



NO. 5—SUSPENSION OF STANDING ORDERS

The Senate normally conducts its business in accordance with standing orders. These are procedural rules to facilitate the orderly conduct of business and protect the rights of individual senators. They are made by the Senate under the authority of [section 50 of the Constitution](#).

At any time the Senate may decide to vary the way it does business, perhaps by making temporary changes to the standing orders or by overriding or adding to them for a particular purpose. These variations are made by a decision (or resolution) of the Senate following a motion (or proposal). Motions usually require notice (see [Brief Guide No. 2—Notices of Motion](#)).

On occasion, however, the Senate may decide that there is an urgent need to override the standing orders to take action that the standing orders would otherwise prevent. In these circumstances, there are two ways in which the Senate dispenses with its normal rules in order to take a different course of action:

- by granting leave; and
- by a motion to suspend the standing orders.

What is leave?

Leave is the unanimous consent of all senators present in the chamber and is determined by the chair after he or she ascertains whether there is any objection to a particular course of action being followed. Major and minor departures from the standing orders may occur with leave, provided that there is unanimous consent.

In what circumstances are standing orders suspended?

When leave is either unlikely or refused, a senator may move for standing orders to be suspended to enable a course of action to be followed. This requires the agreement of a majority of the Senate ([standing order 209](#)). If such a motion is moved **without notice**, it requires the agreement of an absolute majority of the whole Senate (39 senators). **With notice**, it requires only a simple majority (a majority of senators voting).

A motion to suspend standing orders is often connected with the need to rearrange the Senate's business, including for the purpose of initiating a completely new item of business. Although a minister may move a motion without notice at any time in connection with the conduct of business ([standing order 56](#)), other senators may not. In some cases, a suspension of standing orders may be designed to give other senators the same powers as ministers to rearrange business. But not even a minister may initiate completely new business without notice, so ministers may sometimes move for the suspension of standing orders to achieve this.

If a motion to suspend standing orders is moved during the consideration of a matter, including in committee of the whole, it must be relevant to the matter. For example, if the Senate is considering a bill, a senator may not move to suspend standing orders to bring on another item, unless the debate on the bill is first concluded or adjourned.

Because, given its current composition, it is difficult to obtain the agreement of an absolute majority of the Senate, most motions to suspend standing orders are moved by a special type of notice called a **contingent notice**, which means they can be agreed to by a more easily achievable simple majority.

Contingent notices

A contingent notice is a notice that a particular motion will be moved when a certain event happens or a certain stage in the proceedings is reached. Contingent notices may be framed in general or specific terms.

An example of a **general** contingent notice is one that all non-government party leaders and independent senators have on the *Notice Paper* to enable them to suspend standing orders to rearrange the order of business before the Senate:

To move (contingent on the Senate on any day concluding its consideration of any item of business and prior to the Senate proceeding to the consideration of another item of business)—That so much of the standing orders be suspended as would prevent the senator moving a motion relating to the conduct of the business of the Senate.

This is commonly used when a senator is refused formality for a General Business notice of motion (see [Brief Guide No. 2—Notices of Motion](#)) and wishes to initiate an immediate debate on the motion.

Three steps are involved in using this kind of contingent notice.

The first step is for the senator to move the motion to suspend standing orders in the terms in which it appears in the *Notice Paper* under “Contingent Notices of Motion”. This motion may be debated for up to 30 minutes with each speaker allowed up to 5 minutes. As it is a procedural motion, the mover does not have a right of reply (see [Brief Guide No. 4—Rules of Debate](#)).

If step one is agreed to, the second step is to move the motion for which the suspension has been sought; that is, a motion relating to the conduct of the Senate’s business:

That a motion to may be moved immediately and have precedence over all other business this day till determined.

Although this motion may be debated, it is rarely spoken to as it is simply a means to the desired end which is to enable a senator to move a particular motion. If step two is agreed to, the final step is the moving of the substantive motion.

It has been ruled that a contingent notice of this type may be used only once by any senator on any one occasion (see [Odgers’ Australian Senate Practice, 11th edition, page 169](#) for further details).

An example of a **specific** contingent notice is as follows:

To move (contingent on the President presenting a report of the Auditor-General on any day or notifying the Senate that such a report had been presented under standing order 166)—That so much of the standing orders be suspended as would prevent Senator [name of senator] moving a motion to take note of the report and any senator speaking to it for not more than 10 minutes, with the total time for the debate not to exceed 60 minutes.

In this case, the substantive motion is built into the terms of the suspension and no intermediate step is necessary. Step one is to move the motion as it appears in the *Notice Paper*. If this is agreed to, the effect is that the senator may then move the substantive motion to take note of the report. Time limits have already been agreed to because they are built into the terms of the suspension.

Contingent notices remain on the *Notice Paper* and are thus available for use unless they are withdrawn by the senator who gave them or unless they are “spent”. A contingent notice is spent (of no further use) if the contingency, or event on which it depends, has passed.

The *Notice Paper* currently includes a range of contingent notices, enabling senators to move for the suspension of standing orders in the following circumstances:

- between items of business—to rearrange business or to provide for a completely new item of business (such as a censure motion, for example);
- on presentation of an Auditor-General's report—to enable a motion to be moved to take note of the report and for the debate to continue for up to an hour;
- at consideration of government documents on Tuesdays and Wednesdays at 6.50 pm—to rearrange the order in which the documents will be called on;
- when a minister moves that a bill is urgent under [standing order 142](#) (the “guillotine”)—to provide for that motion to be debated;
- when a minister moves a motion to allot time for an urgent bill—to provide for an unlimited debate on that motion;
- when the time allotted to an urgent bill expires—to provide for the time to be extended;
- when a motion to debate a matter of urgency under [standing order 75](#) is moved—to enable an amendment to be moved to the motion;
- at placing of business—to rearrange the order of business on the *Notice Paper*;
- on any senator being refused leave to make a statement—to enable the senator to make the statement;
- on any senator being refused leave to table a document—to move that the document be tabled;
- at the end of Question Time—to move that Question Time be extended until 28 questions have been asked and answered.

Using these notices, and with the agreement of a simple majority, senators may in urgent cases move for the suspension of standing orders to do a range of things that they would otherwise be prevented by the standing orders from doing.

What is the effect of suspending standing orders?

Standing orders may be suspended only for the particular purpose mentioned in the motion ([standing order 210](#)). So, for example, if a senator who is refused formality for a General Business notice of motion successfully follows the 3-step process referred to above, the only standing orders which are suspended are those which would prevent the motion being moved. All other standing orders, such as those relating to the rules of debate (see [Brief Guide No. 4—Rules of Debate](#)), continue to apply.

A suspension of standing orders lasts for the period specified in the relevant motion. In a rearrangement motion, for example, moved after a suspension of standing orders has been agreed to, the item of business to be given precedence is usually given precedence over all other business **that day** until determined (voted on). If that item is not resolved by the end of that day, then it has no special precedence on the following day unless a new suspension is agreed to. The timing of a suspension motion of this type affects what business is actually displaced. See [Odgers' Australian Senate Practice, 11th edition, page 170](#) for further details. Precedence may also last over a period of days. On one occasion, a private senator's bill was given precedence over Government Business until proceedings on the bill were concluded. The effect of this was that over several days the bill was considered when the Senate would otherwise have been considering Government Business.

Need assistance?

For assistance with any of the matters covered by this guide, government senators or their staff should contact the Clerk Assistant (Table), on extension 3020; and non-government senators or their staff should contact the Clerk Assistant (Procedure), on extension 3380.

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