

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. 73*);
- bills containing special appropriations (*see p. 78*);
- bills imposing a tax or charge (*see p. 79*);
- bills to alter the Constitution (*see p. 71*);
- bills received from the Senate (*see p. 71*); and
- 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 Federation Chamber 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 Federation Chamber and adoption (for bills referred to Federation Chamber) (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); and
- 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.

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. 62*) 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).

Some variations in procedure apply to bills initiated by private Members (*see p. 70*) and to bills originating in the Senate (*see p. 70*).

Referral to Federation Chamber

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 Federation Chamber 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 Federation Chamber to consider bills to the completion of the consideration in detail stage. Bills may also be referred to the Federation Chamber by a programming declaration (*see p. 19*) (S.O. 183(e)).

Proceedings in the Federation Chamber

The Federation Chamber is an alternative venue rather than an additional process. Proceedings in the Federation Chamber 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 Federation Chamber 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).

Proceedings on a bill may be continued regardless of unresolved questions (*see p. 19*) 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 Federation Chamber does not wish 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.

Information on the report stage in the House of a bill considered by the Federation Chamber is at page 67.

A bill may be returned to the House at any time during its consideration in the Federation Chamber by a Minister 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 a Minister in the House (S.O. 197(b)), or by a programming declaration (*see p. 19*) (S.O. 197(c)).

Referral to a standing or select committee

Referral

Before the resumption of debate on the second reading a bill may be referred by determination of the Selection Committee or by motion in the House to a standing or joint committee for an advisory report. The determination or motion may specify a date by which the committee is to report (S.O. 143(b)).

Committee membership when bills referred

The participation of Members who are interested in the bill but who are 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)).

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. 109*). 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 Federation Chamber. 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.

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. 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.

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’, or, more usually nowadays, ‘That the amendment be agreed to’. 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 amendment be agreed to’ is resolved in the negative, the amendment is disposed of. (Alternatively, under the traditional practice, the question ‘That the words proposed to be omitted stand part of the question’ may be resolved in the affirmative. It is not possible for a further second reading amendment to be moved in this case.)

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.

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.

Amendment to dispose of bill

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’, in order to insert ‘not’, which, if carried, would finally dispose 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. 79*), 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 wish 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); and
- 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 most cases 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. 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 negated or contrary to a previous decision on a bill cannot be moved unless there has been a reconsideration of the bill (*see below*) (S.O. 150(e)).

Questions put

The Chair puts the question on amendments in the form ‘That the amendment be agreed to’ (S.O. 122(b)), or, if amendments are taken together, ‘That the amendments be agreed to’. The alternative ways of putting the question provided by standing order 122 (*see p. 49*) are in practice no longer used.

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 Federation Chamber)

A copy of the bill certified by the Clerk of the Federation Chamber together with schedules of any amendments made by the Federation Chamber and any questions which it 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 Federation Chamber 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 Federation Chamber 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 Federation Chamber 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 Federation Chamber. A single question is put ‘That the amendments made by the Federation Chamber 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’ in order to insert ‘not’, 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, standing orders have been suspended to enable closely related 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 closure—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 formal 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.

Programming motions following suspension of standing orders

Instead of using the formal guillotine procedure outlined above, a Minister may move a motion to suspend standing orders (usually on notice) to achieve a similar effect—for example, to enable the introduction and passage of a bill, or perhaps several bills together, through all stages by a specified time, or to limit the duration of particular stages.

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(b)).

When the notice for a private Member’s bill is called on by the Clerk, the Member presents the bill and it is then read a first time (S.O. 141). The

Member then moves the second reading and may speak for a period not exceeding 10 minutes (S.O. 41(c)). The debate is then adjourned. The allocation of time for further debate on the bill's second reading on a subsequent private Members' day is determined by the Selection Committee. When debate is resumed the Member may speak in continuation for up to 5 minutes. 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(d)).

A private Member's bill may also be considered during time reserved for government business following the suspension of standing orders. This has been the practice if a vote is to take place on the bill.

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 Federation Chamber.

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. 85*).

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).