two consecutive months of any session of the Parliament (Constitution, section 38).

Leave of absence is usually granted for reasons such as parliamentary or public business overseas, maternity or ill health. A motion to grant leave of absence does not require notice, states the cause and period of leave, and has priority over all other business (S.O. 26(a)). Leave of absence excuses a Member from service in the House or on a committee (S.O. 26(b)). If a Member granted leave of absence attends the House before the period of leave expires, the remaining leave is forfeited (S.O. 26(b)). A Member may not lodge a notice of motion or notice of intention to present a bill while on leave, as the notice must be delivered to the Clerk in the Chamber (S.O. 106), although he or she may lodge a question in writing.

It is the usual practice at the end of a period of sittings for a Minister to move 'That leave of absence be given to every Member of the House of

Representatives from the determination of this sitting of the House to the date of its next sitting’.

## Opening of a new Parliament

The opening of a new Parliament is characterised by ceremony:

- Local indigenous people are invited to conduct a ceremony of welcome (S.O. 4(a)).
- Members assemble in the House of Representatives Chamber at the time appointed by the Governor-General in the Proclamation calling Parliament together, and the Clerk of the House reads the proclamation summoning Parliament (S.O.s 4(b) and (c)).
- Members go in procession to the Senate Chamber to hear the Governor-General’s Deputy (normally the Chief Justice of the High Court) formally declare the Parliament open. They then return to the House.
- The Clerk tables the returns to the writs showing the Member elected for each electoral division, after which Members are called to the Table in groups to swear an oath or make an affirmation and sign the oath or affirmation form.
- The Speaker is elected, as described at page 4. The Prime Minister or another Minister then informs the House of the time the Governor-General will receive the Members of the House and the Speaker. The sitting is then suspended.
- Members reassemble in the Chamber before accompanying the Speaker as he or she is presented to the Governor-General in the Members’ Hall. Members then return to the Chamber where the Speaker resumes the Chair and reports to the House.
- Members go in procession to the Senate Chamber where the Governor-General makes the ‘opening speech’ (S.O.s 4 and 5). This is a formal declaration of the causes of the calling together of the Parliament and contains a brief review of the affairs of the nation and a forecast of the Government’s proposed program of legislation.
- Members return to the House of Representatives where some formal business (the presentation and first reading of a ‘formal’ or ‘privilege’ bill) is transacted (S.O.s 5(b) and 6(a)). This is a symbolic declaration by the House that it is master of its own program of business.
- The Speaker reports the Governor-General’s speech to the House and a committee of three Members is appointed to prepare an ‘Address in Reply’—*see below* (S.O. 6). The sitting is suspended.
- When the sitting resumes the House may proceed to other business. This usually includes the election of the Deputy Speaker and Second Deputy Speaker and condolence motions. The proposed Address in Reply may be presented to the House at this sitting. However, this usually occurs at the next sitting.

### ***Opening of a new session***

Procedure for the opening day of a new session of the Parliament following a prorogation is similar to that for the opening day of a new Parliament except that, as the session is a continuation of and not the commencement of a Parliament, no Deputies are appointed by the Governor-General to open Parliament, only those Members elected at by-elections since the last meeting are sworn in (by the Speaker), and the Speaker, Deputy Speaker and Second Deputy Speaker continue in office without re-election.

### ***Address in Reply debate***

An Address is a formal communication from the House to the Sovereign or the Governor-General (S.O.s 267–270). Such communication is unusual except for the Address in Reply at the start of each Parliament, thanking the Governor-General for his or her opening speech (S.O. 6).

The appointment of the Address in Reply committee (traditionally comprising the Prime Minister and two newly elected government Members) and the preparation of the Address are formalities—the wording does not change in substance from Parliament to Parliament. The proposed Address is presented to the House by one of the private Members of the committee and is read out by the Clerk. The Member then moves ‘That the Address be agreed to’. The motion is seconded by the other private Member of the committee.

A wide ranging debate on the motion ‘That the Address be agreed to’ takes place, usually spread over several sittings. The debate provides an opportunity for Members to speak on any matter they wish, provided the other rules of debate are observed. Each Member may speak for 20 minutes. This debate is traditionally an opportunity for newly elected Members to make their first speeches in the House. The debate may be referred to the Main Committee. An amendment, in the form of an addition of words, may be moved to the Address.

At the end of the debate the Address is agreed to. It is later presented to the Governor-General at Government House by the Speaker accompanied by other Members (S.O. 7).

### **Order of business**

The order of business for each day is set out in S.O. 34. The order of business is similar for each day, however:

- Periods are set aside on Monday mornings (10 a.m. to 12 noon) and evenings (8 p.m. to 9.30 p.m.) for committee and delegation business and private Members’ business.
- the House does not sit before question time on Tuesdays;

- Wednesdays and Thursdays commence with government business before question time.

The order of business for each day is:

Committee and delegation business and private Members' business (on Mondays only) (*see pp. 97–99*)

Government business followed by Members' statements (except on Tuesdays);

Question time at 2 p.m. (*see p. 91*);

Documents (*see p. 88*);

Matter of public importance (except on Mondays) (*see p. 102*);

Ministerial statements (*see p. 88*);

Government business;

Committee and delegation business and private Members' business (on Mondays only) (*see pp. 97–99*);

Adjournment debate (*see p. 100*).

### ***Government business—Notices and orders of the day***

The largest proportion of the time of the House is spent considering government business—motions and bills sponsored by Ministers. Most government business is legislation. Notices are items of business being introduced for the first time; orders of the day are items of business which have been introduced previously and listed for further consideration on a later day.

Notices and orders of the day are taken in the order they appear on the Notice Paper (S.O.s 37(a) and 112). The order of business can be changed by agreement of the House to a motion moved by the Member in charge of the order (usually a Minister), for example, to postpone an item to a later hour or to the next sitting (S.O. 37(b)).

Matters not on the Notice Paper may also be introduced, where permitted by the standing orders (for example, taxation bills or motions for tariff proposals) or by leave of the House.

### ***Other business***

As necessary or convenient, other business may be taken during the sitting between scheduled items of business. Such matters may include the presentation of documents, the announcement of messages from the Governor-General assenting to bills, messages from the Senate, the presentation of committee reports, and motions relating to the sittings or the business of the House.

## 5. HOUSE DOCUMENTS—AGENDA AND RECORD

### Notice Paper

The Notice Paper is the House's agenda paper, listing all business before the House (S.O. 36). It is published before every sitting of the House but not on the first sitting of a Parliament. The Notice Paper contains the following information:

#### *Business section*

The business section lists all items of business that are currently under consideration by the House. Items of business are grouped under the headings 'Government Business', 'Main Committee', 'Committee and Delegation Reports', and 'Private Members' Business'. The Notice Paper for sitting Mondays also lists items of private Members' business adopted by the House on the recommendation of the whips for discussion in the chamber and Main Committee later that day, together with an indication of agreed speaking times.

Items are listed as either 'Notices'—signifying that a Member or Minister has given notice of his or her intention to introduce a matter for consideration, or as 'Orders of the day'—signifying that the matter has already been introduced and that the House has ordered it to be considered, or further considered at a later sitting. Notice is not required for certain bills or proposals, for example appropriation or supply bills and bills or proposals dealing with taxation (S.O. 178).

Orders of the day are regarded as the property of the House and cannot be withdrawn or removed without the permission of the House (S.O. 117(b)). Before a notice is moved it may be withdrawn by the Member sponsoring it (S.O. 110(c)).

Items listed under private Members' business and committee and delegation reports are removed from the Notice Paper automatically if they have not been considered within eight sitting Mondays (S.O. 42). In the case of items of government business on which no further debate is desired, it is customary for the House from time to time to agree to a motion to discharge these from the Notice Paper.

At the end of a session (i.e. when the House is prorogued or dissolved) all business on the Notice Paper lapses and the next session starts with a clean sheet.

### **Order of business on Notice Paper**

The House considers matters in the order they appear on the day's Notice Paper (S.O.s 112, 37(a)).

As a general rule, notices are first entered on the Notice Paper in the order they are received by the Clerk, with the provisos that notices from one Member are not placed consecutively in priority of a notice received from another Member during the same sitting, and private Members' notices given by government and non-government Members are placed alternately (S.O. 108).

However, the Leader of the House may change the order of government business before each issue of the Notice Paper goes to press (S.O. 45) and the Selection Committee similarly determines the order of committee and delegation business and private Members' business to be considered on Mondays (S.O.s 41, 222).

Notices given for a specified day take priority when that day is reached unless other business takes priority, e.g. as determined by the Selection Committee. If, at the adjournment of the House, any notices have not been called on, they are placed on the Notice Paper for the next sitting after the notices given for that day (S.O. 115).

### ***Questions in writing section***

Questions in writing are listed on the Notice Paper in the order in which they are received by the Clerk and remain there, unless withdrawn by the Member asking them, until written replies are received by the Clerk.

The first Notice Paper to be published for each sitting fortnight includes all unanswered questions. Notice Papers for subsequent sittings in the fortnight only include questions which have appeared for the first time that fortnight. The latest list and text of all unanswered questions is available on the House web-site at [www.aph.gov.au/house/info/notpaper/qons.pdf](http://www.aph.gov.au/house/info/notpaper/qons.pdf).

### ***Information section***

The final section of the Notice Paper contains general information. It lists occupants of the Chair; House and joint committees, their membership and inquiries being undertaken; and the appointment of Members to statutory bodies by the House.

### **Daily Program**

The Daily Program, or the 'Blue Program' or 'Blue' as it is also called after the colour of the paper it is printed on, provides a guide to each day's expected proceedings. Unlike the Notice Paper, the Daily Program is not a

formal document and does not fix the order of business or limit its scope. If circumstances require it a supplementary program may be published.

Some matters appear on the Daily Program which do not appear on the day's Notice Paper—for example: acknowledgement of country and prayers; the listing of a ministerial statement; the subject of a matter of public importance; the presentation of a major government paper or a committee report; and business which may be introduced without notice, such as taxation measures (S.O. 178).

If the Main Committee is sitting, an attachment to the Daily Program lists the proposed Main Committee order of business. If any public hearings of House or joint committees are being held, another attachment gives details of these.

## **Votes and Proceedings**

The Clerk is required to record all proceedings of the House in the Votes and Proceedings (S.O. 27). The Votes and Proceedings is the official record of the proceedings of the House of Representatives, in effect the minutes of its meetings. An issue of the Votes and Proceedings is published for each sitting.

The Votes and Proceedings records what is done (or deemed to be done) by the House as a collective body, and not the words of individual Members.

For each item of business the Votes and Proceedings records all action taken by the House—for example, motions and amendments moved and the names of Members who moved them; whether debate occurred (or was adjourned to a future day or resumed from an earlier occasion); the questions put from the Chair and the decision taken by the House on each question. If a formal vote (division) has taken place the record lists the Members who voted for and against the question.

A typical day's Votes and Proceedings records:

- that the House met at a certain time and the Speaker took the Chair, made an acknowledgement of country and read prayers;
- that questions without notice were asked;
- the documents presented;
- motions moved in connection with any of the papers presented;
- any matter of public importance proposed for discussion and the fact that discussion took place;
- each motion and bill considered by the House;
- announcements of various kinds that have been made relating to the operation of the House—for example, details of ministerial arrangements or committee membership;
- messages received from the Senate or the Governor-General;

- the question for the adjournment of the House, the fact that debate took place (the adjournment debate), the time the House adjourned and the date and time of its next meeting;
- a list of documents deemed to have been presented;
- a record of Members' attendance; and
- the minutes of proceedings of the Main Committee (if it met that day).

## **Hansard**

Hansard (official title 'Parliamentary Debates') contains the full report of the debates in the House and the Main Committee—that is, the transcript of Members' speeches. Hansard is not the official record of the proceedings of the House; that is the purpose of the Votes and Proceedings.

Although Hansard is essentially a record of the spoken word, it contains other information relating to the proceedings, including the text of petitions presented and motions and amendments moved (even when not read out), the titles of papers tabled, and notices given by Members. It also contains answers to questions in writing.

Hansard is issued in two editions. There is a daily proof issue available the day after the proceedings to which it refers, and a weekly final issue from which the bound volumes are compiled. Since 1999 the daily proof Hansard has been combined with the proof issue of the Votes and Proceedings.

The production of Hansard is the responsibility of the Department of Parliamentary Services.

### ***Incorporation of unspoken matter***

By leave of the House and the approval of the Chair, material of various kinds may be incorporated into the text. The practice of the House restricts incorporation to documents that cannot easily be read into the record and which need to be seen in visual form for comprehension, such as maps and statistical tables or graphs. Members are not permitted to incorporate the text of speeches they have not delivered in the House.

A Member seeking leave to incorporate material is advised to first show the material to the Minister at the Table or to the Member leading for the Opposition, as the case may be, as leave may be refused if this courtesy is not observed. Even if the House authorises the incorporation of unread matter, the final decision rests with the Speaker.

### ***Editing and corrections***

While the Hansard text is edited to some extent—for example, to remove repetitions and to correct grammatical mistakes—the editing is not permitted to affect the meaning of what is said.

Before the edited transcript is printed, each Member is given an opportunity to read what he or she has said and, if necessary, to make minor corrections. Although Members have this right to make corrections to their remarks, changes which alter the sense of words used in debate or introduce new matter are not permitted. In some instances of error or inaccuracy in the Hansard reports, the position is better clarified by a personal explanation.

### **Internet access to House documents**

The documents described in this chapter are all publicly available via the House of Representatives website at <http://www.aph.gov.au/house/>.

## 6. RULES OF DEBATE

### **When Members may speak**

A Member may speak:

- to any question upon which debate is not precluded by the standing orders;
- when moving a motion which will be open to debate;
- when moving an amendment;
- when rising to take a point of order;
- on a matter of privilege;
- on a matter of public importance submitted under standing order 46;
- to explain words in his or her speech which have been misquoted or misunderstood (S.O. 69(e));
- when granted leave by the Chair to make a personal explanation (S.O. 68);
- to make a 90 second statement in the House or a three minute constituency statement in the Main Committee during the periods provided by standing orders 43 and 193;
- to ask or reply to a question without notice (S.O.s 98, 99);
- when granted leave of the House to make a statement;
- by indulgence of the Chair.

### ***Reservation of right to speak***

A Member who seconds a motion or amendment without speaking to it may reserve the right to address the House on the subject at a later stage of the debate (S.O. 70).

### ***Member not to speak twice***

A Member may not speak twice in the House to a question (S.O. 69): with four exceptions:

- in the consideration in detail stage of a bill or the consideration of Senate amendments—Members may speak for an unspecified number of periods to each question before the Chair (S.O.s 1, 69(a) and (b));
- in reply—a Member who has moved a substantive motion or the second or third reading of a bill may, at the end of the debate, speak in reply to matters raised during the debate (S.O. 69(c)). The reply closes the debate (S.O. 71);

- in the adjournment debate—a Member may speak a second time if no other Member rises (S.O.s 1, 69(d));
- in explanation (S.O. 69(e))—*see p. 28*.

The rule does not apply to periods of Members' statements (as there is no question before the Main Committee). In practice, as in the adjournment debate, Members who have not yet spoken are given priority over those wishing to speak again.

### ***Speaking on amendments***

When a Member speaks following the moving of an amendment, the Member is deemed to have spoken to both the original question and the amendment. A Member who has spoken to the original question before the moving of an amendment may speak again, but must confine his or her remarks to the amendment.

### ***Speaking after question put***

No Member may speak after the Speaker has put the question and the vote has been taken on the voices (S.O. 72).

### ***Matters not open to debate***

The following matters are not open to debate, must be moved without argument or opinion being offered, and must be put immediately by the Chair without amendment (S.O. 78):

- motion that a Member's time be extended (S.O. 78(a));
- motion that the business of the day be called on (S.O.s 78(b), 46(e));
- motion that a Member be heard now (S.O.s 78(c), 65);
- motion that a Member be further heard (S.O.s 78(d), 75);
- motion that debate be adjourned (S.O.s 78(e), 79);
- motion that a Member be no longer heard (S.O.s 78(f), 80);
- motion that the question be now put (S.O.s 78(g), 81);
- question that the bill or motion be considered urgent, following a declaration of urgency (S.O.s 78(h), 82, 83);
- motion that a Member be suspended (S.O.s 78(i), 94);
- question that amendments made by the Main Committee be agreed to (S.O.s 78(j), 153);
- question that a bill reported from the Main Committee be agreed to (S.O.s 78(k), 153);
- motion that further proceedings on a bill be conducted in the House (S.O.s 78(l), 197);

- question in the Main Committee that a bill be reported to the House (S.O.s 78(m), 198).

In addition a Minister may require the question for the adjournment of the House under the automatic adjournment provisions to be put without debate (S.O. 31(c)(ii)).

### ***Misrepresentation of Member's speech***

A Member who has spoken to a question may speak again to explain some material part of his or her speech which has been misquoted or misunderstood, but cannot introduce any new matter, interrupt any Member who has the call nor bring forward any debatable matter, and no debate may arise following such an explanation (S.O. 69(e)). The correct procedure to be followed by a Member is to rise after the Member speaking has concluded and to inform the Chair that he or she has been misrepresented. The Chair will then usually permit the Member to proceed with the explanation. It helps in the conduct of the proceedings if Members inform the Chair in advance that they intend to rise to make an explanation.

### ***Personal explanations***

A Member, having obtained leave from the Chair, may explain matters of a personal nature, although there is no question before the House (S.O. 68). Although in practice such leave is freely given, Members have no right to expect it to be granted automatically. A Member wishing to make a personal explanation should inform the Speaker beforehand. Personal explanations should preferably be made between items of business but may be made at any time with the indulgence of the Chair, provided that no other Member is addressing the House. However, they are usually made at the point in the routine of business following the presentation of documents.

Personal explanations generally claim misrepresentation arising from media reports, the preceding question time, Senate debates, and so on, and it is the practice, when a Member rises to make a personal explanation, for the Chair to ask whether he or she is claiming to be misrepresented.

A personal explanation must be confined to matters affecting the Member personally. It may not deal with party matters or, in the case of a Minister, departmental matters, nor be used to make attacks upon another Member. A Member making a personal explanation must not debate the matter. The indulgence granted by the Chair for a personal explanation may be withdrawn if the Member misuses it.

If the Speaker refuses leave to a Member to make a personal explanation, or directs a Member to resume his or her seat during the course of an explanation, a motion 'That the Member be now heard' is not in order, nor

may the Member move a motion of dissent from the Speaker's 'ruling' as there is no ruling.

### ***Indulgence of the Chair***

The term 'indulgence' is often used to cover the concept of leave from the Chair as distinct from leave of the House. Although the standing orders make provision for Members to speak with leave of the Chair only in respect of a matter of a personal nature (*see p. 28*), the practice of the House is that, from time to time, the Speaker or Chair grants indulgence for Members to address the House on a variety of other matters—for example, to permit a Minister to correct or add to an answer, or for Members to seek information about the conduct of proceedings. On occasion, following a Member's statement by indulgence, the Chair's indulgence may be extended to permit another Member to speak on the same matter.

### ***Statements by leave***

A frequently used practice is to seek the leave of the House, that is, permission without any dissenting voice (*see p. 2*), to make a statement when there is no question before the House. This procedure is used in the main by Ministers to announce domestic and foreign policies and other decisions of the Government (ministerial statements, *see p. 88*). The procedure is also used by Members when wishing to speak, at the time of presentation, on a report of a committee or of a parliamentary delegation presented at a time other than that provided by standing order 39(a)(i).

Members seeking leave to make statements must indicate the subject matter in order that the House can make a judgment as to whether or not to grant leave. Members must confine their remarks to the subject for which leave has been granted.

### **Allocation of the call**

A Member wishing to speak (unless unable to stand) must rise and address the Speaker (S.O. 65(a)). When two or more Members rise together to speak, the Speaker calls on the Member who, in the Speaker's opinion, rose first. If the Speaker's selection is challenged, any Member may move that [the Member who was not called] 'be heard now', and that question must be put and decided immediately without amendment or debate (S.O. 65(c)).

The allocation of the call to Members rising to speak is a matter for the discretion of the Chair, but it is usual, as a principle, to call Members from each side of the House (government and non-government) alternately. Parties in coalition share the call of their side of the House in proportion to their numbers. Minor parties and independent Members share the call in approximate proportion to their numbers.

Generally speaking, Ministers and the Leader and Deputy Leader of the opposition party or parties are given preference over other Members on their own side of the House, but in the case of consideration in detail debates on bills where there is need for a greater flexibility, a Minister may be granted a preference over all other Members in order to make a reply or explanation. To assist the Chair a list of intending speakers is supplied by the party whips (except for consideration in detail debates); the Chair usually follows the list, but does not have to do so.

## **Time limits for debates and speeches**

### ***Speech time limits***

Time limits for debates and speeches are set out in standing order 1. Time limits apply to all speeches in debate, with the following exceptions:

- There is no time limit for the mover of the second reading of the main Appropriation Bill and the Leader of the Opposition or a Member deputed by the Leader of the Opposition when speaking to the second reading (the Budget speech and reply).
- The House may agree to vary the time limits for a specific purpose—for example, for an important debate the standing orders may be suspended to grant unlimited or extended time to the Minister in charge and the leading opposition speaker.
- In relation to committee and private Members' business on Mondays the whips may recommend lesser speaking times than the 10 minutes for each Member speaking provided by the standing order.
- Time limits do not apply during debate on motions of condolence or thanks, and also in practice on valedictory speeches made at the end of a period of sittings.

Occasions on which a Member may address the House which are not specifically listed in standing order 1, and which, there being no question before the Chair, do not come under the strict definition of 'debate', are not restricted by this standing order, for example:

- Time limits do not apply when statements are made by leave of the House.
- Time limits do not apply to personal explanations or other occasions when Members speak by indulgence of the Chair. However, such speeches are expected to be short and to the point and the Chair may withdraw indulgence if Members attempt to enter into debate.

### **How measured**

The period of time allotted for a Member's speech is calculated from the moment the Member is given the call (unless the call is disputed by a motion

under standing order 65(c)) and includes time taken up by interruptions such as divisions (but not suspensions of Main Committee proceedings caused by divisions in the House), quorum calls, points of order, interventions in the Main Committee, motions of dissent from rulings of the Chair, and proceedings on the naming and suspension of a Member.

A Member's time is not affected when debate is interrupted by the Chair for a suspension of the sitting (e.g. for a meal break, or in the Main Committee for a division in the House), the automatic adjournment provision (S.O. 31), or question time (S.O. 97). In these cases the Member may continue with no loss of time when the debate is resumed.

#### **Extension of time**

On motion, a Member may be granted an extension of time for one period not exceeding 10 minutes, provided that no extension may exceed half of the original period allotted (S.O. 1). The granting of a further extension requires a suspension of the standing order.

A Member cannot be granted an extension of time in an adjournment debate. However, if no other Member rises to address the House, a Member who has already spoken may speak for a second time (S.O. 69(d)).

#### **Speech timing clocks**

Speech timing clocks are installed in the Chamber and in the Main Committee. These clocks are set by the Deputy Clerk at the Table to the number of minutes allowed for each speech. For analogue clocks, as the time is used up, the hand returns in an anti-clockwise direction to the zero or 12 o'clock position; one minute before the time expires, a small amber warning light appears on each clock face and this continues to glow until the time for the speech expires.

### **Manner of speech**

#### ***Members to stand and address Chair***

A Member desiring to speak must rise in his or her place and address the Speaker, but a Member unable to rise, may speak sitting (S.O. 65(a)).

#### ***Place of speaking***

With the following exceptions all Members should address the House from their own seats. Ministers and shadow ministers speak from the Table. Parliamentary Secretaries may speak from the Table when in charge of the business before the House but at other times are required to speak from their allocated places. The same practice applies in respect of opposition

‘parliamentary secretaries’, or other Members leading for the Opposition in a particular debate.

### ***Reading of speeches***

There is no rule against the reading of speeches.

### ***Decorum***

Whenever the Speaker rises during a debate, any Member then speaking, or offering to speak, shall sit down, and the House must be silent, so that the Speaker may be heard without interruption (S.O. 61(a)). When the Speaker is putting a question Members may not walk out of or across the Chamber (S.O. 61(b)).

Members should make a token bow to the Speaker when entering or leaving the Chamber (S.O. 62(b)) and Members may not pass between the Speaker and any Member who is speaking (S.O. 62(d)). All Members coming into the Chamber must take their seats promptly (S.O. 62(a)), and not remain in the aisles (S.O. 62(c)).

Members may not converse aloud or make any noise or disturbance to interrupt the Member who is speaking (S.O. 65(b)).

### ***First speech***

There is a convention in the House that a Member’s first speech in the House is heard without interjection or interruption, and the Chair will normally draw the attention of the House to the fact that a Member is making his or her first speech. In return for this courtesy it is expected that the Member should not be unduly provocative. A Member’s official ‘first speech’ may not necessarily be the first time a Member speaks in the House—for example, speeches made on condolence motions or in a Member’s capacity as Minister or opposition spokesperson are not counted as ‘first speeches’. In a new Parliament a newly elected Member usually makes his or her first speech in the Address in Reply debate (*see p. 19*).

## **Content of speeches**

### ***Relevancy in debate***

A Member must speak only on the subject matter of a question under discussion, subject to some exceptions (S.O. 76). For the application of the relevancy rule to debate on bills *see page 63*.

The Chair, after having drawn attention to the conduct of a Member who persists in irrelevance or tedious repetition, may direct the Member to discontinue his or her speech. However, the Member has the right to require the question to be put that he or she 'be further heard'. No debate may occur on this question (S.O. 75).

### ***Exceptions to relevancy rule***

There are specific exceptions to the requirement for relevance. Members may use these opportunities for general debate to raise matters of their own choosing (S.O. 76(a)–(c)):

- debate on the adjournment of the House (*see p. 100*);
- debate on the Address in Reply (*see p. 19*);
- second reading debates on the Main Appropriation Bill, and other appropriation or supply bills for the ordinary annual services of the Government (*see p. 74*);
- debate on the adjournment of the Main Committee (*see p. 101*);
- grievance debate (*see p. 100*).

### ***Reference to other Members***

A Member, when referring to another Member, should refer to the Member by the name of the electoral division which he or she represents—i.e. 'the Member for . . .'; by the Member's parliamentary office—e.g. Leader of the House, Leader of the Opposition, Chief Government Whip; or by his or her ministerial title—e.g. the Prime Minister, the Minister for Foreign Affairs (S.O. 64).

### ***Anticipation of discussion***

During a debate (i.e. when there is a question before the House) a Member may not anticipate the discussion of any subject listed on the Notice Paper and which is expected to be debated on the same or next sitting day. In determining whether a discussion is out of order the Speaker should not prevent incidental reference to a subject (S.O. 77). In practice this rule is taken to apply only to the business section of the Notice Paper and not to matters listed elsewhere, for example, under questions in writing or as subjects of committee inquiry.

### ***Reference to previous debate or proceedings***

A Member may not refer to any debate or proceedings of the current session unless the reference is relevant to the matter under discussion (S.O. 73). This rule is not extended to the different stages of a bill.

### ***Offensive or disorderly words***

A Member's conduct is considered disorderly if he or she uses objectionable words and refuses to withdraw them (S.O. 91(b)). The Chair may intervene when offensive words are used either by the Member addressing the House or any Member present (S.O. 92(a)). When attention is drawn by a Member to words used, the Chair determines whether or not they are offensive or disorderly (S.O. 92(b)). The Chair's judgment in such cases depends on the nature of the words and the context in which they have been used. Once the Chair determines that offensive or disorderly words have been used, the Chair asks that the words be withdrawn. It has been considered that a withdrawal implies an apology.

If a Member refuses to withdraw, the Chair may name the Member for disregarding the authority of the Chair.

### **Reflections on Members**

Members must not use offensive words against either House, a Member of the Parliament or a member of the Judiciary (S.O. 89) and all imputations of improper motives and all personal reflections on other Members are considered to be highly disorderly (S.O. 90).

The Chair has ruled that any request for the withdrawal of a remark considered offensive must come from the Member reflected upon, if present, and that any request for a withdrawal must be made at the time the remark was made.

It is not in order to use offensive words against another Member by means of a quotation or by putting words in someone else's mouth. Expressions which are considered unparliamentary when applied to individuals must not be applied to groups.

Members can only direct a charge against other Members or reflect upon their character or conduct by moving a substantive motion which may be voted on by the House. However, in expressing that charge or reflection a Member may not use unparliamentary words.

### **Other persons or bodies specifically protected**

Members may not refer disrespectfully to the Queen, the Governor-General or State Governors in debate or for the purpose of influencing the House in its deliberations (S.O. 88). The character or conduct of such persons, as well as Members, Senators and members of the Judiciary (S.O. 89), can be debated only by way of a substantive motion which can be voted on by the House.

The standing orders and practice of the House do not prevent a Member from reflecting on a State Government or Member of a State Parliament, no matter how much the Chair may deprecate such a reference.

### ***Reflections upon votes of House***

Members may not reflect upon any vote of the House except on a motion that the vote be rescinded (S.O. 74). In practice this rule is not interpreted in such a way as to prevent a reasonable expression of views on matters of public concern. This rule does not prevent criticism of any Act of Parliament.

### ***Sub judice convention***

The House traditionally imposes a restriction on its own proceedings to avoid prejudicing the course of justice. Briefly stated, the sub judice convention is that, subject to the right of the House to legislate on any matter, matters awaiting adjudication in a court of law should not be brought forward in debate, motions or questions. As a general rule, the restriction is imposed in relation to cases before the criminal courts from the time a person is charged until a sentence, if any, has been announced. In the case of civil matters the convention applies from the time they are set down for trial or otherwise brought before the court. Restrictions again apply if an appeal is lodged and remain until the appeal is decided. Depending on the circumstances, the convention may extend to royal commissions or other similar bodies, especially those concerned with the conduct of individuals.

The application of the sub judice convention is subject to the discretion of the Chair at all times. In exercising the discretion the Chair has regard to the likelihood of prejudice to court proceedings being caused as a result of comment in the House, as well as to the inherent right of the House to inquire into and debate any matter considered to be within the public interest.

## **Interruption and adjournment of debate**

### ***Interruption of Member speaking***

Under standing order 66, a Member may not interrupt another Member who is speaking unless to:

- call attention to a point of order;
- raise a matter of privilege suddenly arising;
- call attention to the lack of a quorum;
- call attention to the presence of visitors;
- move a closure motion ('that the Member be no longer heard' or 'that the question be now put');
- move 'That the business of the day be called on' (in relation to a discussion of a matter of public importance);
- move 'That the ballot be taken now' (in relation to the election of the Speaker); or

- make an intervention as provided in the standing orders.

### ***Interventions***

An intervention is a brief interruption of a Member's speech by a question from another Member. This procedure operates in the Main Committee only, with a view to encouraging interactivity and spontaneity in debate (S.O. 66A).

An intervention is only possible during debate on an order of the day—that is, on a motion or bill referred to the Main Committee—and not during other proceedings such as Members' statements or adjournment debates. The intervention must be immediately relevant to the interrupted Member's speech (not just to the bill or motion being debated). The Member seeking to intervene must first rise to seek the call of the Chair, and it is entirely up to the Member speaking whether to give way or not. The Chair may cut short or refuse an intervention if it is too lengthy or if the Chair believes the procedure is being misused. The clock is not stopped during an intervention, nor is a Member's speaking time extended because of the time taken to respond.

### ***Questions during second reading debate***

In the current (43rd) Parliament, as a trial, at the end of each Member's speech during the second reading debate of a government bill, the Member may be questioned by other Members in relation to his or her speech. The Member is not obliged to take questions, and may indicate this during his or her speech. After each speech, questions and answers may continue for up to five minutes. Each question may take up to 30 seconds and each reply may take up to two minutes. This provision does not apply to the Minister's second reading speech and a Minister's speech closing the debate or to the speech of the main opposition speaker (sessional order 142A).

### ***Interjections***

Members may not converse aloud or make any noise or disturbance to interrupt a Member who is speaking (S.O. 65(b)). However, the Chair does not necessarily intervene in the ordinary course of debate when interjections are made, unless they are frequent or such as to interrupt the flow of a Member's speech. The expressions 'Hear, hear' and the like are permitted to indicate approval of speeches, provided they are not calculated to interrupt the Member speaking.

### ***Closure of Member***

Any Member may move that a Member who is speaking, except a Member giving a notice of motion or moving the terms of a motion allowed under the standing orders, 'be no longer heard', and this question must be put and

decided immediately without amendment or debate (S.O. 80). If the motion is agreed to, the Member speaking must immediately resume his or her seat. The motion is not necessarily accepted by the Chair when a Member is taking or speaking to a point of order, or making a personal explanation, as both these matters are within the control of the Chair. The motion applies only to the speech currently in progress.

### ***Closure of question***

After a question has been proposed from the Chair (*see p. 46*), the closure motion ‘That the question be now put’ may be moved by any Member without notice at any time, whether any other Member is addressing the Chair or not. The question on the closure must be put and decided immediately without amendment or debate. If the closure is agreed to, the question before the Chair is put immediately without any further debate (S.O. 81). If debate on an amendment is closed, debate may then continue on the original question.

The closure motion cannot be moved before the question has been proposed by the Chair—that is, while a Member is moving or seconding a motion (apart from a motion of amendment, in which case the amendment is superseded and the closure applies to the original question).

The closure cannot be moved in respect of proceedings for which time has been allotted under the guillotine procedure (S.O. 85(c)).

### ***Motion to call on business of the day***

The motion ‘That the business of the day be called on’ is used to curtail or preclude a discussion on a matter of public importance, and can only be used in this context. This form of ‘closure’ is provided because there is no question before the Chair during an MPI. The motion is moved in a similar manner to the closure. If the motion is agreed to, the discussion of the MPI is immediately concluded and the House proceeds to the next item of business (S.O. 46(e)).

### ***Motion to take ballot now***

During the election of the Speaker the form of words used to closure debate is ‘that the ballot be taken now’ (S.O. 11(h)).

### ***Adjournment of debate***

A Member who has not spoken to a question, or who has the right of reply, may move ‘That the debate be now adjourned’ (S.O. 79(a)). This motion may be moved only by a Member given the call by the Chair, and must not be moved while another Member is speaking. The motion may not be moved

during the debate on the motion that the House do now adjourn (the adjournment debate).

The motion ‘that debate be adjourned’ is not open to debate, must be moved without comment and must be put immediately and resolved without amendment (S.O. 78(e)).

Unless a Member requests that separate questions be put, the time for the resumption of debate may be included in the adjournment question (S.O. 79(a)). In practice the Speaker normally combines the two questions in the form ‘That the debate be adjourned and the resumption of debate be an order of the day for . . .’ (a later hour this day, the next day of sitting, or, rarely, a specific day). The two questions are put separately when the adjournment motion is opposed or if there is disagreement over the time of resumption, and in this case the question on the time of resumption is open to relevant amendment and debate.

If the adjournment motion is negated the mover may speak later in the debate (S.O. 79(c)), and the Speaker may refuse to receive a further such motion if he or she considers that it has been moved for the purpose of obstructing business (S.O. 78). After an adjournment motion has been agreed to the Member who moved it is entitled to speak first on the resumption of the debate (S.O. 79(b)).

## **Points of order**

The purpose of a point of order is to draw the Chair’s attention to a breach of the rules of the House, or to seek the Chair’s guidance on a matter of procedure. The conduct of proceedings in the House or in the Main Committee may be questioned at any time by any Member and, until the question of order is decided by the Chair, the consideration of and decision on every other question is suspended (S.O.s 86(a) and (b)).

As a Member speaking may be interrupted only in a few circumstances (S.O. 66), the Member rising should indicate to the Chair at the outset that he or she is interrupting for the purpose of raising a point of order, for example, ‘Mr/Madam Speaker, a point of order . . .’. The Member interrupted should immediately resume his or her seat.

During a division, when Members must remain seated while raising a point of order (S.O. 86(c)), Members may adopt the traditional practice of covering their heads with a sheet of paper in order to attract the Chair’s attention.

The attention of the Chair must be directed to an alleged breach of order at the time that it occurs. It is not acceptable to raise points of order concerning proceedings earlier in the day or the previous day.

Members misusing the right to raise a point of order to make a debating point are abusing the forms of the House. If Members persist in making spurious points of order they may be disciplined by the Chair.

***Ruling***

When a question of order is raised, the Chair disposes of the matter by ruling on it (S.O. 86(a)). It is for the Chair to decide whether and to what extent a point of order may be discussed. On occasions a discussion may be helpful but discussion is not permissible when the Chair is prepared to rule on a point.

***Dissent from ruling***

If any objection is taken to the ruling of the Speaker or the Chair, it must be taken at once by way of a motion of dissent, submitted in writing. The motion must be seconded, after which it is proposed and debated immediately (S.O. 87).

Dissent can be moved only in respect of a ruling. Decisions on matters which are at the Speaker's discretion are not rulings and cannot be dissented from. These include the allocation of the call of the Chair to speak, the Speaker's selection of a matter of public importance for discussion, or his or her opinion on whether a prima facie case has been established on a matter of privilege.

## 7. DISORDER

### ***Disorderly conduct***

Under standing order 91, a Member's conduct is considered disorderly if he or she has:

- persistently and wilfully obstructed the House;
- used objectionable words, and refused to withdraw them;
- persistently and wilfully refused to conform to any standing order;
- wilfully disobeyed an order of the House;
- persistently and wilfully disregarded the authority of the Chair; or
- been considered by the Speaker to have behaved in a disorderly manner.

The Speaker can intervene directly when a Member's conduct is considered offensive or disorderly. If another Member draws the Speaker's attention to such conduct, the Speaker determines whether it requires a sanction and, if so, what that sanction should be (S.O.s 92, 94). This can include requiring the Member to apologise or a formal sanction provided by the standing orders.

### ***Order to leave the Chamber***

The Speaker may order the Member to leave the Chamber for one hour (S.O. 94(a)). This action is taken as an alternative to naming the Member—the decision as to whether a naming or an order to leave is more appropriate is a matter for the Speaker's discretion. The order to leave is not open to debate or dissent. When so ordered, a Member failing to leave the Chamber immediately may be named.

### ***Naming and suspension***

If the Speaker considers the Member's conduct requires a stronger sanction than that provided by standing order 94(a) he or she may name the Member, using the words 'I name the Member for (name of electorate)' (S.O. 94(b)).

When the Speaker names a Member in accordance with this standing order, a motion is moved (usually by the Leader of the House) to suspend the Member. The Speaker then puts the question 'That the Member be suspended from the service of the House'. This question must be resolved without amendment, adjournment or debate (S.O. 94(b)). Naming usually occurs immediately an offence has been committed but this is not always possible. If the offence is committed while a vote of the House is being taken, the Member may be named after the vote has been completed.

The motion for suspension is not necessarily moved—for example, a naming may be withdrawn or not proceeded with after other Members have addressed the Chair on the matter and the offending Member has apologised.

On the motion being agreed to, the Member concerned must leave the Chamber immediately. A Member suspended from the service of the House is excluded from the Chamber, all its galleries and any room where the Main Committee is meeting (S.O. 94(e)). This exclusion is viewed as preventing participation in Chamber related activities, and petitions, notices of motion, notices of questions and proposals for matters of public importance are not accepted from a Member under suspension. A suspended Member is not otherwise affected in the performance of his or her duties and is not prevented from serving on a committee. The same restrictions apply to Members required to withdraw from the Chamber for one hour pursuant to standing order 94(a).

A suspension on the first occasion is for 24 hours; on the second occasion in the same calendar year, three consecutive sittings excluding the day of suspension; and on the third or any subsequent occasions in the same calendar year, seven consecutive sittings excluding the day of suspension. Any suspension in a previous session or any order to leave pursuant to standing order 94(a) is disregarded (S.O. 94(d)).

If a Member refuses to follow the Speaker's direction, the Speaker may order the Serjeant-at-Arms to escort the Member from the Chamber (S.O. 94(f)).

### ***Gross disorder by a Member needing urgent action***

If the conduct of a Member is so disorderly that the procedures provided in standing orders 94(a) and (b) are inadequate to ensure 'the urgent need to protect the dignity of the House', the Speaker may order the Member to withdraw from the Chamber immediately. After the Member has left the Chamber he or she is immediately named, and the question for suspension is put by the Chair without a motion being necessary (S.O. 94(c)).

### ***Suspension of sitting or adjournment because of grave disorder***

If grave disorder occurs in the House, the Speaker may, without any question being put, suspend the sitting, stating the time at which he or she will resume the Chair, or adjourn the House to the next sitting (S.O. 95).

### ***Disorder in the Main Committee***

The Deputy Speaker may direct a disorderly Member to leave the Main Committee for a period of 15 minutes (S.O. 187(b)(i)). Should a Member refuse to leave as directed, the Deputy Speaker must report the disorder to the House (S.O. 187(c)).

Alternatively, if sudden disorder occurs in the Main Committee, the Chair may, and on motion by any Member is obliged to, immediately suspend or adjourn the proceedings (S.O. 187(b)(ii)) and report the circumstances to the Speaker in the House (S.O. 187(c)).

Any subsequent action against a Member under standing order 94 (sanctions against disorderly conduct) may only be taken in the House (S.O. 187(e)).

***Member ordered to attend House***

A Member who wilfully disobeys an order of the House may be ordered to attend the House to answer for his or her conduct. A motion to this effect does not require notice (S.O. 93).

***Disturbances by visitors***

The Serjeant-at-Arms is responsible for removing any ‘visitor’ (a person other than a Member) who disturbs the operation of the Chamber or Main Committee (S.O. 96).

## 8. MOTIONS

A motion is a formal proposal made to the House that it take action of some kind—for example, that the House do something, order something to be done or express a particular opinion. The moving of and voting on a motion is the basic building block of parliamentary procedure. Decisions the House makes are made by it agreeing to a motion, including decisions on the management of its own affairs. The passage of legislation, which takes up the largest part of the time of the House, is based on the House agreeing to a series of motions (for example, ‘That the bill be now read a second time’). The proceedings of the House are controlled by machinery or procedural motions (for example, ‘That the debate be adjourned’).

Motions may be classified as substantive motions—self-contained items of business for consideration and decision—or as subsidiary motions—amendments to motions and ancillary or procedural motions.

In summary, the steps in the processing of a motion by the House are:

- a Member gives notice (if necessary);
- the Member moves the motion;
- another Member seconds the motion (if necessary);
- the Chair proposes the question;
- Members debate the question;
- [Members may move amendments, which are debated and voted on];
- the Chair puts the question [as amended];
- the House makes its decision.

When a motion is agreed to, it becomes an order or resolution of the House.

### Notice

Notice—that is, advice in advance of what is to be considered—is necessary to avoid decisions being taken without the prior knowledge of Members. A Member may not, except by leave of the House, or unless it is otherwise provided by the standing orders, move any motion unless notice of the motion has first appeared on the Notice Paper (S.O. 111). Generally speaking, substantive motions require notice. Procedural motions are usually moved without notice, cannot be amended or debated, and must be voted on immediately.

A notice of motion states the full terms of the motion proposed to be moved. A notice of intention to present a bill specifies the title of the bill (*see p. 58*). The following procedures apply to both.

### ***Giving notice***

Notice is given by a copy of the terms of the notice being delivered to the Clerk at the Table during a sitting of the House (S.O. 106). Members may hand notices directly to the Clerk, or take them to the Table Office, from where they are forwarded to the Chamber at the earliest opportunity. Electronic proformas for notices are available from the Senators' and Members' Services Portal.

A notice must be signed by the mover and a seconder. In practice a seconder is not required for notices given by Ministers, as they are assumed to have the backing of the Government. A notice must also show the day proposed for moving the motion (S.O. 106(b)); almost invariably notices are given for 'the next sitting'.

### **Member absent**

If a Member is absent, another Member, at his or her request, may give a notice of motion for the absent Member. The Member giving the notice on another Member's behalf must put his or her own signature and the name of the absent Member on the notice (S.O. 107). Notices are not received from a Member suspended from the service of the House.

### **Notice disallowed**

The Speaker may disallow notices which are too lengthy or which do not contain a proposition but give information.

The Speaker may disallow any motion which is the same in substance as any question which, during the same session, has been resolved (in the affirmative or negative) (S.O. 114(b)).

Rules applying to the content of debate also apply to notices and motions—for example, a motion should not contain offensive words (*see p. 34*) or relate to matters which are sub judice (*see p. 35*).

### **Changes to notices**

A Member who has given notice of motion may change the terms of the notice or the day proposed for moving the motion. These changes must be notified to the Clerk in writing in time for the amendment to appear on the Notice Paper (S.O. 110). An amended notice must not exceed the scope of the original notice.

The Speaker must amend a notice if it contains inappropriate language or does not conform with the standing orders. If a notice contains unrelated matters the Speaker may divide the notice (S.O. 109).

A Member who gives notice of a motion may move its postponement without notice (S.O. 112). A Member may withdraw the notice by notifying the Clerk in writing before the notice is called on (S.O. 110(c)).

Notices received by the Clerk are entered on the next issue of the Notice Paper and are not effective until they appear on the Notice Paper (S.O. 108).

### ***Moving the motion***

The order in which motions are called on is the order in which they appear on the Notice Paper (S.O. 112) (*see p. 22*). Any motion before the House must be voted on, or debate on the motion adjourned, before another (substantive) motion can be moved. A Member may move a motion only after notice of the motion has appeared on the Notice Paper, unless he or she does so by leave of the House or as otherwise provided in the standing orders (S.O. 111). A Member cannot move a motion on behalf of another Member, except that a motion standing in the name of a Minister may be moved by any other Minister (or Parliamentary Secretary).

### ***Interruptions to the moving of a motion***

While a Member is formally moving the terms of a motion allowed under the standing orders, the motion ‘That the Member be no longer heard’ may not be moved (S.O. 80) but such a motion may be moved after the Member has formally moved the motion and is speaking to it. The motion ‘That the question be now put’ cannot be moved until after the question has been proposed from the Chair—that is, not until after the motion has been moved and, where necessary, seconded (S.O. 81).

### ***Seconding***

Unless otherwise provided for in the standing orders, a motion must be seconded. Exceptions include motions moved by Ministers and certain motions moved by the Chief Government Whip (S.O. 116).

After the Member moving the motion has finished speaking the Chair calls for a seconder. The seconder need not be the Member who signed the notice of motion as seconder. The seconder may speak to the motion immediately or inform the House that he or she reserves the right to speak later during the debate (S.O. 70). Alternatively, a seconder may choose only to second the motion—he or she does not have to speak to it. Motions which are not seconded (when seconding is necessary) are dropped—that is, consideration ceases and the moving of the motion is not recorded in the Votes and Proceedings (S.O. 116(a)).

Seconders are specifically required for motions of dissent to a ruling of the Speaker (S.O. 87) and motions without notice to suspend standing orders (S.O. 47(c)).

### ***Question proposed by the Chair—debate***

Once a motion has been moved and, if necessary, seconded, the Chair proposes the question to the House—that is, places the motion before the House for debate (S.O. 117(a)). The ‘question’ is the matter before the House for decision. Only one question can be considered by the House at a time. When the question is first proposed to the House by the Chair it is the same as the motion moved. In putting the question, instead of reading the motion out in full, the Chair usually announces ‘The question is that the motion be agreed to’.

Unless the motion is one on which, under the standing orders, no amendment may be made or no debate allowed (*see p. 27*), it is then in order for any Member to speak to the motion or move an amendment.

The various procedural motions that can be used to adjourn or limit debate are outlined at page 35.

### ***Withdrawal of question***

Once proposed from the Chair, the question is in the possession of the House and cannot be withdrawn without leave (S.O. 117(b)).

### ***End of debate—question put***

Debate finishes when:

- the mover of the motion has spoken in reply to matters raised in debate;
- no further Member rises to speak;
- the House agrees to a motion that ‘the question be now put’ (the ‘gag’); or
- the time allotted by the standing orders (or by any ‘guillotine’) expires.

After the debate has concluded the Chair puts the question to the House for decision (S.O. 117(c)). The question at this stage may be different from the original motion, depending on whether amendments have been agreed to (S.O. 118). Again, instead of reading out the motion (or the motion as amended) in full the Chair usually states ‘The question is that the motion be agreed to’, or ‘The question is that the motion as amended be agreed to’.

A question once put is immediately voted on (*see p. 52*).

## **Amendments**

An amendment is an alteration proposed or made to a motion or a bill. An amendment starts in the form of a subsidiary motion proposing to alter the wording of the motion or bill under consideration.

An amendment must be worded as a proposal to omit certain words and/or insert or add words (S.O. 121(a)). It is permissible, by way of amendment, to move to leave out all the words of a motion except the initial word 'That' and substitute other words relevant to the motion. The Clerks are able to assist Members in the drafting of amendments.

### **Relevance**

Every amendment must be relevant to the question it proposes to amend (S.O. 121(c)), except that irrelevant amendments may be moved to the second reading of the main appropriation and supply bills (*see p. 75*) and to the grievance debate question (*see p. 100*).

### **Disallowed amendments**

Standing order 123 lists restrictions to amendments which are:

- a proposed amendment must not be inconsistent with a previous decision on the question (S.O. 123(a));
- an amendment may not be moved to an earlier part of the question after a later part has been amended or after an amendment to a later part has been proposed and the proposal has not, by leave, been withdrawn (S.O. 123(b));
- when it is moved to omit words in the main question in order to insert or add others, no amendment to the words proposed to be inserted or added may be moved until the question 'that the words proposed to be omitted stand part of the question' has been determined (S.O. 123(c));
- only an amendment which adds other words may be moved to words which the House has resolved stand part of the question, or which have been inserted in, or added to, a question (S.O. 123(d)); and
- each proposed amendment shall be disposed of before another amendment to the original question can be moved (S.O. 123(e)).

The practice of the House disallows amendments which:

- if carried, would make the motion to which it is moved unintelligible; or
- is merely a direct negative (for example the insertion of the word 'not' into a proposition).

Rules applying to the content of notices and motions (*see p. 44*) also apply to amendments. Matters which should be raised only by means of a substantive motion (*see p. 34*) may not be raised by way of an amendment.

### **Availability of amendment**

While the standing orders do not require notice of an amendment, Members desiring to move amendments to bills or to motions should ensure that they

are submitted to one of the Clerks in sufficient time to enable them to be checked for compliance with the standing orders and for a stock to be reproduced.

A Member proposing to move an amendment may determine the time at which he or she would wish copies of the amendment to be made available to other Members. However, as a working rule, it is desirable for amendments (especially those relating to the text of bills) to be available as early as possible so as to enable other Members to study the effect of each amendment before it is put before the House or Main Committee for debate and decision.

### ***Moving and seconding***

An amendment may be moved only while the item to be amended is before the House—that is, after it has been moved and, if necessary, seconded, and after the question has been proposed from the Chair. Each proposed amendment must be disposed of before another amendment to the original question can be moved (S.O. 123(e)).

The amendment must be submitted in writing and be signed by the mover and by the seconder, if a seconder is required. A seconder is not required when an amendment is moved by a Minister, or for amendments moved during consideration in detail of a bill or consideration of Senate amendments to a bill. An amendment moved but not seconded (when seconding is necessary) is dropped—that is, it cannot be debated and is not recorded in the Votes and Proceedings (S.O. 121(b)).

It is common practice during the consideration in detail stage of bills for leave to be granted for amendments (from the same Member) to be moved together.

### ***Withdrawal of amendment***

After an amendment has been proposed by the Chair it may be withdrawn, by leave (S.O. 121(d)).

### ***Amendments to amendments***

An amendment can be made to a proposed amendment as if the proposed amendment were an original question (S.O. 124).

An amendment may be moved to words proposed to be inserted or added. When it is moved to omit words in the main question in order to insert or add others, no amendment to the words proposed to be inserted or added can be moved until the question ‘that the words proposed to be omitted stand part of the question’ has been determined (S.O. 123(c)).

### **Question on amendment**

When the proposed amendment is to omit certain words, the Chair puts the question in the following manner, ‘That the words proposed to be omitted stand part of the question’ (S.O. 122(a)(i)).

When the proposed amendment is to omit certain words in order to insert or add other words, the Chair puts the question, ‘That the words proposed to be omitted stand part of the question’. If this question is resolved in the affirmative, the amendment is disposed of. If negated, the Chair puts a further question ‘That the words proposed be [inserted or added]’ (S.O. 122(a)(ii)).

When the proposed amendment is to insert or add certain words, the Chair puts the question, ‘That the words proposed be [inserted or added]’ (S.O. 122(a)(iii)).

If no Member objects, instead of stating the above questions, the Chair may put the question on an amendment in the form ‘That the amendment be agreed to’ (S.O. 122(b)). This is a common practice other than in the case of an amendment to the motion for the second reading of a bill (*see p. 64*).

When an amendment has been agreed to, the main (original) question is put as amended (S.O. 118(a)). When an amendment has been moved but has not been agreed to, the question is put as originally proposed (S.O. 118(b)); this includes occasions when a closure has been agreed to before the question on the amendment has been put from the Chair.

### **Debate**

A Member who has already spoken before the moving of an amendment can speak again to the amendment. Other Members speaking after the moving of the amendment are deemed to be speaking both to the original question and to the amendment and cannot speak again.

### **Amendments to bills**

Amendments moved at the second reading, consideration in detail, and third reading stages of bills are covered at pages 63, 66 and 68, respectively.

## **Special types of motion**

### **Motion to suspend standing orders**

Motions to suspend standing orders are covered at page 1.

### ***Motion of condolence***

By practice of the House a motion of condolence is moved without notice. It is usually moved by the Prime Minister and seconded by the Leader of the Opposition. Condolence motions are normally given precedence over other business (S.O. 49), although recent practice has been for them to be moved at 2 p.m. (i.e. immediately prior to question time) rather than at the beginning of the day. Time limits do not apply, although individual speeches are usually quite brief. Debate may be interrupted and resumed at a later hour the same day. At the conclusion of the speeches the Speaker puts the question and asks Members to signify their approval of the motion by rising in their places for a short period of silence. Depending on the circumstances, a condolence motion has on occasion been followed by a suspension of the sitting to a later hour or by an adjournment to the next sitting. However, this is no longer the usual practice. Sometimes debate on the motion is resumed in the Main Committee. In some cases when a condolence motion has already been agreed to in the House, a motion to take note of a relevant paper (such as a copy of the condolence motion) has been referred to the Main Committee to enable further debate.

### ***Motion of thanks***

Like motions of condolence, motions of thanks are normally given precedence over other business (S.O. 49). While formal motions of thanks are not common, motions containing sentiments of congratulation, appreciation or gratitude in practice receive similar precedence. Such motions have for the most part been moved by leave, although they have also been moved following the suspension of standing orders. Time limits do not apply. As with condolence motions, debate may be continued in the Main Committee.

### ***Censure or no confidence motion***

A motion on notice, or an amendment of a motion, which expresses censure of or no confidence in the Government has priority over all other business until it is disposed of by the House. This is conditional on it being accepted by a Minister as a motion or amendment of censure or no confidence (S.O. 48).

Acceptance of the motion or amendment by a Minister in the terms of standing order 48 is notified either formally in the House or to the Clerk of the House. Such a motion attracts extended speaking times for those participating in the debate.

If such a motion is not accepted by a Minister in the terms of standing order 48, it does not have precedence and is listed on the Notice Paper under private Members' business. Speaking times are the same as for a normal motion. However, it is common for Members, instead of lodging notices of such

motions, to move to suspend standing orders to enable them to be moved immediately, or for the substantive motion to be moved by leave.

Such motions debated by leave or following a suspension of standing orders have the same time allocation as other debates not otherwise provided for (S.O. 1).

***Motion to discuss matter of special interest***

At any time when other business is not before the House a Minister may indicate to the House that it is proposed to discuss a matter of special interest on which it is not desired to form a motion in express terms. The motion moved is 'That . . . be considered by the House'. The Minister may move a motion allotting time to the debate and may withdraw the motion at the end of the allotted time (S.O. 50). In practice the matter of special interest procedure is rarely used.

## 9. DIVISIONS

### **Decision on the voices**

The Chair puts a question by stating its terms to the House and asking Members in favour to say ‘Aye’ and those against ‘No’. The Chair then announces whether, in his or her opinion, the majority of the voices are for or against the question and in most cases the matter is decided there and then.

If more than one Member challenges the Chair’s opinion of the vote on the voices, the question must be decided by a formal vote. A formal vote is taken by division—that is, by Members physically dividing themselves into two groups, for and against the question (S.O. 125).

### ***Decision in the Main Committee***

Decisions in the Main Committee can only be made on the voices. If just one Member dissents the matter for decision becomes an ‘unresolved question’ which is reported back to the House for resolution there (S.O. 188).

### **Only one Member calling for a division**

No division is held if only one Member calls for a division. However, that Member may tell the Speaker that he or she wishes his or her dissent to be recorded and the dissent must be recorded in the Votes and Proceedings and in Hansard (S.O. 126).

### **Bells**

When a division is called for, the Clerk rings the bells to summon Members to the Chamber. The Clerk activates the bells for four minutes (S.O. 129), using a sand-glass to measure the time. The bells sound throughout Parliament House, accompanied by flashing green lights to indicate the House of Representatives (red lights indicate the Senate). In the case of successive divisions (*see p. 54*) the bells are rung for one minute only (S.O. 131(a)).

The Chair of the Main Committee is informed by an indicator light when a division has been called in the House, and immediately suspends the Committee’s proceedings to enable Members to attend the division (S.O. 190(a)).

## **Doors locked**

The doors are held open while the bells are ringing (S.O. 129(a)). When they stop ringing, the Chair orders the doors of the Chamber to be locked and no Member can then enter or leave (S.O. 129(b)). Once the doors are locked the Speaker again states the question, directing the ‘Ayes’ to move to the right of the Chair and the ‘Noes’ to the left. If they have not done so already, Members take seats on the relevant side of the Chamber. The Chair then appoints tellers for each side (S.O. 129(c)).

Members who called for the division must remain and vote with those who were declared by the Chair to be in the minority when the voices were taken (S.O. 128). Other Members may leave the area of Members’ seats while the doors are open (S.O. 129(a)).

## **Four or fewer Members on a side**

If there are four or fewer Members on a side in a division, the Chair declares the result of the division immediately and no count is made. The names of the Members in the minority are recorded in the Votes and Proceedings (S.O. 127).

## **Appointment of tellers**

Tellers for each side are appointed by the Speaker (S.O. 129(c)). Tellers are usually, but not necessarily, selected from the whips, or deputy or assistant whips. The number of tellers is at the Chair’s discretion; recent practice has generally been to appoint two on each side. Should the tellers on one side refuse to act, the division is not proceeded with and the Chair declares the question resolved as appropriate—that is, in the negative if the ‘Ayes’ refuse to act, in the affirmative in the case of the ‘Noes’.

## **Voting**

Members may not move from their places from the commencement of the count until the result of the division is announced (S.O. 129(d)). Standing order 130 requires the tellers to record the name of each Member voting, count the total number of Members voting, sign their records and present their records to the Chair.

The tellers operate in pairs (a teller for the ‘Ayes’ with a teller for the ‘Noes’). They conduct the count by marking off Members’ names on printed division lists. At the same time the Clerk and Deputy Clerk perform a ‘head count’. When all counts are in agreement the tellers sign the lists (the tellers for the ‘Ayes’ signing the ‘Ayes’ list and the tellers for the ‘Noes’ the ‘Noes’ list) and hand the results to the Clerk, who passes them to the Chair to declare the

result. The Chair announces the number of votes on each side and whether the question has been resolved in the affirmative or negative (S.O. 130(b)). The House then proceeds with the next stage of the business being considered, or the next item of business.

The division lists are published in the Votes and Proceedings. The Speaker may have the record corrected if the division has been inaccurately reported (S.O. 135).

### **Successive divisions**

When successive divisions are taken, and there is no intervening debate after the first division, the Chair appoints tellers immediately and the bells are rung for one minute only (S.O. 131(a)).

During a successive division, Members who wish to vote in the same way as in the previous division must remain seated until the result of the division is announced. The tellers record each Member's vote as being the same as it was in the previous division unless a Member reports to them (S.O. 131(b)).

Members must report to the tellers if:

- they wish to vote differently to the previous division;
- they voted in the previous division and do not wish to vote in the successive division; or
- they did not vote in the previous division and wish to vote in the successive division (S.O. 131(b)).

A full count (as in standing order 130) is conducted if, in the Speaker's opinion the majority of Members wish to vote differently to the previous division or if there is any confusion or error in the count (S.O. 131(c)).

### **Repeated division**

In the case of confusion or error in the numbers reported by the tellers which cannot be corrected, the division is repeated (S.O. 132(a)).

If a division has miscarried through misadventure caused by a Member being accidentally absent or some similar incident, any Member may move, without notice and without the need for a seconder, 'That standing orders be suspended to enable the House to divide again'. If this is agreed to the question is put again and the result of the subsequent division is the decision of the House (S.O. 132(b)).

## **Casting vote of Chair**

The Constitution (section 40) provides that the Speaker shall not vote unless the numbers are equal, in which case the Speaker has a casting vote. Any reasons given by the Speaker for exercising a casting vote must be recorded in the Votes and Proceedings (S.O. 135(c)). The provision for a casting vote also applies to Members deputising for or acting in the position of Speaker (i.e. Deputy Speaker or Second Deputy Speaker, or another Member as Acting Speaker), but it does not apply to members of the Speaker's panel in the Chair unless specifically appointed by resolution of the House as Acting Speaker.

## **Deferred divisions on Mondays and Tuesdays**

During specified periods any division called for on a question other than a motion moved by a Minister is deferred until the end of the specified period, as follows:

- On Mondays divisions called between 10 a.m. and 12 noon are deferred until after 12 noon.
- On Mondays and Tuesdays divisions called between 6.30 p.m. and 8 p.m. are deferred until after 8 p.m.

The Chair puts all questions on which a division has been deferred in the order in which they were deferred, without amendment and without further debate (S.O. 133).

## **Proxy votes**

On 13 February 2008 the House passed a resolution providing for a Member nursing an infant at the time of a division to give her vote by proxy to the Chief Whip of her party. This applies to all divisions except that on the third reading of a bill which proposes an alteration of the Constitution, and is not to be extended or applied to other Members unable to be present in the Chamber for other reasons. A copy of the resolution is reproduced as an appendix to the standing orders.

## **Pairs**

With the exception of nursing mothers, a Member cannot vote by proxy. A Member who is to be absent may arrange a 'pair' with a Member of the opposite side, in which case neither Member votes. 'Pairs' are a matter of private arrangement (made in consultation with the whips) and are not recognised by the standing orders although they are recorded in the Votes and Proceedings.

## 10. BILLS—GENERAL

A new Commonwealth law can only be made, or an existing one changed or removed, by or under the authority of the Federal Parliament—that is, by or in accordance with an Act of Parliament.

A bill is a proposal for a new law or for a change to one or more existing laws. To become law a bill must be passed in identical form by both Houses of the Parliament and be assented to by the Governor-General. On assent a bill becomes an Act of Parliament.

Bills may be initiated in either House. However, because of the constitutional requirement that certain types of financial legislation shall not originate in the Senate, and because most Ministers are Members of the House of Representatives, the majority of bills originate in the House of Representatives.

Although most bills are government bills, introduced by Ministers, any Member of the House may introduce a bill (*see p. 70*).

### Form of a bill—procedurally relevant aspects

A bill is in effect a draft Act, and the content of a bill is prepared in the exact form of the Act it is intended to become. The body of a bill consists of a series of numbered *clauses*. When the bill is enacted, the clauses of the bill become the *sections* of the Act. Clauses may be divided into subclauses, paragraphs and subparagraphs. Large bills may be divided into Parts, Divisions and Subdivisions.

A *schedule* is an attachment or appendix to a bill (or Act). It is given legislative effect by an ‘activating clause’ in the body of the bill. The usual form of an amending bill (a bill to amend an existing Act or Acts) is for the amendments to be listed as numbered items in one or more schedules to the bill.

A bill’s *explanatory memorandum* is a separate document outlining the intention of a bill and summarising its provisions. The standing orders require all government bills (except appropriation and supply bills) to have an explanatory memorandum, which must include an explanation of the reasons for the bill (S.O. 141(b)). Private Members’ bills may have an explanatory memorandum (S.O. 41(d)).

The title by which a bill is generally known (for example, ‘Trade Practices Bill 2005’) is referred to as its *short title*. Every bill also has at its head a *long title* which sets out in brief terms the purposes of the bill or may provide a short description of the scope of a bill. The long title usually begins with the words ‘A Bill for an Act to . . .’ or ‘A Bill for an Act relating to . . .’.

A procedural reference to the ‘title’ of a bill, without being qualified, may be taken to mean the long title.

The long title of a bill is procedurally significant. The long title of the bill to be introduced must agree with the title used in the notice of intention to present it, and every clause must come within the scope of the long title (S.O. 140(b)). A long title which is specific and limited in scope is known as ‘restricted’, and one which is wide in scope as ‘unrestricted’. This distinction has significance to the nature of amendments which can be moved (*see pp. 64 and 66*) and in relation to relevance in debate (*see p. 63*).

## **Printing and availability of bills**

As soon as a bill has been presented to the House copies are made available to Members in the Chamber, along with copies of the explanatory memorandum. Additional copies are available to Members from the Table Office. A bill is treated as confidential by House staff until it is presented, and no distribution is made until that time.

If a bill is amended at the detail stage it is reprinted incorporating the amendments before it is transmitted to the Senate. This is known as a ‘third reading print’.

Copies of bills and explanatory memorandums are available on the Parliament’s Internet site at <http://www.aph.gov.au/bills/>.

The Table Office issues the Daily Bills List, which lists bills currently before the Parliament and the stage reached by each bill. This publication is also available via the Internet.

## **Presentation of bills for assent**

When a bill has passed both Houses, special assent copies of the bill are printed, incorporating any amendments not yet included, and it is presented by the originating House to the Governor-General for assent.

Under section 58 of the Constitution the Governor-General may assent to the bill, withhold assent, reserve the bill ‘for the Queen’s pleasure’, or recommend amendments to the bill.

Before assenting, the Governor-General formally receives written advice from the Attorney-General as to whether there are any amendments that the Governor-General should recommend, and as to whether the Governor-General should, in the Attorney-General’s opinion, reserve the bill for the Queen’s pleasure. This advice is prepared by the Office of Parliamentary Counsel. It is very rare for amendments to be recommended by the Governor-General. Generally, they would be of a formal nature or for the purpose of correcting a mistake or omission. There is nowadays no constitutional or legal requirement to reserve bills for the Queen’s assent.

## 11. ORDINARY BILL PROCEDURE

The procedures described here are those applying to ‘ordinary’ government bills originating in the House. Additional or special procedures apply to:

- appropriation and supply bills (*see p. 72*);
- bills containing special appropriations (*see p. 77*);
- bills imposing a tax or charge (*see p. 78*);
- bills to alter the Constitution (*see p. 71*);
- bills received from the Senate (*see p. 70*);
- bills introduced by private Members (*see p. 70*).

### Stages of bills—summary

Procedures for the passage of House bills provide for the following stages:

- Initiation, including notice (S.O.s 138–140);
- First reading (S.O. 141);
- Possible referral to a committee for advisory report or to the Main Committee for second reading and consideration in detail stages (S.O. 143);
- Second reading (S.O.s 142, 143, 145);
- Consideration in detail (S.O.s 148–151);
- Report from Main Committee and adoption (for bills referred to Main Committee) (S.O.s 152–153);
- Reconsideration (possible) (S.O. 154);
- Third reading (S.O. 155);
- Transmission to the Senate for concurrence (S.O. 157);
- Transmission or return of bill from the Senate with or without amendment or request (S.O.s 158–163, 165, 168–170);
- Presentation for assent (S.O.s 175–177).

These stages are summarised in Figure 3 of the standing orders (following S.O. 139).

### Initiation and first reading

Most bills are initiated by the calling on of a notice of intention to present the bill (S.O. 138(a)). The notice follows a standard form—for example, ‘I give notice of my intention, at the next sitting, to present a Bill for an Act [remainder of long title of bill, for example, ‘relating to certain Trade Practices’]’ The Notice is delivered in writing to the Clerk at the Table (S.O. 139(a)).

The bill is introduced when the Clerk calls on the relevant notice—for example, announcing ‘Notice No. 1, Trade Practices Bill 2010’—upon which the Minister responsible for the bill rises, and says ‘I present the Trade Practices Bill 2010’. He or she also presents the bill’s explanatory memorandum at this time. The Minister hands a signed copy of the bill to the Clerk who, without any question being put, formally reads the bill a first time by reading out its long title (S.O. 141). No debate occurs at this stage. (However, Members introducing private Members’ bills are permitted to speak for ten minutes at the time of presentation, before the bill is read a first time (S.O. 41(c) (d) and 141(a)) (*see p. 70*)).

On occasions, leave may be granted for a Minister to present a bill without notice. Notice is not required for an appropriation or supply bill or a proposal or bill dealing with taxation (S.O. 138(c)).

In almost all cases the Minister presenting a bill moves the second reading (*see p. 61*) immediately the bill has been read a first time and gives his or her second reading speech. Copies of the bill must be available for this to happen (S.O. 142).

Different arrangements apply to bills originating in the Senate (*see p. 70*).

## **Referral to Main Committee**

Bills are presented and the second reading is normally moved in the House (S.O.s 141, 142). Before the debate on the motion for the second reading is resumed, a motion may be moved without notice to refer a bill to the Main Committee for further consideration (S.O. 143(a)). In the case of government bills the Chief Whip may present a list of bills proposed to be referred and move a single motion, by leave, that the bills be referred in accordance with the list. Standing order 183 allows the Main Committee to consider bills to the completion of the consideration in detail stage.

### ***Proceedings in the Main Committee***

The Main Committee is an alternative venue rather than an additional process. Proceedings in the Main Committee in respect of legislation are substantially the same as they are for the same stage in the House (S.O. 185).

Although bills are referred for the ‘remainder of the second reading and consideration in detail stages’, the complete second reading stage, including the Minister’s speech, may occur in the Main Committee in the case of Senate bills and in the event of a bill being referred before the moving of the second reading (if copies of a bill were not available at the time of the first reading).

### **Unresolved questions**

The most significant difference from procedure in the House is the provision for the 'unresolved question'. Divisions cannot occur in the Main Committee and if a question cannot be decided on the voices it is reported to the House for later resolution there (S.O. 188). An unresolved question arises when any Member dissents from the result announced from the Chair.

Proceedings on a bill may be continued regardless of unresolved questions unless agreement to an unresolved question is necessary to enable further questions to be considered, in which case the bill is returned to the House (S.O. 195). An unresolved question on a second reading amendment or on the second reading returns the bill to the House.

### **Bill reported or returned to House**

At the conclusion of the bill's consideration in detail the question is put, immediately and without debate, 'That this bill be reported to the House, without amendment' or 'with (an) amendment(s)' ('and with (an) unresolved question (s)'), as appropriate (S.O. 198(a)). If the Committee does not desire to consider the bill in detail it may grant leave for the question 'That this bill be reported to the House without amendment' to be moved immediately following the second reading.

A bill may be returned to the House at any time during its consideration in the Main Committee by any Member moving, without notice or the need for a seconder, 'That further proceedings be conducted in the House'. This motion cannot be amended or debated and, because of the unresolved question procedure, is effective even if opposed (S.O. 197(a)). A bill may also be recalled to the House at any time by motion moved by any Member in the House (S.O. 197(b)). Information on the report stage in the House of a bill considered by the Main Committee is at page 67.

## **Referral to a standing or select committee**

### ***Referral***

Before the resumption of debate on the second reading bill may be referred by determination of the Selection Committee to a standing or select committee for an advisory report. The determination may specify a date by which the committee is to report (S.O. 143(b)). Where there is no relevant House committee but there is a joint committee which covers the subject of a bill, the House members of the joint committee are considered as a committee for the purpose of considering bills referred by the House (S.O. 227).

### ***Committee membership when bills referred***

The participation of Members who are interested in the bill but not on the committee is facilitated by the provision that, for the purpose of consideration of bills referred for advisory reports, one or more members of the committee may be replaced by other Members by motion on notice (S.O. 229(c)). In addition the normal provision for the possible appointment of up to four supplementary members to a standing committee for a particular inquiry also applies (S.O. 215(d)).

Standing orders have been suspended to enable a private Member's bill to be referred to a standing committee for an advisory report, or for bills to be referred to joint committees.

### ***Advisory report by standing committee***

Committee proceedings on a bill are similar to proceedings on other committee inquiries, and the committee may invite submissions and hold public hearings before reporting its recommendations to the House. The report is presented and statements made by committee members in the same manner as other committee reports (*see p. 110*). However, motions to take note of the report are not moved, as opportunity for debate will occur during subsequent consideration of the bill if it is proceeded with.

After the committee has presented its report, and if the bill is to be proceeded with, the (remainder of the) second reading and the consideration in detail stages follow in the House, or the bill may be referred for these stages to the Main Committee. The Government's response to an advisory report is usually given by the Minister in speaking to the bill. If the Government accepts changes to the bill recommended by the report, these are incorporated into government amendments moved during the consideration in detail stage.

The standing order establishing the general purpose standing committees provides for the referral, by the House or a Minister, of any matter, including a pre-legislation proposal or bill, for standing committee consideration (S.O. 215(b)). Occasionally a bill may be referred to a committee by a Minister directly, prior to or even after its introduction to the House, rather than through the advisory report reference mechanism.

## **Second reading**

### ***Moving and second reading speech***

Normally, with copies of the bill available to Members, immediately after presentation and first reading the Minister moves the second reading, saying 'I move that this bill be now read a second time'. Speaking to this motion the Minister delivers his or her second reading speech. The Minister's speaking

time is limited to 30 minutes (S.O. 1). The second reading speech is the main speech on the bill and explains the purpose and general principles and effect of the bill. This speech plays an important role in the legislative process and its contents may be taken into account by the courts in the interpretation of an Act. Ministers are expected to deliver a second reading speech even if the speech has already been made in the Senate.

At the conclusion of this speech the debate is automatically adjourned to a future day (S.O. 142). Usually an opposition Member formally moves 'That the debate be adjourned' (thereby reserving the right to speak first when the debate is resumed). The further question is then put from the Chair 'That the resumption of the debate be made an order of the day for the next sitting'. On occasion leave may be granted or standing orders suspended to allow the debate to continue directly after the Minister's speech, or at a later hour the same day.

If copies of the bill are not available at the time of presentation the second reading cannot be moved immediately, and a future sitting is appointed for the second reading (by which time copies of the bill must be available to Members) (S.O. 142(b)). However, leave of the House may be sought or a motion to suspend standing orders moved in order to permit the Minister to move the second reading immediately.

Senate bills are presented to the House when the Chair reads the Senate message relating to the bill. After the first reading of a Senate bill the usual practice is for a Minister to move that the second reading be made an order of the day for the next sitting instead of moving the second reading immediately. The second reading of a Senate Bill often happens in the Main Committee.

### ***Resumption of debate on second reading***

Orders of the day for the next sitting are not necessarily called on at the next sitting, as the standing orders allow the order of business under 'Government Business' on the Notice Paper to be determined by the Government (usually after liaison with the Opposition). Debate may not be resumed for some time, depending on the Government's legislative program, and during this time public and Members' attitudes to the proposal may be formulated.

When the order of the day for the resumption of debate on the second reading is called on, the Member who had earlier moved the adjournment of debate is entitled to the first call to speak. However, usually it is the opposition spokesperson on the bill's subject matter who resumes the debate. The main opposition speaker (who is usually, but not necessarily, the first opposition speaker) may speak for up to 30 minutes. Other speakers in the debate are limited to 15 minutes each, or a lesser time determined by the Selection Committee (S.O. 1).

The debate may conclude after the first resumption, or may be further adjourned and resumed as many times as is necessary, depending on the

nature of the bill, the number of Members wishing to speak and the time available on each occasion.

### ***Nature of debate—relevance***

The second reading debate is primarily an opportunity to consider the principles of the bill and should not extend in detail to matters which can be discussed at the consideration in detail stage. However, it is the practice of the House to permit reference to amendments proposed to be moved at the consideration in detail stage. Debate should be relevant to the bill, although it is not strictly limited to the contents of the bill. What may or may not be relevant is affected by the long title of the bill (*see p. 56*)—for example ‘A Bill for an Act to amend section 10 of the Airports Act’ (restricted title) would allow less latitude than ‘A Bill for an Act about airports’ (unrestricted title). Debate may include reasonable reference to:

- the necessity for the proposals;
- alternative means of achieving the bill’s objectives;
- the recommendation of objectives of the same or similar nature; and
- reasons why the bill’s progress should be supported or opposed.

### ***Second reading amendment***

An amendment to the question ‘That this bill be now read a second time’ may be moved by any Member (but generally would be moved by an opposition Member). Such amendments should be relevant to the bill, and should not anticipate an amendment which may be moved at the detail stage nor propose the addition of words to the question (S.O. 145).

Amendments moved in accordance with this standing order are known as ‘reasoned amendments’ as they enable Members to place on record any special reasons for not agreeing to the second reading or, alternatively, for agreeing with qualification. A reasoned amendment may be declaratory of some principle adverse to, or differing from, the principles, policy or provisions of the bill. It may express opinions as to circumstances connected with the introduction or prosecution of the bill, or may seek further information in relation to the bill.

The usual form of amendment is to move that all words after ‘That’ be omitted and other words be substituted. Examples of words proposed to be substituted include:

- the bill be withdrawn and redrafted to provide for . . .
- the bill be withdrawn and a select committee be appointed to inquire into . . .
- the House declines to give the bill a second reading as it is of the opinion that . . .

- the House disapproves of the inequitable and disproportionate charges imposed by the bill . . .
- the House is of the opinion that the bill should not be proceeded with until . . .
- whilst not opposing the provisions of the bill, the House is of the opinion that . . .
- whilst not declining to give the bill a second reading, the House is of the opinion that . . .

An amendment should amount to more than a direct negation of the principle of the bill.

#### **Amendment constrained by the title of the bill**

In the case of a bill with a *restricted* title an amendment dealing with a matter not contained in the bill, nor within its title, may not be moved. If the bill has an *unrestricted* title an amendment dealing with a matter not in the bill, but which is relevant to the principal Act or to the objects of the bill as stated in its title may be moved, even though the clauses have a limited purpose.

#### **Moving of the amendment—debate and question put**

If the Member moving the amendment has allowed sufficient time, copies are duplicated and made available in the Chamber.

The amendment must have a seconder, who must not be a Member who has already spoken to the original question. After the amendment has been moved and seconded the question is proposed from the Chair ‘That the words proposed to be omitted stand part of the question’. Debate may then occur on this question.

The second reading motion and the amendment are usually debated together. However, Members who have spoken to the bill before the amendment is moved are entitled to speak again to the amendment.

#### **Determination of question on amendment**

If the question ‘That the words proposed to be omitted stand part of the question’ is resolved in the affirmative, the amendment is disposed of (S.O. 122(a)(ii)). If the debate has been closed by the mover of the motion for the second reading speaking in reply before the question was put on the amendment, the question on the second reading is then put immediately. In other cases debate may continue on the motion for the second reading. It is not possible for a further second reading amendment to be moved.

The standing orders are silent on the effect of carrying a reasoned amendment, and, as the House has never agreed to one, there is no guiding precedent. However, such action would probably be regarded as preventing further progress on the bill.

### **Six months amendment**

Standing order 146 provides that an amendment may be moved to the question ‘That this bill be now read a second time’ to omit the word ‘now’ and add ‘this day six months’, which, if carried, finally disposes of the bill. No amendment may be moved to this amendment. In practice this kind of amendment is not used.

### ***Determination of question for second reading***

When debate on the motion for the second reading has concluded, and any amendment has been disposed of, the House determines the question on the second reading ‘That this bill be now read a second time’. On this question being agreed to, the Clerk reads the long title of the bill.

## **Proceedings following second reading**

### ***Governor-General’s message***

If a bill requires an appropriation—i.e. it contains a proposal for the appropriation of revenue or moneys—in accordance with section 56 of the Constitution (*see p. 78*), a message to this effect is announced by the Chair immediately after the second reading of a bill (S.O. 147). In the case of an Appropriation or Supply Bill standing order 180(b) applies and the message is announced before the bill is introduced.

### **Leave to move third reading immediately**

At this stage, if the Speaker thinks Members do not desire to consider the bill in detail, he or she asks if it is the wish of the House to proceed to the third reading. If there is no dissenting voice the detail stage is superseded and the Minister moves the third reading immediately (S.O. 148(a)).

### **Consideration in detail**

Following the second reading, if leave is not obtained for the third reading to occur immediately, the House proceeds to the detailed consideration of the bill. Amendments to the provisions of the bill may be moved and debated at this stage.

The text of the bill is considered in the following order (S.O. 149(a)):

- clauses as printed and proposed clauses, in numerical order;
- schedules as printed and proposed schedules, in numerical order;

- postponed clauses (not having been specially postponed until after certain other clauses);
- preamble (if any);
- title.

In the case of amending bills (i.e. bills which amend existing Acts) which contain amendments listed in schedules, the schedules are considered in their numerical order before the clauses, and items within schedules in their numerical order. Consecutive items which amend the same section of an Act must, unless the House otherwise orders, be taken together (S.O. 149(d)(iii)).

For each part of the bill considered, the Chair proposes the question ‘That the [clause, schedule etc] be agreed to’ (S.O. 149(c)).

In many instances leave is granted for the bill to be considered as a whole. The Chair asks ‘Is it the wish of the House to consider the bill as a whole’. If there is no dissenting voice, the Chair then proposes the question ‘That the bill be agreed to’.

### ***Debate***

Debate must be relevant to the subject matter of the clause or schedule before the House, or to an amendment (S.O. 150(b)), and cannot extend to other clauses or schedules which have been, or remain to be, dealt with. Members’ speeches are limited to five minutes, but there is no limit on the number of times a Member may speak.

### ***Amendments***

An amendment may be moved to any part of the bill, provided the amendment is within the title or relevant to the subject matter of the bill and is otherwise in conformity with the standing orders (S.O. 150(a)). An amendment may be moved only when the part proposed to be amended is before the House and it must be relevant to that part. Amendments may be moved together, by leave. An amendment which is substantially the same as one already negatived or contrary to a previous decision on a bill cannot be moved unless there has been a reconsideration of the bill (*see p. 67*) (S.O. 150(e)).

### ***Questions put***

The Chair proposes and puts the question on an amendment in a way which reflects the purpose of the proposed amendment:

- If the purpose is to omit certain words, the question is ‘That the words proposed to be omitted stand part of the question’ (S.O. 122(a)(i)).
- If the purpose is to omit certain words in order to insert or add other words, the question is ‘That the words proposed to be omitted stand part

of the question'. If this question is resolved in the affirmative, the amendment is disposed of: if negated, the Chair puts a further question 'That the words proposed be [inserted or added]' (S.O. 122(a)(ii)).

- If the purpose is to insert or add certain words, the question is 'That the words proposed be [inserted or added]' (S.O. 122(a)(iii)).

(In these examples the word 'words' may be replaced by 'paragraph', 'subparagraph', 'subclause', 'section', 'schedule', and so on.)

If no Member objects, instead of the questions outlined above, the Chair may put the question 'That the amendment be agreed to' (S.O. 122(b)), and this is now the usual practice.

If a clause (schedule, etc.) is amended, a further question is proposed 'That the clause (schedule, etc.) as amended, be agreed to' (S.O. 150(c)). If the bill is being considered as a whole, the further question proposed is 'That the bill, as amended, be agreed to'. If the title is amended, the further question proposed is 'That the title, as amended, be the title of the bill' (S.O. 150(d)).

### ***Reconsideration***

At any time before the moving of the third reading, on motion without notice by any Member, a bill or part of a bill may be reconsidered in detail, in whole or in part (S.O. 154).

### **Report stage (for bills considered by Main Committee)**

A copy of the bill certified by the Clerk of the Main Committee together with schedules of any amendments made by the Committee and any questions which the Committee was unable to resolve are transmitted to the Speaker for report to the House. The Speaker may report the bill to the House at a time when other business is not before the House (S.O.s 152, 198)—in practice this is usually after the Matter of Public Importance (MPI) discussion. Any Governor-General's messages, schedules of amendments or unresolved questions are also reported at that time (S.O. 152(a)).

If a bill is reported from the Main Committee without amendment or unresolved question, the question 'That the bill be agreed to' is put immediately (S.O. 153(a)).

If a bill is reported with amendments, or with questions which the Main Committee had been unable to resolve, the report may be considered immediately if copies of the schedules are already available to Members, and this is the usual practice. In the event that copies of the schedules are not available the standing order states that a future time shall be set for considering the report and copies of the schedules of amendments or unresolved questions must then be available to Members (S.O. 152(b)).

However, the report may still be considered at once by leave of the House, or, if leave is not granted, following the suspension of standing orders.

### **Questions put**

When a bill is reported from the Main Committee without amendment or unresolved question, the question ‘That the bill be agreed to’ is put without debate and no amendment to this question is possible (S.O. 153(a)).

When a bill is reported with amendments or with unresolved questions, the House deals first with any unresolved questions (these are generally proposed amendments to the bill, but unresolved second reading amendments are also possible). Separate questions, open to debate or amendment, are put on each unresolved matter; however, unresolved questions may be taken together by leave. The House then deals with any amendments made by the Main Committee. A single question is put ‘That the amendments made by the Main Committee be agreed to’. No debate or amendment to this question is permitted. New amendments may only be moved as a consequence of the resolution by the House of any unresolved question. Finally, the question is put ‘That the bill (or the bill, as amended) be agreed to’. Once again, no debate or amendment of this question is allowed (S.O. 153).

### **Third reading**

The standing orders provide that once the bill has been agreed to, the House may grant leave for the motion for the third reading to be moved immediately, or a future sitting may be set for the motion (S.O. 155(a)).

The question ‘That this bill be now read a third time’ may be debated but it is not often that this occurs. If it is debated, the scope of the debate is limited to the contents of the bill—that is, the matters contained in the clauses and schedules of the bill.

The only amendment allowed to the third reading (S.O. 155(b)) is to omit ‘now’ from the question ‘That this bill be now read a third time’ and add ‘this day six months’ which, if carried, would finally dispose of the bill. However, this is not current practice. Very few such amendments have been attempted and none agreed to.

When the question for the third reading is agreed to no further question may be put (S.O. 155(c)). The Clerk again reads the long title, at which point the bill has been passed by the House.

## Procedural variations

### ***Cognate debate and bills taken together***

When there are two or more related bills before the House, it frequently suits the House to allow their second readings to be debated together—that is, the debate on the first of the bills covers also the other related bills. A debate of this kind is known as a cognate debate. Although not provided for in the standing orders, this is a well-established practice. A cognate debate is initiated by a proposal from the Chair seeking the agreement of the House. Agreement to the proposal must be unanimous. Upon the conclusion of the debate separate questions are put as required on each of the bills.

On occasion, to save the time of the House in cases where the passing of a group of closely related bills has been a formality, standing orders have been suspended to enable the bills to be considered and voted on together, with a single question put covering all the bills at each stage.

### ***Limitation of debate (guillotine)***

Although the speaking time available to each Member to debate a bill is limited, the total length of the debate is not. The movement of the ‘gag’—the motion ‘That the question be now put’ (*see p. 37*)—is one way of cutting short debate. On other occasions the Government may resort to the procedure for the limitation of debate, known as the ‘guillotine’, to impose a timetable on the debate.

As a preliminary, a Minister declares the bill to be an urgent bill and the question ‘That the bill be considered urgent’ is immediately put from the Chair, no debate or amendment being allowed (S.O. 82). If the question is agreed to, a Minister may move at any time, except when a Member is speaking, a motion specifying times for any stage of the bill (S.O. 82(c)), for example:

That the time allotted in connection with the bill be as follows:

- (a) For the second reading (or the remainder of the second reading), until . . .
- (b) For the detail stage, until . . . , or
  - (i) to the end of clause . . . , until . . .
  - (ii) remainder of detail stage, until . . .
- (c) For the remaining stages, . . .

It is not necessary to cover each stage in detail. The motion could also be in the form ‘For the remaining stages, until . . .’ or ‘For all stages, until . . .’

The motion for the allotment of time may be debated for 20 minutes, five minutes being allowed to each Member speaking, and amendments may be moved. After 20 minutes (unless the debate concludes earlier) the Chair

immediately puts the question on any amendment or the motion before the House (S.O. 84).

Standing orders must be suspended to allow more than one bill to be included in a single declaration of urgency and motion for the allocation of time.

After an allotment of time has been agreed to, at the time or times specified in the motion the Chair puts the questions necessary to conclude the proceedings to that particular stage, including, if necessary, questions on government amendments which have been circulated for at least two hours, even if not yet moved (S.O. 85(b)).

When the expiry of time has prevented the Opposition from moving intended amendments which have been circulated, the Chair has allowed the proposed amendments to be incorporated in Hansard so that the intentions of the Opposition are recorded.

### ***Private Members' bills***

A private Member may not initiate a bill imposing or varying a tax or requiring an appropriation. Taxation proposals by private Members are specifically prohibited by standing order 179. Appropriation bills are prevented in practice because of the need for a message from the Governor-General recommending appropriation, and the provision in standing order 180 that only a Minister may introduce such bills before the announcement of the message.

With these exceptions private Members—that is, Members who are not Ministers—are free to introduce bills of any kind during the period reserved for private Members' business (*see p. 98*). The introduction of a private Member's bill is given priority over other private Members' business (S.O. 41(c)).

When the notice for a private Member's bill is called on by the Clerk, the Member presents the bill and may speak in support of it for a period not exceeding ten minutes. It is then read a first time (S.O. 141). The allocation of time for debate on the bill's second reading on a subsequent private Members' day is determined by the Selection Committee. If the second reading is agreed to by the House, further consideration of the bill is given priority over other private Members' business (S.O. 41(e)).

A private Member's bill may also be considered during time reserved for government business following the suspension of standing orders.

### ***Senate bills***

A bill introduced into and passed by the Senate is transmitted to the House under cover of a message requesting the concurrence of the House. At a

convenient time in the day's program, the Speaker announces the message to the House and this action, in effect, presents the bill to the House.

The bill is read a first time and then proceeds in the same manner as an ordinary bill (S.O. 166). However, it is usual for the Minister in charge to move that the second reading be made an order of the day for the next sitting instead of moving the second reading immediately. The Minister's second reading speech and other proceedings to the end of consideration in detail may be conducted in the Main Committee.

If the bill is agreed to and not amended by the House, it is returned to the Senate by message informing the Senate that it has been agreed to. The House, at the consideration in detail stage, may amend any bill received from the Senate, after which the bill is read a third time and returned to the Senate with a schedule of amendments referring to the clause, page, and line of the bill as amended (S.O. 167(b)). The amended bill is returned with a message asking the Senate to agree to the amendments.

A private Senator's bill may be sponsored in the House by a Minister or by a private Member. Such a bill sponsored by a Minister proceeds as an ordinary government bill. In the case of a Senate bill sponsored by a private Member, proceedings following the first reading are those applying to private Members' bills.

### ***Constitution alteration bills***

The passage of a bill proposing an alteration to the Constitution is the same as for an ordinary bill, with the additional requirement, imposed by section 128 of the Constitution, that it must be passed by an absolute majority—that is, a majority of the membership of the House (76 in a House of 150 Members), rather than of the Members actually voting (S.O. 173). To ensure that this requirement is fulfilled and recorded, bells are always rung for a division at the third reading stage, even when this question is carried on the voices. If the third reading is not carried by an absolute majority the bill is laid aside and cannot be revived in the same session of Parliament (S.O. 173).

### **Referendum**

As well as being passed by the Parliament, a change to the Constitution must be approved by the people at a referendum. If a referendum is to be held the bill must be submitted to the electors in each State and Territory not less than two nor more than six months after its passing by each House. In certain circumstances the Governor-General may also submit to referendum a constitution alteration bill passed by one House only (*see p. 84*).

If, in the majority of States, a majority of electors voting in the State approve the proposed law, and if a majority of all electors voting also approve the proposed law, it is presented to the Governor-General for assent. (Constitution, section 128)

## 12. FINANCIAL LEGISLATION

### **Parliamentary control of government finances**

The Parliament has the ultimate control over government finances. This control is two-fold. First, taxes are imposed and loans to the Government are authorised by legislation which must be agreed to by the Parliament. Secondly, government expenditure must also be authorised by legislation.

Section 83 of the Constitution states that ‘no money shall be drawn from the Treasury of the Commonwealth except under appropriation made by law’. This means that however much money the Government has, whether raised by taxation or by loan or even by sale of government assets, the money cannot be spent unless the Parliament has authorised the expenditure by an Act of Parliament (an appropriation Act).

### **The financial initiative of the Government and the financial powers of the two Houses**

Although Parliament has the ultimate control by way of veto, the Government has what is known as the ‘financial initiative’. Only the Government, through the House of Representatives, can request that an appropriation be made or increased, or propose to impose or increase taxation. The Constitutional provisions (sections 53 and 56) are briefly as follows:

- appropriation bills cannot be initiated in the Senate;
- appropriation bills for ‘the ordinary annual services of the Government’—e.g. Appropriation Bill (No. 1)—cannot be amended by the Senate;
- bills imposing taxation cannot originate in or be amended by the Senate;
- the Senate may not amend any proposed law so as to increase any proposed charge or burden on the people;
- no appropriation bill can be passed unless the purpose of the appropriation has been recommended by a message from the Governor-General.

### **Appropriation and supply bills**

The Parliament appropriates money annually from the Consolidated Revenue Fund to fund government expenditure by means of the following bills:

#### ***Main appropriation bills***

Appropriation Bill (No. 1) is a key element in the Budget. It appropriates revenue for the provision of ordinary annual government services—that is,

continuing expenditure by government agencies on services for existing policies.

Appropriation Bill (No. 2), also introduced with the Budget, includes appropriations for new policies, new capital expenditure, and payments to the States.

Appropriation (Parliamentary Departments) Bill, also introduced with the Budget, appropriates funds for the parliamentary departments.

### ***Additional appropriation bills***

Appropriation Bills (No. 3) and (No. 4) and the Appropriation (Parliamentary Departments) Bill (No. 2) are referred to as the additional or supplementary estimates. Appropriation Bill (No. 3) appropriates funds for ordinary annual services, while Appropriation Bill (No. 4) provides for other expenditure—that is, they parallel Appropriation Bills (No. 1) and (No. 2). They are necessary because almost invariably government departments will exhaust some of the funds provided by Appropriation Bills (No. 1) and (No. 2). The Appropriation (Parliamentary Departments) Bill (No. 2) performs the same function in respect of the parliamentary departments.

Other appropriation bills may be introduced to cover special expenditure—for example, Appropriation Bill (No. 3) 1971–72 was passed to fund the activities of the Australian Wool Commission. (The bills containing the additional estimates in that year were therefore numbered (No. 4) and (No. 5).)

### ***Supply bills***

Supply Bills (No. 1) and (No. 2) and the Supply (Parliamentary Departments) Bill are no longer part of the regular annual routine. Their function is to provide funds in the interim period when the main appropriation bills are not scheduled to pass before the commencement of the financial year on 1 July. This was the usual practice when the Budget was presented in August.

Supply bills can still be necessary if for some reason (such as an election) the current May Budget timetable is not able to be followed. If needed, supply bills would be introduced in April or May and the amounts appropriated would usually cover the first five months of the following financial year—that is, from 1 July to 30 November. As with the appropriation bills, (No. 1) would provide for ordinary annual services, and (No. 2) for other expenditure. The Supply (Parliamentary Departments) Bill would provide funds for parliamentary expenditure.

### ***Advances to the Minister for Finance and Presiding Officers***

Appropriations are made in the main appropriation bills No. 1 and No. 2, the parliamentary appropriation bill and supply bills for an allocation of funds for

an Advance to the Minister for Finance, or Advances to the Presiding Officers, in order to meet emergency or unforeseen expenditure during the course of the financial year.

## **Appropriation and supply bill procedure**

Appropriation bills and supply bills in their essentials follow the same stages as any other bill. Only the differences are described here.

### ***The Budget***

In the House of Representatives there is no special Budget procedure as such. The Budget depends upon the passage of the main appropriation bills for the year, the Treasurer's Budget speech being the second reading speech on Appropriation Bill (No. 1). As well as the main appropriation bills, the Budget includes other legislation to give effect to the financial proposals announced in the Budget speech, and the Budget papers—documents presented to Parliament containing information on government finances and related matters.

It is now the general practice for the Budget to take place in May. However, the traditional August Budget could still occur, for example if a general election interrupts the usual parliamentary calendar.

### ***Appropriation Bill (No. 1)***

#### **Message recommending appropriation and introduction**

The introduction of the Appropriation Bill (No. 1) is preceded by the announcement by the Speaker of a message from the Governor-General recommending an appropriation for the purposes of the bill (S.O. 180(b)).

Standing order 178 allows the bill to be introduced without notice by a Minister, in this instance the Treasurer.

#### **Second reading—Budget speech and debate**

In moving the second reading, the Treasurer delivers the Budget speech, in which he or she compares the estimates of the previous financial year with actual expenditure, reviews the economic condition of the nation, and states the anticipated income and expenditure for the current financial year, including the taxation measures proposed to meet the expenditure. In making the Budget speech the Treasurer may speak without limitation of time (S.O. 1); however, about 30 minutes has become the practice. At the conclusion of the speech debate is adjourned on the motion of an opposition Member, usually the Leader of the Opposition.

The debate on the second reading of the Appropriation Bill (No. 1) is known as the 'Budget debate'. It is traditionally resumed by the Leader of the Opposition two nights after 'Budget night'. In the response to the Government's Budget proposals, the Leader of the Opposition (or a Member deputed by the Leader) may speak without limitation of time (S.O. 1); however, as with the Treasurer's speech, about 30 minutes has become the practice. Normal time limits apply to other speakers in the debate.

The Budget debate used to continue over several weeks. With the Budget presented in May a shorter period is available, as the appropriation bills have to be passed by the Parliament before the start of the financial year on 1 July (interim funding not being provided by supply bills). In recent years additional debating time has been gained by referring the appropriation bills to the Main Committee, which has extended its hours of operation for this purpose (*see p. 14*).

The scope of discussion in the Budget debate is almost unlimited, as the second reading of the main appropriation bill is specifically excepted from the rule of relevancy (S.O. 76).

The appropriation bills have been subject to a declaration of urgency (*see p. 69*).

#### **Second reading amendment**

An amendment of the widest scope in relation to public affairs may be moved to the motion for the second reading of the main appropriation bill (S.O. 145(b)). Such an amendment, usually moved by the Leader of the Opposition, would be expected to refer to aspects of the Budget with which the Opposition was dissatisfied. The amendment takes the form 'That all words after "That" be omitted with a view to substituting the following words: . . .' (e.g. 'this House condemns the Budget because . . .').

#### **Consideration in detail**

It is now the usual practice for the consideration in detail stage of Appropriation Bill (No. 1) to be taken in the Main Committee. The Committee first considers the schedule of the bill which lists by government portfolio the services for which the appropriation is to be made and the amounts appropriated. After completing consideration of the schedule, the House then considers the remainder of the bill in the same way as an ordinary bill. It is usual, however, for the remainder of the bill to be taken as a whole and agreed to formally without further debate.

The order for considering the proposed expenditures (referred to as 'estimates') is the order in which they appear in the schedule, traditionally in alphabetical order of government departments. However, it is the usual practice for the Committee to agree, at a Minister's suggestion, to a different order of consideration, with departments grouped together for convenience of debate. The agreed order may be varied by further resolution.

A timetable is now circulated in advance showing the day and time allocated to each portfolio and the name of the Minister attending. Periods allocated to portfolios have varied between 60 and 30 minutes.

The question put from the Chair in respect of each department or group of departments is 'That the proposed expenditure (or expenditures) be agreed to'. Debate may cover any aspect of administration or other matter which comes under the control of the department or departments under consideration.

#### **Amendments to estimates**

An amendment to an appropriation bill to increase, or extend the objects and purposes or alter the destination of, the appropriation recommended by the Governor-General must be preceded by a further message which must be announced before the amendment is moved (S.O. 180(d)). This requirement in effect prevents private Members from moving such amendments. However, a private Member may move to reduce the amount of a proposed expenditure or may move to omit items.

#### ***Appropriation Bill (No. 2) and Appropriation (Parliamentary Departments) Bill***

Appropriation Bill (No. 2) and the Appropriation (Parliamentary Departments) Bill are also introduced without notice following a message from the Governor-General recommending appropriation.

The procedure for the passage of these bills is similar to that for the Appropriation Bill (No. 1) except that the wide range of debate and amendment allowed on the second reading of the main bill is not permitted and normal relevancy rules apply (unless there is agreement to have a cognate debate with Appropriation Bill No. 1). It is not usual for the bills to be considered in detail.

#### ***Budget documents and related legislation***

Associated with the Budget are other related documents and bills. After the Treasurer's second reading speech on Appropriation Bill (No. 1) the debate is adjourned and Budget-associated documents, referred to as Budget papers or Budget related papers, are normally presented. The nature and titles of these documents vary. After the presentation of the documents a motion may be moved that the documents be made parliamentary papers. This motion may be debated but this is rare. If debate occurs it must be relevant to the motion and thus may not cover the subject matter of the documents, or for example, the state of the economy or events in the preceding financial year.

Other Budget related business may include the introduction of further Budget related bills—for example supplementary additional estimates bills (Appropriation Bills Nos. 5 and 6) for the current financial year. Ministerial

statements explaining Budget decisions in detail, and customs and excise tariff proposals connected with the Budget may also be presented. The term ‘Budget measure’ is used to describe bills introduced to implement the financial proposals announced in the Treasurer’s Budget speech. That a bill is described as a Budget measure does not in itself bestow on it any special procedural status or immunity from amendment, as is sometimes assumed.

### ***Additional appropriation bills and supply bills***

Procedures for additional appropriation bills and supply bills, including the limitations on amendment, are the same as those for Appropriation Bills Nos. 1 and 2, except that there is no special Budget speech or Budget debate as such—that is, the second reading speeches and debate are routine events. As in the case with Appropriation Bill (No. 1), there is a wide scope of amendment and debate allowed on the second reading of the bills for ordinary services of the Government—that is, (usually) Appropriation Bill (No. 3) and Supply Bill (No. 1).

### **Special appropriation bills**

Only about a quarter of government agency expenses are authorised by the annual appropriations. Other government expenditure is authorised by special appropriation bills which appropriate funds for a specified purpose—for example, to finance a particular project or program. Special appropriation bills are often not specific in amount or duration. Those providing funds for an indefinite period are said to give ‘standing appropriation’.

Special appropriation bills are distinguishable from ordinary bills in that they:

- contain words which appropriate revenue to the extent necessary to meet expenditure under the bill; or
- while not in themselves containing words of appropriation, would have the effect of increasing, extending the objects or purposes of, or altering the destination of, the amount that may be paid out of revenue under existing words of appropriation in an Act.

Special appropriation bills have no distinguishing title, format, or content, apart from the words of appropriation. In most cases the appropriation is incidental to the bill’s main intention, and in some cases not immediately obvious.

### ***Special appropriation bill procedure***

With the following exceptions, procedures for introduction (including the requirement for notice to be given) and passage through later stages of these bills are identical to those described for ordinary bills.

### **Proceedings following second reading—Governor-General’s message**

In accordance with section 56 of the Constitution and S.O. 180(a) appropriations must be recommended by a message from the Governor-General. However, unlike the situation with appropriation and supply bills, the message recommending the appropriation is announced by the Chair after the second reading (S.O. 147). The terms of the message state that the Governor-General recommends to the House that an appropriation be made for the purposes of the bill.

### **Consideration in detail—amendments**

An amendment to increase, or extend the objects and purposes or alter the destination of the appropriation recommended by the Governor-General must be preceded by a further message which must be announced before the amendment is moved (S.O. 180(d)). The message in this instance recommends that an appropriation be made for the purpose of an amendment to the bill.

This requirement in effect prevents private Members from moving such amendments. A Member unable to move such an amendment may choose to put his or her view on the matter to the House in an appropriate second reading amendment—that is, present it as a declaration of opinion rather than as a proposed amendment to the text of the bill.

## **Taxation bills**

Taxation bills impose a tax. Examples of taxation bills are income tax bills, customs tariff bills and excise tariff bills. Bills imposing ‘a charge in the nature of a tax’ (that is, where the charge is a revenue raising measure as distinct from a fee for a service) are also considered to be taxation bills. Section 55 of the Constitution states that laws imposing taxation shall deal only with the imposition of taxation and, except in the case of customs and excise laws, with one subject of taxation only.

Taxation assessment bills lay down the administrative procedures for assessing and collecting tax. As bills *dealing with taxation* they may be introduced without notice (S.O. 178) but in all other respects they are treated as ordinary bills.

### ***Taxation bill procedure***

#### **Introduction**

Taxation bills and any proposal to impose, increase, decrease, or alter the scope of a tax or duty must be introduced by a Minister (S.O. 179). Taxation bills (and any other proposal dealing with taxation) may be (and, to protect the revenue, inevitably are) introduced without notice (S.O. 178).

### **Consideration in detail—amendments**

When the bill is considered clause by clause, any schedule, which may declare rates of tax or duty, is considered before the authorising clauses.

Only a Minister may move an amendment to increase, or extend the scope of a charge proposed beyond the total already existing under any Act of Parliament (S.O. 179(b)). A private Member may move an amendment to reduce a proposed tax, or to increase a proposed reduction back to its existing level.

A Member unable to move an amendment may choose to put his or her view on the matter to the House in an appropriate second reading amendment—that is, present it as a declaration of opinion rather than as a proposed amendment to the text of the bill.

### ***Tariff proposals and tariff amendment bills***

Customs (duties levied on imports and exports) and excise (duties charged on goods produced in Australia) tariff proposals are usually initiated by a motion, and not by a bill. The restrictions applying to taxation bills apply equally to tariff proposals; they must be introduced by a Minister and may be introduced without notice.

The moving of a tariff proposal is normally treated as a formal procedure for the purpose of initiating the collection of the duty. The motion may be debated and amended, although only a Minister may move an amendment to increase, or extend the scope of the charge in a proposal, unless the effect of the amendment to increase the charge or extend its scope would not exceed that already existing under an Act of Parliament (S.O. 179).

It is usual for the debate to be adjourned by an opposition Member. Tariff proposals are listed together on the Notice Paper under the one order of the day for the resumption of debate on the motions. Debate on a proposal may be resumed on a later day but this is a rare occurrence.

Periodically, tariff proposals are consolidated by a customs tariff or excise tariff amendment bill, which incorporates the provisions of the motions previously moved into the appropriate Tariff Act. These bills are retrospective in operation to the date on which collection commenced. After the tariff amendment bill has been assented to, a motion is moved to discharge the superseded orders of the day from the Notice Paper.

In the absence of a tariff amendment bill, tariff proposals before the House towards the end of a period of sittings may be affirmed by means of a tariff validation bill. In this case the proposals are not discharged from the Notice Paper as they have not yet been incorporated in the tariff schedule by means of a tariff amendment bill.

## 13. BILLS—SENATE CONSIDERATION

### Passage by Senate and Senate amendments

#### *Transmission to Senate*

As soon as administratively possible after the third reading, the bill, certified by the Clerk, is sent to the Senate with a message, signed by the Speaker, asking the Senate to agree to the bill (S.O. 157).

The bill again goes through three readings in the Senate. Although varying in detail, the procedures of the two Houses have a basic similarity, the main difference being that a bill is more likely to be referred to a committee in the Senate.

#### *Return to House—consideration of Senate amendments*

When the bill has passed the Senate, the Senate returns it to the House under cover of a message. If the Senate has not amended the bill, the message is announced to the House by the Chair at a convenient time in proceedings between items of business, and the bill is prepared for assent.

The House may only amend a House bill which has been returned from the Senate if its further amendment is relevant to or consequent on any Senate amendments or requests (S.O. 160).

If a House bill is returned from the Senate with amendments, the amendments are listed in a schedule accompanying the bill. When the Senate message is announced by the Chair, a Minister moves a motion to fix the time for the House to consider the amendments—‘That the amendments be considered at the next sitting’ or ‘at a later hour’ (S.O. 158(a)). If copies of the amendments are available the Minister may move that they be considered immediately.

On the latter motion being agreed to, or on the order of the day for the consideration of the amendments being called on, the Minister moves a motion or series of motions in relation to the amendments. Standing order 158(b) describes the options for the House in addressing Senate amendments to House bills. The amendments are considered together, in groups, or individually, according to the motions moved. These are generally ‘That the amendment(s) (or specified amendments) be agreed to’ or ‘be disagreed to’. An amendment may also be amended and agreed to, or disagreed to but an amendment made in its place.

Debate on Senate amendments follows procedures similar to those used in the consideration in detail stage—each Member may speak for five minutes at a

time with no limit on the number of times. A motion for consideration of Senate amendments need not be seconded (S.O. 159).

### **Reasons**

If the House disagrees to a Senate amendment to a House bill, the Member who moved the motion ‘That the amendment(s) be disagreed to’ must present to the House written reasons for the House not agreeing to the amendments and immediately move that the reasons be adopted (S.O. 161). The reasons are included in the message returning the bill to the Senate (S.O. 161(c)). The same requirement for reasons applies in the case of Senate bills if the House disagrees to any amendments made by the Senate to amendments of the House (S.O. 170(b)).

### ***Negotiation by message***

The process of negotiation by message between the Houses continues until agreement is reached on the bill’s final form. The House may request the Senate to reconsider amendments which the House has disagreed to, or to consider amended or replacement amendments. In turn the Senate may insist on its original amendments, disagree to the House amendments or agree to them with further amendment (S.O. 162).

If agreement cannot be reached by an exchange of messages the House may request a conference of Members and Senators representing their respective Houses (S.O. 162(d)(iii)). The procedures for conducting conferences are set out in standing orders 262 to 266. However, in practice the conference procedure is not used, and if it is recognised that further negotiation by message would be pointless it is usual for the House to order the bill to be ‘laid aside’—that is, abandoned and removed from the Notice Paper (S.O.s 162 and 169).

### ***Requested amendments***

The Senate is prevented by section 53 of the Constitution from making amendments to taxation bills or to appropriation bills for the ordinary annual services of the Government, or from making an amendment to any bill ‘so as to increase any proposed charge or burden on the people’. However, the Senate may request the House to make such an amendment. In these cases the Senate returns the bill to the House with the request before the Senate third reading stage (which is proceeded with when the bill is received back from the House).

If the Senate has made both amendments and requests to a bill, only the requests are considered by the House at this stage, the amendments being considered after the third reading in the Senate. The House may make the amendments requested, not make them, or make them in modified form. The House then returns the bill with a message stating the manner in which the

requested amendment has been dealt with (S.O. 165). However, if it is unwilling to comply with a Senate request, instead of responding the House may simply lay the bill aside.

The House may make amendments requested by the Senate involving appropriation only if a further message from the Governor-General recommending an appropriation for the purpose of the requested amendment has been announced to the House (S.O. 181).

### ***Pressed requests***

If the House declines to make the amendments requested and returns the bill, the Senate may pass it without the requested amendment having been made or may refuse to pass the bill. On occasions the Senate has returned the bill with a message pressing or insisting upon its request.

The House has never recognised the power of the Senate to insist on or press a request and may decline to consider a Senate message purporting to do so. However, the House has on most occasions taken the Senate's message into consideration after passing a preliminary resolution refraining from determining its constitutional rights. In recent years, when a message has been received from the Senate purporting to press requests for amendments, it has been the practice of successive Speakers to make a statement referring to the principles involved and which the House has endorsed, whether declining to consider the message or not.

### ***Senate amendments which, in the view of the House, should have been made as requests***

The precise meaning of paragraph 3 of section 53 of the Constitution (preventing the Senate from making an amendment to any bill 'so as to increase any proposed charge or burden on the people') has not been conclusively determined, nor agreed between the Houses. Occasionally the Senate makes an 'amendment' to a bill, when in the opinion of the House, the Senate proposal should have been sent to the House as a request for an amendment.

In such cases, prior to the consideration of the Senate message, the Chair may make a statement drawing the House's attention to the constitutional significance of the purported amendment. The House may then agree to a resolution stating its attitude to the matter. In some such cases the House has resolved to refrain from the determination of its constitutional rights, and has considered the amendment.

When the House has regarded a purported Senate amendment as having the effect of increasing expenditure under an appropriation, the House has sometimes disagreed to the amendment but, after the reporting of a Governor-

General's message recommending appropriation, itself made an amendment in the same terms, and then sought the Senate's concurrence.

On other occasions the House has declined to consider the purported amendment and has informed the Senate that it would consider a request for the amendment. Alternatively the House may lay the bill aside.

### **Continued disagreement between the Houses**

When the two Houses disagree over proposed legislation in most cases compromises are reached and amendments are made by one or the other House until the bill concerned is in a state acceptable to both.

In the case of continued disagreement, section 57 of the Constitution sets out the following steps for resolving a disagreement involving a proposed law originating in the House. The procedure does not apply to a bill originating in the Senate.

#### ***Double dissolution***

- The House of Representatives passes a bill and sends it to the Senate.
- The Senate rejects the bill, or fails to pass it, or passes it with amendments to which the House of Representatives will not agree.  
(Although the term 'fails to pass' has not been strictly defined, the High Court has stated that a 'reasonable time' must be allowed.)
- After an interval of three months (but in the same or the next session of Parliament), the House of Representatives passes the bill a second time and sends it to the Senate again. The bill reintroduced must be the original bill, except that it may be modified by amendments made, requested or agreed to by the Senate.
- The Senate again rejects the bill, or fails to pass it, or passes it with amendments to which the House of Representatives will not agree.
- The Prime Minister may now advise the Governor-General to dissolve both Houses. However, a double dissolution cannot take place within six months of the end of a three year term of the House of Representatives (i.e. three years from the date of its first meeting).  
(Once the preceding conditions have occurred, whether and when to advise a double dissolution is a matter for the Prime Minister. There is no constitutional necessity to do so, or to do so within any period of time.)
- Elections are held for both Houses.

### ***Joint sitting***

- In the new Parliament the House of Representatives passes the bill again and sends it to the Senate. The bill may be reintroduced with or without amendments made, requested or agreed to by the Senate.  
(There is no constitutional necessity to reintroduce a bill that was the cause of the double dissolution.)
- The Senate again rejects the bill, or fails to pass it, or passes it with amendments to which the House of Representatives will not agree.
- The Prime Minister may now advise the Governor-General to convene a joint sitting of the members of both Houses.
- The joint sitting votes on the bill as last proposed by the House of Representatives and on any amendments made by one House and not agreed to by the other. To be passed, amendments and the bill (as and if so amended) must be agreed to by an absolute majority—i.e. more than half of the total number of the members of both Houses.

### **Procedures for joint sittings**

Rules for joint sittings pursuant to section 57 of the Constitution were adopted by both Houses on 1 August 1974, prior to the first, and to date the only, such sitting on 6 August 1974. Among other matters the rules provided for:

- Senate standing orders to be followed as far as applicable in any matter of procedure not provided for;
- detailed provisions for the election of Chairman;
- the Clerks of the two Houses to serve as joint clerks;
- maximum speech times of 20 minutes;
- at least four hours of debate or 12 speakers on each question ‘That the proposed law be affirmed’;
- detailed provisions for divisions.

### ***Disagreements over constitution alteration bills***

Section 128 of the Constitution sets out the steps for resolving disagreements between the Houses over constitution alteration bills (*see p. 71*). This process applies to constitution alteration bills originating in either House.

The initial steps are similar to those applying to double dissolution bills referred to above (*see p. 83*). However, at the point when the other House continues to refuse to pass a constitution alteration bill passed a second time by the originating House, the Governor-General *may* submit the proposed constitution alteration to referendum.

## 14. DELEGATED LEGISLATION—DISALLOWANCE AND APPROVAL

Delegated (also known as subordinate) legislation is legislation not made directly by an Act of the Parliament, but made under the authority of an Act which has delegated limited law-making powers to the Executive Government. Examples of delegated legislative authority, most of which are referred to collectively as legislative instruments, include regulations, orders, rules, determinations, principles, declarations, by-laws, notices and plans of management. Most (but not all) delegated legislation is governed by the *Legislative Instruments Act 2003*, which commenced on 1 January 2005.

Legislative instruments must be registered in the Federal Register of Legislative Instruments (FRLI) maintained by the Attorney-General's Department (and are not enforceable if not registered). Once registered they are given an FRLI (known as 'frilly') number.

Legislative instruments must also be tabled in each House of Parliament, where, in most cases, they can be disallowed by either House (the Legislative Instruments Act lists categories of instrument that are not subject to parliamentary disallowance). In addition some forms of delegated legislation must be actively approved by the Parliament before coming into effect.

### Disallowance

In accordance with the Legislative Instruments Act, legislative instruments must be forwarded by the Attorney-General's Department for tabling within six sitting days of being registered. They cease to have effect if not tabled within this period.

The standard processes are that within 15 sitting days of a disallowable instrument being tabled, any Member may give notice of a motion to disallow it. If the motion has not been withdrawn or otherwise dealt with (that is, passed or rejected) at the end of 15 sitting days after the notice was given, the instrument is deemed to have been disallowed.

If the House is dissolved or expires or the Parliament is prorogued before the disallowance motion has been dealt with, the instrument is taken to have been tabled on the first sitting day of the next session, and the disallowance notice must be given again to be effective.

In practice the tabling and disallowance periods may extend for some time, even when no dissolution, expiry or prorogation occurs, as a long adjournment could intervene between sitting days. Also the tabling day and the sitting days may be different in the two Houses.

Where an instrument has been disallowed or is deemed to have been disallowed, no instrument which is the same in substance may be made within six months after the date of disallowance unless the House concerned has rescinded its resolution of disallowance or approved the re-making of the instrument.

### ***Disallowance procedures in the House***

Items of delegated legislation are usually ‘deemed documents’—that is, deemed to have been tabled in the House on the day on which their receipt is recorded in the Votes and Proceedings (*see p. 89*). Occasionally a legislative instrument may be tabled by a Minister. A motion to take note of the document may be moved to enable debate to take place, but this is unusual.

Disallowance notices given by private Members are listed on the Notice Paper with other items of private Members’ business. However, as the Selection Committee does not include them in its determinations for debate during the private Members’ business period on Mondays, and in view of the fact that disallowance will automatically occur unless the notice is called on and dealt with within the specified time, the general practice is for standing orders to be suspended to permit them to be moved and debated during government business time. Notices appear in the Notice Paper with a note showing the number of sitting days remaining before the regulation concerned is deemed to be disallowed.

### **Disallowable Instruments List**

Each sitting day the Table Office produces a Disallowable Instruments List. This is a listing of instruments which have been tabled and which are subject to possible disallowance, showing the number of sitting days remaining for Members to give notice of disallowance. The list is publicly available via the House of Representatives website (<http://www.aph.gov.au/house/info/disallow/disallow.pdf>).

### ***Approval***

Some Acts provide for the Houses of Parliament to approve, and possibly amend, certain legislative instruments (variously described as statements, charters, agreements, etc.). The conditions for approval and amendment depend on the provisions of the particular Act.

If one House amends such an instrument the other House is informed by message, and when the message is considered, the motion put—for example, ‘That the House approves the form of agreement . . . as amended by the Senate and conveyed in Senate Message No. . . .’. The motion can be amended to amend the amendments or make further amendments.

While notices of motions of approval, moved by Ministers, are taken as government business, motions of amendment would normally be moved by opposition Members and be subject to the usual private Members' business procedures.

## 15. PROVIDING INFORMATION TO THE HOUSE

### Ministerial statements

By leave of the House, Ministers may make statements concerning government policy or other matters for which they bear a responsibility.

Although the routine of business provides a specific time for ministerial statements following presentation of documents after question time (S.O. 34, Figure 2), ministerial statements may also be made at other times.

It is accepted practice for a copy of a proposed ministerial statement to be supplied to the Leader of the Opposition or the relevant shadow minister prior to the statement being delivered, in good time for an opposition response to be considered.

Generally, standing orders are suspended to enable the opposition spokesperson to speak in reply to the statement for an equal period of time. Alternatively, (although this has not been the recent practice) having delivered the statement the Minister may present a copy and a motion is moved 'That the House take note of the document'. This provides the opposition spokesperson the opportunity to respond to the statement by speaking to the motion and enables the House to debate the subject matter.

### Documents

Many documents are presented to the House, or 'tabled', for the information of Members of Parliament and the public. These documents include reports, returns and statements of all kinds from government departments and authorities, parliamentary committee reports, reports of parliamentary delegations, reports of royal commissions and other government inquiries and a wide variety of other documents.

#### ***Presentation to House***

Documents may be presented at government initiative, or in many cases their presentation may be required by statute, standing order, or order of the House (S.O.s 199–201).

Documents may be presented by the Speaker and by Ministers (S.O. 199) and, in restricted circumstances, by private Members (*see below*). There are special provisions for the presentation of petitions (S.O. 207) and committee and delegation reports (S.O.s 39 and 243). Various documents are presented by the Clerk.

The more important government documents are usually tabled during the period set aside in the routine of business following question time on each sitting day. However, a Minister may present a document at any time when other business is not before the House (S.O. 199(b)).

Documents presented at the time provided in the routine of business are generally presented together according to a previously circulated list. A schedule of documents to be presented is made available to the Manager of Opposition Business by 12 noon on the day of presentation, and circulated to Members in the Chamber. Following question time, a Minister presents the documents together as listed. A document may be presented individually—for example, if a statement is to be made in relation to it—and must be presented individually if it does not appear on the schedule or if a schedule has not been circulated.

#### **Deemed documents**

As well as being presented by Ministers, government documents may be delivered to the Clerk (in practice the Table Office) and are deemed to be presented on the day on which they are recorded in the Votes and Proceedings (S.O. 199(b)).

Documents received on a sitting day before 5 p.m. (3 p.m. on Thursdays) are recorded in the Votes and Proceedings of the day of receipt. In other circumstances they are recorded in the Votes and Proceedings of the next sitting.

#### **Presentation by leave**

Private Members have limited opportunities to present documents without seeking leave of the House. These are: presentation of committee or delegation reports which may be tabled at any time when other business is not before the House (S.O. 39); and presentation of a document relating to a matter of privilege raised by the Member (S.O. 53). On all other occasions a private Member must obtain leave of the House to present a document. The Speaker has indicated that during question time requests for leave would not be put to the House where a document is available publicly.

The requirement for leave also applies to Ministers when other business is before the House (S.O. 199(b))—that is, when there is a question before the House for debate. Other business does not include question time, a personal explanation or the making of a ministerial statement. Leave is not required to present an explanatory memorandum to a bill.

It is expected that a Member or Minister seeking leave to table a document will first show it to the Minister at the Table or to the Member leading for the Opposition, as the case may be, and leave may be refused if this courtesy is not observed.

### **Documents quoted from—standing order 201**

A public document quoted from by a Minister shall, if required by a Member, be tabled, unless it is of a confidential nature (S.O. 201). When such a request is made the Speaker inquires of the Minister whether the Minister read from the document and if the reply is in the affirmative then the Speaker inquires whether the document is confidential. If the document is not confidential, the Minister is required to table it. The standing order does not apply to personal letters, private documents, or to notes quoted from by a Minister.

### ***Motions on presentation***

On a document being presented in the House, a Minister may move immediately, without notice, ‘That the document be made a Parliamentary Paper’ and/or ‘That the House take note of the document’. (S.O. 202(a)). Any Member, after giving notice, may move either or both of these motions on a subsequent day (S.O. 202(c)).

The motion ‘That the document be made a Parliamentary Paper’ enables the House to print the document for the Parliamentary Papers Series (*see below*).

The motion ‘That the House take note of the document’ enables a debate on the subject matter of the document to take place.

### ***Debate on documents presented***

Motions to take note of ministerial statements are sometimes debated immediately, shadow ministers having received advance copies of the statements. However, in the case of the majority of motions to take note of a tabled document, debate is immediately adjourned (customarily on the motion of an opposition Member) and the adjourned debate made an order of the day for the next sitting. The timing of the resumption of debate (possibly in the Main Committee) is a matter for negotiation between the parties.

When documents are tabled together according to a previously circulated list, a single motion may be moved that the House take note of specified documents, with the resumption of debate on the motion to take note of each of the documents made a separate order of the day on the Notice Paper (S.O. 202(b)).

### ***Distribution and publication***

Copies of all documents tabled are available to Members from the Table Office. All documents presented to the House are considered to be public, and (since 1997) have been automatically authorised for publication (S.O. 203).

### **Parliamentary Papers Series**

The Parliamentary Papers Series provides a comprehensive collection of the papers of a substantial nature presented to the Parliament. The series is an annual, numerical series containing all documents ordered to be printed by either House.

### **Consideration by Publications Committee**

Documents presented to the House which have not been ordered to be made a Parliamentary Paper at the time are referred to the Publications Committee, which reports back to the House recommending which of them should be printed as Parliamentary Papers. The committee has power to confer with a similar committee of the Senate, and in practice the two committees usually sit jointly to consider the documents which have been presented to both Houses (S.O. 219).

### **Custody of original documents**

The custody of all documents laid before the House is the responsibility of the Clerk, under the direction of the Speaker (S.O. 28). Original documents may not be removed from the Chamber or offices without the permission of the Speaker. Departments may apply to the Speaker for the return of original documents not likely to be further required by Members.

### **Privilege**

The Parliamentary Papers Act provides protection against civil or criminal proceedings to any person who publishes any document the publication of which has been authorised by either House of the Parliament. The Parliamentary Privileges Act also includes documents published by order of a House or a committee as matters covered by absolute privilege. Since 1997 documents presented to the House have been automatically authorised for publication (S.O. 203). Previously, to be certain of the protection of privilege, motions to authorise publication were sometimes moved in respect of individual documents.

## **Questions seeking information**

### ***Rules applying to questions***

The following rules apply, where relevant, to all questions, whether oral (without notice) or written (on notice). However, given the pace at which question time proceeds, they are often applied less rigorously to oral questions.

- The purpose of a question is to obtain information or to press for action. Questions may not be debated (S.O. 100(a))—that is, may not be used as

vehicles for the discussion of issues. A question should not be in effect a short speech, or simply give information, or framed so as to suggest its own answer or convey a particular point of view.

- Questions of excessive length are not permitted. Questions seeking extensive or very detailed answers or which call for the quotation of figures should be placed on the Notice Paper.
- Questions should not contain statements of fact or names of persons unless they are strictly necessary to make the question intelligible and can be authenticated (S.O. 100(d)). The facts on which a question is based may be stated briefly; however, the Member asking the question is responsible for their accuracy.
- Questions may not contain arguments, inferences, imputations, insults, ironical expressions or hypothetical matter (S.O. 100(d)), and may not ask for an expression of opinion or for legal opinion (S.O. 98(d)). In addition, a question may not ask a Minister to announce government policy, but may seek an explanation about the policy and its application and may ask the Prime Minister whether a Minister's statement in the House represents government policy (S.O. 98(d)).
- Questions should not refer to debates in the current session (S.O. 100(e)). The subject matter of a debate may be referred to but not the debate itself and statements made in it.
- Questions should not refer to committee proceedings not reported to the House (S.O. 100(e)). Exception is not taken to questions merely coinciding in subject matter with a current committee inquiry.
- A question fully answered cannot be asked again (S.O. 100(b)). However, a question may refer to an earlier answer, for example to seek updated information.
- Questions should not be asked which reflect on or are critical of the character or conduct of those persons whose conduct may only be challenged on a substantive motion (S.O. 100(c) and *see p. 34*). Questions which are critical of the character or conduct of other persons must be in writing (S.O. 100(c)(ii)).
- It has been the practice that an oral question which is substantially the same as a question already on the Notice Paper is not permissible. However, the Chair has allowed this in the case of both questions being from the same Member.

In addition to the rules specifically applying to questions, the general rules of debate apply, including the sub judice convention (*see p. 35*).

During question time the duration of each question is limited to 45 seconds (S.O. 100(f)).

### ***Rules applying to answers***

The detailed rules applying to questions do not apply to answers. However, a specific rule relating to answers is that an answer must be directly relevant to the question (S.O. 104).

During question time the duration of each answer is limited to 4 minutes (S.O. 104(c)). Only one point of order on relevance may be taken on each answer (S.O. 104(b)).

*See also* ‘Answers to questions in writing’ at page 95.

### ***Oral Questions***

#### **Time and duration of question time**

In the normal routine of business a period for questions without notice, commonly referred to as question time, is scheduled to commence on every sitting day at 2 p.m., or on days when the House meets at 2 p.m., as the first item of business (S.O. 34, figure 2).

Question time is ended by the Prime Minister asking that questions, or further questions, be placed on the Notice Paper. The duration of question time is at the discretion of the Prime Minister, who may terminate proceedings at any time, even prior to the first question being asked. In practice question time occurs on almost every sitting day for about 90 minutes. When, rarely, question time has not proceeded, this has usually followed instances of substantial time being spent on a matter such as a want of confidence motion prior to questions without notice being called on. Occasionally the time for oral questions may be put back because of a ceremonial event attended by most Members.

#### **Ministers’ presence at question time**

Although there is no rule to this effect, all Ministers are expected by the Prime Minister to be present. If a Minister is otherwise engaged on urgent public business, sick, or overseas, the Prime Minister will explain this before questions are called on, and indicate which Minister will answer questions in place of the absentee.

#### **Questioners**

Although the standing orders place no restrictions on who may ask questions, the following is accepted practice. Any private Member may ask a question. Ministers and Parliamentary Secretaries do not ask questions, either of other Ministers, or where permitted, of private Members. However, Ministers and Parliamentary Secretaries on occasion ask questions of the Speaker. It is not the practice for questions to be asked by the Speaker.

### **Questions to Ministers**

Questions may be put to a Minister relating to public affairs, administration or proceedings pending in the House for which he or she is responsible or officially connected (S.O. 98(c)). The underlying principle is that Ministers should answer questions only on matters for which they are responsible to the House. Consequently, Speakers have ruled out of order questions to Ministers which concern, for example, private, party or State matters.

Questions relating to the responsibilities of a Minister who is a Senator are addressed to the Minister in the House representing the Senate Minister. With that exception and the further exception of questions to the Prime Minister, questions may not be put to one Minister about the ministerial responsibilities of another. The Prime Minister has of course overall responsibility for the Government, but it is not unusual for the Prime Minister to refer questions to the Minister directly responsible.

Questions may not be put to Parliamentary Secretaries (S.O. 98(b)).

### **Questions to the Speaker**

At the conclusion of the question period, questions without notice may be put to the Speaker relating to any matter of administration for which he or she is responsible (S.O. 103). Requests to the Speaker for detailed information should be lodged in writing in the same manner as a question in writing (*see p. 96*).

### **Questions to private Members**

A question of a strictly limited nature may be addressed to a private Member. The question must relate to a bill, motion, or other business of the House or of a committee for which the Member asked is responsible (S.O. 99). For example, a Member in charge of a private Member's bill may be asked when the bill is to be introduced or when copies will be available; a committee Chair may be asked when a report will be tabled. Questions of this kind are rare.

### **Allocation of the call**

Members wishing to ask a question stand in their places (or if unable to stand otherwise gain the Speaker's attention). While the call is at the Chair's discretion, Speakers have traditionally observed the practice that the call goes first to an opposition Member (usually the Leader of the Opposition) and then alternates between government and non-government Members. Independent Members or minor parties receive the call in approximate proportion to their numbers. When the Opposition has the call priority is given to the party leaders, otherwise the call is allocated to each Member as evenly as possible.

### **Supplementary questions**

Following a question and answer, the Speaker may, at his or her discretion, permit supplementary questions to be asked to elucidate an answer (S.O. 101(b)). This standing order permits subsequent questions to refer back to or follow up an earlier answer. In the current Parliament the Speaker's practice has been to allow the Leader of the Opposition, or his or her delegate, one supplementary question each question time.

### **Questions in writing**

Questions requiring written answers may be lodged for inclusion on the Notice Paper. They are often referred to as 'questions on notice'. Such questions should be clearly written or printed, signed by the Member, and delivered to the Clerk or the Table Office within such time as will enable them to be printed on the Notice Paper (S.O. 102). Questions may also be delivered by email. The Speaker has determined that questions for the next day's Notice Paper should, in normal circumstances, be lodged by 4 p.m.

There is no restriction on the number of questions in writing a Member may ask, either each day or in total.

### **Application of the rules**

The rules governing the form and content of questions are applied more strictly to questions in writing because of the opportunity to examine them closely. The Speaker is responsible for ensuring that questions conform to the standing orders, but in practice this task is performed under the authority of the Speaker by House staff. Questions are checked to ensure that they are addressed to the correct Ministers and that they do not infringe the standing orders. If necessary they are also edited to eliminate unnecessary wording and to put them into a standard interrogative style. Should it be necessary, the Clerks will consult the Member regarding the content of a question and, where required, matters may be referred to the Speaker for decision.

### **Answers to questions in writing**

Officials in government departments check each day's Notice Paper for questions and arrange for answers to be drafted for their Minister to consider. When the Minister approves an answer it is forwarded to the Table Office which sends a copy to the Member who asked the question and arranges for the question and answer to be printed in Hansard (S.O. 105). In addition copies are supplied to the press.

There is no time limit by which questions must be answered. Where a reply has not been received after 60 days, the Member concerned can rise in the House and ask the Speaker to write to the Minister involved, seeking reasons for the delay (S.O. 105(b)).

Questions remain listed on the Notice Paper until answered (and reprinted in full on the first day of each sitting fortnight), unless the Member asking the question becomes a Minister or ceases to be a Member. A question may also be withdrawn by the Member at any time. Any questions remaining on the Notice Paper lapse when the Parliament is prorogued or the House is dissolved.

**Questions to the Speaker—Requests for detailed information**

Requests for detailed information relating to the administration of the parliamentary departments are lodged with the Clerk or the Table Office in the same way as questions in writing addressed to Ministers. However, if they are in order, they are printed in the Hansard for that day rather than the Notice Paper. The Speaker, in due course, provides a written answer which is also printed in Hansard.

## 16. NON-GOVERNMENT BUSINESS

### Order of business on Mondays

Time is allocated in both the House and the Main Committee each sitting Monday for non-government business—that is, for presentation of committee and delegation reports, announcements relating to committee inquiries, debate on previously presented committee and delegation reports, and private Members' business (S.O.s 39–41). Two hours are set aside in the House in the morning and an hour and a half in the evening. In the Main Committee about two and a half hours are available in the morning, and a similar amount of time in the evening, prior to the hour long grievance debate. The distribution of time between committee business and private Members' business is decided by the Selection Committee.

The Selection Committee determines the order of consideration of items, the times allotted for debate on each item and for each Member speaking, and the matters to be considered in the Main Committee—*see page 99*.

### Committee and delegation reports

Committee and delegation reports may be presented in the House during the periods reserved for committee and delegation business and private Members' business on Mondays, as determined by the Selection Committee. Members may make statements in relation to these reports, of not more than 10 minutes for each Member, although the committee may specify shorter speaking times (generally five minutes). The Member presenting the report may also move a motion—for example, 'that the House take note of the report'. Debate on the motion is normally then adjourned until a future day (S.O. 39). The standing orders provide for the resumption of debate on reports presented on previous occasions to follow the presentation of reports (S.O. 40). In this period as well, the chair or deputy chair of a committee may make a statement to inform the House of matters relating to an inquiry.

In keeping with the subordinate nature of the Main Committee, it is not possible for business to be initiated there, so reports cannot be presented in the Main Committee. Therefore, where the Selection Committee has determined that a specific reports is to be debated in the Main Committee on Monday, the Speaker can present the report to the House earlier in the day, and the following are then deemed to have occurred: a motion to take note of the report, debate on the motion to be adjourned to a later hour and the order of the day to be referred to the Main Committee for further consideration within any parameters determined by the Selection Committee.

Outside of the periods provided for report presentation on Mondays, committee and delegation reports may be presented at any time when other business is not before the House (S.O. 39(b)) and a specific motion in relation to the report may be put without notice (S.O. 39(d)). However, any statements made in relation to the reports can only be made by leave of the House (S.O. 39(c)).

After presentation in the House committee reports may be referred to the Main Committee for further consideration.

### **Private Members' business**

During the periods provided for non-government business on Mondays debate may also take place on private Members' business—that is, bills and motions sponsored by private Members.

A private Member wishing to move a motion or introduce a bill must give notice (*see p. 44*). Notices are listed on the Notice Paper under the heading 'Private Members' Business'. Private Members' notices and orders of the day not recommended by the whips for debate within eight sitting Mondays are removed from the Notice Paper (S.O. 42). Entries in the Notice Paper show the number of sitting Mondays remaining.

As with committee and delegation reports, should the Selection Committee decide that a private Member's motion should be dealt with in the Main Committee on a Monday, a similar process is used to initiate the item of business in the House. The Speaker may present a copy of the terms of the motion for which notice has been given by a private Member, the motion is deemed to have been moved, debate adjourned to a later hour and the order of the day referred to the Main Committee for further consideration (S.O. 41(g)).

### ***Private Members' motions***

The Selection Committee may recommend items of private Members' business to be voted on. Alternatively the committee may determine that debate on a motion should continue on another day, and in these cases debate is adjourned and made an order of the day for a subsequent private Members' Monday.

### ***Private Members' bills***

The introduction of a private Member's bill is given priority over other private Members' business. When the notice for a private Member's bill is called on by the Clerk, the Member presents the bill and may speak in support of it for up to ten minutes (S.O. 141). It is then read a first time, the second reading of the bill automatically becoming an order of the day for the next sitting. The allocation of time for the debate on the second reading is determined by the

Selection Committee. If the second reading is agreed to by the House, further consideration of the bill is given priority over other private Members' business (S.O. 41(e)). Alternatively, standing orders may be suspended to permit the bill to be considered during government business time.

Should the Selection Committee determine that a private Member's bill be listed for the Main Committee on a Monday, it can be presented in the House by the Speaker earlier in the day and the first reading of the bill is then deemed to stand referred to the Main Committee. In this case the Member sponsoring the bill speaks in support of the bill when it is called on later in the day in the Main Committee. (S.O. 41(e)).

Private Members may not initiate a bill imposing or varying a tax (S.O. 179) or requiring the appropriation of money (*see p. 70*).

## **Role of Selection Committee**

The arrangement of private Members' business and the order of presentation and consideration of committee and delegation business on Mondays, and the allocation of time for their debate, are the responsibility of the Selection Committee (S.O. 222). When the House is sitting the committee meets weekly (usually on a Tuesday afternoon) to consider the arrangement of business for both the House and Main Committee on the next sitting Monday. The committee must report its determinations to the House in time for the report to be published in the Notice Paper of the sitting Thursday before the Monday under consideration.

In choosing items of private Members' business for debate the committee pays regard to a set of general principles relating to the selection of private Members' business (presented to the House on 21 October 2010). The principles ensure that all Members have a fair chance of having matters debated and also take into account the nature of the subject—that is, its importance, the current level of interest, the extent to which it comes within the responsibility of the Commonwealth Parliament, the probability of it being brought before the House by other means, and whether the same matter has recently been debated.

The Selection Committee also has responsibilities in relation to setting speaking times for second reading debates, for selecting bills to be referred to committees, and for recommending items of private Members' business to be voted on. The committee usually considers these matters at a meeting on Wednesday, reporting its recommendations and determinations on Thursday.

## **Members' statements**

Members have several opportunities to make short statements in the House or Main Committee.

In the House, for 15 minutes prior to every question time any Member other than a Minister or a Parliamentary Secretary may be called by the Chair to make a statement of up to 90 seconds in duration (S.O. 43). The call is alternated between non-government and government Members. If no other Member seeks to speak, a Member who has already spoken may speak again. Members may make statements on any topic of concern to them. They may also use the occasion to present a petition (S.O. 207—*see p. 104*).

In the Main Committee a period is reserved for constituency statements by Members on every day that the Committee meets. Any Member may speak for up to three minutes (S.O.s 192, Figure 4, and 193). This opportunity lasts for a period of 30 minutes (regardless of suspensions for divisions in the House). Members may also use these occasions to present a petition (S.O. 207—*see p. 104*).

### **Grievance debate**

At 9 p.m. each Monday in the Main Committee, after the conclusion of committee and private Members' business, the Deputy Speaker proposes the question 'That grievances be noted' (S.O. 192B). Debate on the question is practically unlimited in scope, giving Members the opportunity to raise matters in which they have a particular interest or to ventilate complaints of constituents. Any amendment may be moved to this question, although amendments are rare. The name of the debate and its technical status as government business have no significance. In practice it is no more than an opportunity for wide debate, similar to that provided by the motion for the adjournment of the House. Members may also use this occasion to present a petition (*see p. 104*) (S.O. 207).

The debate lasts for a maximum of one hour. Members may speak for 10 minutes. The distribution of the call is similar to that of the adjournment debate, the first call going to an opposition Member, then alternating. Although, technically, Ministers and Parliamentary Secretaries are permitted to participate, in practice this is not common.

### **Adjournment debate**

A standard adjournment debate is scheduled at the end of every sitting day (S.O.s 29, 31 and 34, Figure 2). However, depending on the pressure of business, it may sometimes commence earlier or later than the specified time, or not take place at all. The procedures for the moving of the adjournment are outlined at page 14. One hour is provided on Mondays, Tuesdays and Wednesdays, and 30 minutes on Thursdays.

Debate on the motion 'That the House do now adjourn' is specifically exempted from the rule that debate must be relevant to the question before the House, and in effect the scope of debate is practically unlimited. Members

may speak for five minutes each. An opposition Member traditionally receives the first call and the call then alternates in the normal way. If no other Member wishes to speak, a Member who has already spoken may speak a second time. Although Ministers and Parliamentary Secretaries are not prohibited from participating, in practice they rarely do (except to respond to the debate as described below). If they do seek the call, the Chair will usually give preference to any backbench Member on either side of the House.

The general rules of debate, other than relevancy, apply, and a Member should not attempt to revive earlier debates of the session unless the allusion is relevant to a new aspect or matter which the Member is raising. This restriction does not prevent reference to previous adjournment debates. No amendment may be moved to the question for the adjournment.

A Member wishing to raise a matter in the adjournment debate falling within the responsibilities of a particular Minister or concerning a particular Member usually alerts that Minister or Member beforehand. As well as being courteous, this practice allows the Minister or Member to arrange to be present during the debate if he or she so wishes and, in the case of a Minister, to make a response.

The debate may be extended by up to 10 minutes to permit a Minister to respond to matters raised in the debate. However, a Minister may speak in reply prior to this time if no other Member rises to speak. If the debate is not extended, or if it is extended, after 10 minutes or the earlier ending of debate, the Speaker automatically adjourns the House until the time of its next meeting.

### **Adjournment debate in the Main Committee**

Adjournment debates also take place in the Main Committee. Although the standing order does not specify the day or time, these generally occur only on Thursdays. The length of the debate (usually about 30 minutes) is agreed between the whips (S.O.s 191 and 192, Figure 4). Adjournment debates at other times may occur by agreement between the whips.

### **Budget debate**

The standing orders exempt the debate on the second reading of Appropriation Bill (No. 1) (*see p. 74*) from the usual rule of relevance by allowing ‘matters relating to public affairs’ to be debated (S.O. 76(c)). The Budget debate thus provides a significant opportunity, possibly extending over several weeks, for Members to speak on matters of their own choice.

The same exemption applies to the second reading debate of other appropriation bills for ordinary services of the Government—that is, (usually) Appropriation Bill (No. 3) and Supply Bill (No. 1). However, these bills are not usually debated so extensively.

## Address in Reply debate

The wide ranging Address in Reply debate at the beginning of each session of Parliament provides an opportunity for Members to speak for 20 minutes each on any matter they wish, provided the other rules of debate are observed (S.O. 76(b)). For details of this debate, *see page 19*.

## Matter of public importance

A discussion of a matter of public importance (MPI) is scheduled for every sitting day except Monday, following question time and the presentation of documents. An MPI is a discussion, on which no vote is taken, on a topical issue (S.O. 46).

Although any Member may propose a matter for discussion, in practice the matter discussed is usually one proposed by the Opposition.

Matters for discussion must be proposed to the Speaker in writing no later than 12 noon on the day of the discussion. The letter takes the following form:

[date]

Dear Mr/Madam Speaker

In accordance with standing order 46, I desire to propose that [today] [tomorrow] [on Tuesday, . . . ] the following definite matter of public importance be submitted to the House for discussion, namely: . . .

Yours sincerely

[signature of Member]

In the event of more than one matter being proposed for the same day, the Speaker gives priority to the matter which, in his or her opinion, is the most urgent and important.

The Speaker determines whether or not the proposal is in order. The proposed matter must be 'definite', that is, single, specific and precise in its wording, and is expected to contain an element of ministerial responsibility or come within the scope of ministerial action.

At the time for the discussion, the Speaker announces the receipt of the letter, reads the matter to the House, and calls on Members approving of the proposed discussion to rise in their places. The discussion may proceed only if supported by eight Members, including the proposer. The Speaker then calls upon the proposer to open the discussion.

The discussion may last for up to one hour and 30 minutes; 15 minutes each being allowed to the proposer and the Member next speaking, and 10 minutes each for the other Members speaking (S.O. 1). The discussion may be

terminated earlier by the carrying of a motion moved by any Member 'That the business of the day be called on'.

(For discussion of matter of special interest initiated by a Minister *see page 51.*)

## 17. PETITIONS

A petition is basically a request for action. Any citizen or resident, or group of citizens or residents, may petition the House of Representatives to take action. For example, petitions may ask the House to introduce legislation, or to repeal or change existing legislation, or to take action for a certain purpose or for the benefit of particular persons. Rarely, a petition from an individual citizen may seek the redress of a personal grievance—for example, the correction of an administrative error.

The subject of a petition must be a matter on which the House has power to act—that is, it must be a Federal rather than a State matter and one involving legislation or government administration in some way.

### Presentation

Petitions can be presented in two ways. The usual method is for the Chair of the Petitions Committee to present petitions, as the first item of committee business on Monday mornings. The announcement includes the number of signatures to the petition and subject matter of the petition. After the petitions have been presented, the chair and one other member of the committee may then make statements concerning petitions or reports of the committee. A total of 10 minutes is provided.

The second method of presentation is by a Member during the periods allocated for Members' statements in the House, during constituency statements in the Main Committee, grievance debate or in the adjournment debate (S.O. 207(b)). In all instances, the petition must first be sent to the Standing Committee on Petitions to ensure that it complies with the standing orders.

Generally, at the time of presentation no discussion of the subject matter of a petition is allowed, apart from the statement by the Member presenting the petition. However, a Member may move one of the following motions: 'That the petition be not received', or 'That the petition be referred to a committee' (S.O. 208). A petition is deemed to be received unless the motion that it be not received is agreed to by the House. The moving of these motions is rare.

### Subsequent action by House

After a petition has been received by the House the full text of the petition is printed in the Hansard for that day (S.O. 208(d)). The Standing Committee on Petitions has been established to respond to petitions on behalf of the House and report to the House on action taken. After a petition is presented, the Committee may (and normally does) refer a copy of it to the Minister responsible for the administration of the matter raised in the petition.

The Petitions Committee may also decide to hold discussions with petitioners and government officials on the subject of the petition, to be followed by a report to the House, or follow up the petition in some other way.

Each of the general purpose standing committees has the power to consider and report on petitions referred to it by the House (S.O. 215(b)); however, to date none have been referred. In earlier years there were cases of petitions being referred to select committees specifically formed for the purpose.

## **Responses by Ministers**

Where a petition has been referred to a Minister, the Minister is now expected to respond within 90 days of presentation by lodging a written response with the Petitions Committee. Ministerial responses are announced by the Clerk on sitting Mondays and the responses printed in Hansard and published on the House's internet web site (S.O. 209).

## **Rules on form and content**

There are detailed rules relating to the form and content of petitions (S.O.s 204–205). Their purpose is to protect the interests of both the petitioner and the House by ensuring that the authenticity of petitions can be established.

### ***What must be in a petition***

To be presented to the House, a petition must:

- be addressed to the House of Representatives;
- refer to a matter which is within the power of the House of Representatives to act on—that is, a Commonwealth legislative or administrative matter;
- state the reasons for petitioning the House; and
- contain a request for the House to take one or more specified actions.

### ***How a petition should be prepared***

A petition must conform to the following requirements:

- it must be on paper;
- it must be in the English language or be accompanied by a translation certified to be correct. The person certifying the translation must place his or her name and address on the translation;
- the terms of the petition must not exceed 250 words;
- the text of the petition must not contain any alterations;
- it must not have any letters, affidavits or other documents attached to it;

- the language used must moderate. The terms of the petition must not be illegal or promote illegal acts; and
- a petition from a corporation must be made under its common seal. Otherwise it will be received as the petition of the individuals who signed it.

### ***Rules about signatures***

Every petition must contain the signature and full name and address of a principal petitioner on the first page of the petition. The principal petitioner is the primary contact point for the Petitions Committee on a particular petition, and his or her contact details will allow the Committee to provide advice on the status of the petition and any subsequent action taken.

All the signatures on a petition must meet the following requirements:

- Each signature must be made by the person signing in his or her own handwriting. Only a petitioner incapable of signing may ask another person to sign on his or her behalf.
- Each signature must be written on a page bearing the terms of the petition, or the action asked for by the petition. Signatures must not be copied, pasted or transferred on to the petition or placed on a blank page or on the reverse of a sheet containing the terms of the petition.
- A Member must not be a principal petitioner or a signatory to a petition.
- A sample petition is available on the Petitions section of the Parliament's web site: <http://www.aph.gov.au/house/work/petitions.htm>.

## 18. COMMITTEES

Committees of the House of Representatives are established by the standing orders or by resolution of the House. Joint committees, which draw their memberships from and report to both Houses, are established by legislation (statutory committees) or by resolution of both Houses. Standing committees are appointed for the life of a Parliament and have a continuing role. Select committees are formed for a specific purpose and cease to exist when they have presented their final reports.

### House of Representatives committees

#### *General purpose standing committees*

General purpose standing committees are established by the standing orders at the start of each Parliament (S.O. 215). These are investigatory or scrutiny committees. Their function is to inquire into and report on any matters referred to them by the House or a Minister, including any pre-legislation proposal, bill, motion, petition, vote or expenditure, other financial matter, report or document (S.O. 215(b)). Annual reports of government departments and authorities and reports of the Auditor-General are automatically referred to the relevant committee for any inquiry the committee may wish to make, in accordance with a schedule tabled by the Speaker showing the areas of responsibility of each committee (S.O. 215(c)).

The names of the committees and the division of responsibilities between them may vary from Parliament to Parliament. The Speaker determines any question about responsibility for a report or part of a report. Between them the investigatory committees cover most government activity, with each committee covering a particular spread of subjects and thus a number of related government departments and authorities. Because of the role of the Joint Committee on Foreign Affairs, Defence and Trade there is no general purpose standing committee covering these subject areas.

The general purpose standing committees appointed at the start of the 43rd Parliament in 2010 were:

- Aboriginal and Torres Strait Islander Affairs;
- Agriculture, Resources, Fisheries and Forestry;
- Climate Change, Environment and the Arts;
- Economics;
- Education and Employment;
- Health and Ageing;
- Infrastructure and Communications;

- Social Policy and Legal Affairs; and
- Standing Committee on Regional Australia.

### ***Domestic or internal committees***

The following standing committees are established by the standing orders at the start of each Parliament:

*Committee of Privileges and Members' Interests* (S.O. 216). The committee inquires into and reports on complaints of breach of privilege which may be referred to it by the House (S.O. 51) or, during a non-sitting period, by the Speaker (S.O. 52) (*see p. 115*) or any other matter that may be referred by resolution of the House. The committee also inquires into and reports on arrangements made for the compilation, maintenance and accessibility of the Register of Members' Interests.

*House Committee* (S.O. 218). The committee's functions are concerned with facilities for Members in Parliament House. It usually meets jointly with the equivalent Senate committee.

*Publications Committee* (S.O. 219). Documents presented to the House which are not ordered at the time to be made Parliamentary Papers stand referred to this committee which recommends which of them should be printed as Parliamentary Papers (*see p. 91*). In addition, when conferring with a similar committee of the Senate, the committee may inquire into and report on the printing, publication and distribution of parliamentary and government publications and on other matters referred to it by the relevant Minister. It usually meets jointly with the equivalent Senate committee.

*Standing Committee on Petitions* (S.O. 220). The committee receives and processes petitions to the House, and inquires into and reports on any matter relating to petitions and the petitions system (*see also p. 104*).

*Standing Committee on Procedure* (S.O. 221). The committee inquires into and reports on the practices and the procedures of the House and its committees. Proposals to amend the standing orders are usually considered by the committee.

*Selection Committee* (S.O. 222). The committee arranges the timetable and order of committee and delegation and private Members' business on Mondays; recommends items of private Members' business to be voted on; selects bills for referral to committees; and sets speaking times for second reading debates (*see also p. 99*).

*House Committee on Appropriations and Administration* (S.O. 222A). The committee oversees the finances and administration of the Department of the House of Representatives and considers proposals for works in the parliamentary precincts that are subject to parliamentary approval.

### **Select committees**

Select committees may be set up by resolution of the House to inquire into and report on particular matters (S.O. 223)—for example, the Select Committee on Recent Australian Bushfires established in 2003. A select committee is required to report by a specific date and it ceases to function on completing its final report on the matters referred to it. However, while a select committee exists it is also possible for it to report from time to time (S.O. 243), and it may also report on additional matters referred to it.

### **Joint statutory committees**

Some standing committees are established by Acts of Parliament. The following statutory committees were appointed at the start of the 43rd Parliament in 2010:

- Joint Committee on the Broadcasting of Parliamentary Proceedings
- Parliamentary Standing Committee on Public Works
- Joint Committee of Public Accounts and Audit
- Parliamentary Joint Committee on Intelligence and Security
- Parliamentary Joint Committee on Corporations and Financial Services
- Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity
- Parliamentary Joint Committee on the Australian Crime Commission (proposed to be replaced by the Parliamentary Joint Committee on Law Enforcement).

The functions of these committees are prescribed in the Acts which establish them. However, in some cases the establishing Acts leave the detail of the membership, powers and procedures of the committees to the Parliament to determine. This is done by resolution of each House at the start of every Parliament. By convention, joint committees follow Senate standing orders or procedures (*see below*).

### **Other joint committees**

The number and names of joint standing committees appointed by resolutions of both Houses can vary from Parliament to Parliament. The following joint standing committees were appointed at the start of the 43rd Parliament in 2010:

- Joint Committee on the National Capital and External Territories
- Joint Committee on Foreign Affairs, Defence and Trade
- Joint Committee on Electoral Matters
- Joint Committee on Migration

- Joint Committee on Treaties
- Joint Committee on the Parliamentary Library.

Joint select committees may also be appointed for a specific purpose by resolutions of both Houses—for example, the Joint Select Committee on Cyber Safety and the Joint Select Committee on Gambling Reform established in September 2010.

The functions, membership, powers and procedures of these committees are determined by the resolutions establishing them.

## **Motions relating to committees**

Parliamentary committees are subsidiary bodies of a House or both Houses of the Parliament. Their procedures are prescribed by the Houses appointing them, and their powers are delegated from those Houses. A committee can do nothing that the House (or Houses) has not instructed it or empowered it to do—that is, by resolution, standing order, or, in the case of statutory committees, by legislation. Therefore, as well as resolutions establishing committees, resolutions of the House are also necessary for a range of other reasons—for example, to alter terms of reference, extend a reporting date, or vary the number or composition of members. Motions are also moved to refer matters for investigation and report, although in many cases committees are given the ability to accept references directly from Ministers, and in some cases to initiate their own inquiries.

In the case of a motion relating to the establishment of a joint committee, the initiating House sends a copy of the resolution with a message to the other House requesting its concurrence. The other House generally accepts the proposal or accepts it with modifications. In this case messages pass between the Houses until both have agreed to the same resolution. On occasion the other House may reject a proposal, or fail to respond. Each House also advises the other House by message regarding appointment of members.

### ***Appointment of Members***

Members are appointed to or discharged from a committee on motion moved on notice. When the House is not sitting and not expected to meet for at least two weeks party whips may write to the Speaker nominating the appointment or discharge of a member. The change operates from the time the nomination is received by the Speaker. The Speaker reports the change to the House at the next sitting when it is confirmed by resolution (S.O. 229).

## **Presentation of committee reports**

Periods are reserved in the House and Main Committee on sitting Mondays for the presentation and debate of committee reports. Statements relating to

committee inquiries may also be made during these periods (S.O. 39(a)). Details of procedures for presentation of debate of reports during these periods are outlined at page 97. However, committee reports may be presented at any time other business is not before the House (S.O. 39(b)).

A copy of the report, signed by the Chair (S.O. 246), and the committee's minutes of proceedings are tabled in the House by the Chair or a member of the committee (S.O. 247). A copy of the transcript of evidence, other than in camera evidence, should also be tabled. Joint committee reports (S.O. 226) are tabled in both Houses, usually on the same day; however, occasionally reports are tabled in one House some time before being tabled in the other, especially when the Houses follow different sitting patterns.

It is normal practice for a committee report to be made a Parliamentary Paper when it is presented (S.O.s 39(f), 247). If a Member presents a report from a committee during the period allocated on Monday, then, subject to any determination of the Selection Committee, he or she and other members of the committee can each make a statement to the House for up to 10 minutes each. In recent years such statements have been limited to a maximum of five minutes per Member. After the statements a specific motion in connection with the report (usually 'That the House take note of the report') can be moved without notice by the Member presenting it, and the debate on the question is then adjourned until a future day (S.O. 39(c)). The order of the day for resumption of debate on a report may subsequently be referred to the Main Committee.

A Member presenting a committee report at times other than the period allocated on Monday may be granted leave to make a brief statement on the report and this may be followed by brief statements, by leave, from other Members (S.O. 39(c)). The consideration of the report may be set down for a subsequent sitting when a specific motion without notice in connection with it may be moved. Leave is required to move such a motion (e.g. to take note) at the time of presentation.

### ***Publishing of report when House not sitting***

If the House is not sitting when the committee finishes a report (but normally only during longer adjournments), the committee may send the report to the Speaker (or if he or she is unavailable, the Deputy Speaker) who may give directions for its printing and circulation. Publication of the report is authorised on its receipt by the Speaker. The report must be presented to the House as soon as possible (S.O.s 226(b), 247(c)).

## **Standing orders relating to the operation of committees**

Standing orders 228–247 govern the operation of House committees generally. They apply to all committees of the House unless superseded by another standing order or resolution of the House.

By convention, if the corresponding House and Senate standing orders or procedures differ, joint committees follow the Senate standing orders or procedures. In practical terms, this means that there are restrictions on joint committees holding public hearings when the Senate is sitting (unless specific permission is obtained from the Senate), and different quorum requirements than those applying to House committees. Members appointed to serve on joint committees should consult the committee secretary for clarification of the impact of Senate standing orders on the committee's operations.

## **Witnesses**

Standing orders 249–256 contain rules relating to the appearance of witnesses before the House or House committees.

## 19. PRIVILEGE

The term parliamentary privilege refers in general to the special legal rights and immunities (exemptions from the ordinary law) which apply to each House of the Parliament, its committees and Members, and to other participants in its proceedings, and to the power that each House has to deal with offences—contempts—which interfere with its functioning. These powers derive from section 49 of the Constitution and the *Parliamentary Privileges Act 1987*.

The following is a limited introduction to parliamentary privilege, provided so that procedures in the House relating to privilege matters can be better understood.

### **The privilege of freedom of speech**

The most important privilege is that of freedom of speech. It is important because it enables the Parliament to debate and investigate any matter without legal restriction.

Members taking part in proceedings in Parliament enjoy absolute privilege. They are protected from what might otherwise be successful court action if when taking part in debates in the House they make defamatory statements, or if in a debate they make a statement that would otherwise be a criminal offence. The privilege of freedom of speech is not confined to Members. It also applies to others taking part in ‘proceedings in Parliament’—for example, to witnesses giving evidence to parliamentary committees. The Hansard record of proceedings and the official broadcast are absolutely privileged. However, only qualified privilege applies to reports other than the official Hansard record and to the broadcast of excerpts of proceedings.

Documents forming part of parliamentary proceedings—those presented to the House and documents received and accepted as evidence by a committee—are also absolutely privileged. Their wider publication is also privileged if authorised for publication by the House or a committee. Nowadays, all documents presented to the House are authorised for publication (S.O. 203), but publication of committee evidence must be authorised by a motion of the committee (S.O. 242).

### ***Citizens’ right of reply***

The privilege of freedom of speech is a very significant one, and it is recognised that it carries with it a corresponding obligation that it should always be used responsibly. Nevertheless, sometimes individuals are offended by remarks Members of the House have made about them during parliamentary debate. The right of reply procedure, established by resolution

of the House in 1997, gives people an opportunity to respond to such remarks and to have their responses published in the parliamentary record. The resolution is reproduced in full as an appendix to the standing orders.

The process commences by the aggrieved person making a written submission to the Speaker, who, if satisfied that the matter is not frivolous, refers the matter to the Committee of Privileges and Members' Interests. The committee may discuss the matter with the person who made the submission, or with the Member who made the statement in the House. After considering the matter, the committee reports to the House either that no further action be taken by the House, or that a response by the person, in terms specified in the report and agreed by the person and the committee, be published by the House or incorporated in Hansard. The committee's role is merely to recommend whether the response should be published. It does not make any judgment on the merits of the original statement or of the proposed response.

### **Other privileges**

Members may not be summonsed to attend before courts or tribunals as witnesses or arrested or detained in civil matters on sitting days and for five days before and after sitting days. This protection also applies to witnesses to parliamentary committees on days they are required to give evidence to the committee. Members (and some House employees) are also exempt from jury service in any Federal, State or Territory court (*Jury Exemption Act 1965*). These immunities are justified on the ground that the first duty of Members, and others involved, is to Parliament and that this overrides other obligations.

### **Contempt**

Contempts are actions which obstruct or impede the House in the performance of its functions, or Members or House employees in the discharge of their duties, including misleading committees or interfering with witnesses.

While contempts are often loosely referred to as 'breaches of privilege', they are not confined to breaches of privilege. An action which obstructs the House may be a contempt even though it does not breach any established privilege.

### **Raising a matter of privilege in the House**

Complaints of breach of privilege or contempt may only be raised by Members. Other people who believe that there has been an offence must ask a Member to raise it in the House.

At any time during a sitting, a Member may raise a matter of privilege. In doing so he or she must be prepared to move (without notice) immediately or subsequently, a motion declaring that a contempt or breach of privilege has

been committed, or referring the matter to the Committee of Privileges and Members' Interests (S.O. 51). A matter of privilege takes precedence over and suspends other business being considered by the House, but only if in the Speaker's opinion a prima facie case has been made out and the matter has been raised at the earliest opportunity (S.O. 51).

The normal practice is for a Member to seek the call 'on a matter of privilege' and to outline the complaint briefly. The Speaker may give the matter precedence or consider the matter and report back to the House. Later, possibly on the same day, the Speaker makes a statement to the House on the matter. If satisfied that the matter has been raised at the first available opportunity, and that there is sufficient substance to it (a prima facie case), the Speaker states that he or she will allow priority to a motion on the matter (S.O. 51). Usually the Member concerned then moves that the matter be referred to the Committee of Privileges and Members' Interests, although other motions are possible. Alternatively the Member might advise the House that he or she does not wish to take the matter further. Debate on any motion moved may take place immediately, or may be adjourned.

If the complaint of a breach of privilege relates to a statement in a newspaper, book or other published document, the Member must present to the House an extract of the publication containing the statement and be able to identify the author, printer or publisher (S.O. 53).

### ***Matter raised when House not sitting***

If a matter of privilege arises while the House is not sitting and is not expected to meet for at least two weeks, a Member may raise with the Speaker a matter of privilege which has arisen since the House last met and which the Member proposes be referred to the Committee of Privileges and Members' Interests. If satisfied that a prima facie case of breach of privilege has been made out and the matter is one upon which urgent action should be taken, the Speaker then refers the matter directly to the Committee of Privileges and Members' Interests and reports the referral to the House at its next sitting. The Member who raised the matter must then move immediately, without notice, that the referral be endorsed by the House. If the motion is negatived, the Committee of Privileges and Members' Interests can take no further action on the matter (S.O. 52).

### **Report by the Committee of Privileges and Members' Interests**

The Committee of Privileges and Members' Interests is established at the start of each Parliament to inquire into and report on complaints of breach of privilege or contempt referred to it by the House under standing order 51 or by the Speaker under standing order 52. The committee itself cannot impose penalties—its role is investigatory and advisory. In its report to the House the

committee usually makes a finding as to whether or not a breach of privilege or contempt has been committed, and it usually recommends to the House what action, if any, should be taken.

Normally when a report from the Committee of Privileges and Members' Interests is presented, and especially if there is the possibility of further action, the practice is to consider the report at a future time so that Members may study the report and the issues involved before making decisions on it. The House is not bound to follow the committee's recommendations, and any motion moved in relation to the matter is subject to amendment.

The House for various reasons may decide not to proceed against the offenders or it may take punitive action. Punishment may be by way of imprisonment or fine, public reprimand, requirement of an apology or exclusion from the parliamentary precincts.

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- Member's Guide to Questions in Writing
- Member's Guide to Private Members' Bills and Amendments
- Member's Guide to Presenting a Petition
- Member's Guide to Raising a Matter in the House
- Parliamentary Privilege—some short notes for Members of the House

House of Representatives website — <http://www.aph.gov.au/house/>