
The Parliament of the Commonwealth of Australia

Maintenance of the standing orders

House of Representatives
Standing Committee on Procedure

April 2016
Canberra

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ISBN 978-1-74366-479-7 (Printed version)

ISBN 978-1-74366-480-3 (HTML version)

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Foreword

During each Parliament, or more commonly towards the conclusion of each Parliament, the Procedure Committee takes time to review the operation of the practices and procedures of the House. Typically, attention will be focussed on those areas which have been subject to recent change but an inquiry can and does encompass other issues. In the last months of the 44th Parliament the Committee has taken the opportunity to review certain procedures as well as consider the potential cultural impact of procedural changes made in recent years.

The House has experienced some turbulence over the past six years. Changes of Speakers and Prime Ministers mid-term, a hung Parliament and a return to majority government have all affected the House and, to an extent, its practices and procedures have been influenced by these changing circumstances.

In a Parliament from which the members of the Executive Government are drawn, there is an inevitable tension between the desire of the Executive to pursue its legislative agenda and the Parliament's role as a scrutiny body, providing checks and balances on the Executive. This is particularly so for the House of Representatives.

In coming to the conclusions of this report, the Committee carefully considered the current balance of this tension and has quite deliberately recommended some measures which enhance the relative standing of the House. There is an understandable temptation on behalf of an Executive with majority control of the House to effect procedural change to ease its relationship with the legislature. However, this risks blurring the important distinction between the legislature and the Executive that is at the core of the Westminster tradition. Diminishing the effectiveness of the House in its scrutiny role is not in the long term interest of the House, the Government or the Australian people.

Some recommendations in this report are for changes to certain standing orders to better reflect current practice or to correct aspects of their operation to better reflect sound parliamentary practice. Other recommendations are more far reaching and seek to place control of matters which are not strictly government

business firmly in the hands of private Members. These recommendations are made with Westminster principles and the primacy of the Parliament in mind.

The Procedure Committee takes seriously its responsibility to uphold and enhance the capacity of the House and its Members to fulfil their functions on behalf of the Australian people. It is also important that all Members of the House understand, value and defend their rights as individual Members as it is only through a strong House that we can achieve sound governance for the electorates we represent in this place.

Dr Andrew Southcott MP
Chair



Membership of the Committee

Chair Andrew Southcott MP

Deputy Chair Michael Danby MP

Members Russell Broadbent MP

Scott Buchholz MP

Ian Goodenough MP

Jill Hall MP

Joanne Ryan MP

Committee Secretariat

Secretary	James Rees
Inquiry Secretary	Siobhán Leyne
Research Officer	Naomi Swann
Administrative Officer	Penny Branson



Terms of reference

To inquire into and report on the maintenance of the standing and sessional orders.



List of recommendations

2 Private Members' business and appointments of committee positions

Recommendation 1

The Committee recommends that the House adopt the 'general principles relating to the selection of private Members' business' at Appendix B of this report by resolution with continuing effect.

Recommendation 2

The Committee recommends that SO 222 be revised as outlined in Appendix A.

Recommendation 3

The Committee recommends that standing order 229 be amended to insert new part (d) to read:

(d) any Member appointed as a minister immediately ceases to be a member of all committees.

Recommendation 4

The Committee recommends that standing order 232 be omitted and be replaced with standing order 232 outlined in Appendix A.

The Committee further recommends that standing order 137A as outlined in Appendix A be adopted to give effect to the provisions of standing order 232.

3 Proposed standing order amendments

Recommendation 5

The Committee recommends that standing order 1 be amended to omit the time limit for valedictory remarks.

Recommendation 6

The Committee recommends that Standing Order 197 be amended to omit 'a Minister' and insert 'any Member' in its place.

Recommendation 7

The Committee recommends that standing order 131(a) be amended to provide that if a division is called following a division and there is no intervening debate, the Speaker shall appoint tellers immediately and the bells shall be rung for one minute.

Recommendation 8

The Committee recommends that standing order 131(b) be amended to provide that, in a successive division, the tellers may record each Member's vote as being the same as it was in the previous division unless a Member reports to them.

Recommendation 9

The Committee recommends that Standing Order 217 be omitted.

Recommendation 10

The Committee recommends that standing orders 2, 34, 192, 198, and 247 be amended as outlined in Appendix A.

Introduction

- 1.1 Early in the 44th Parliament, the Committee resolved to adopt the wide-ranging reference 'the maintenance of standing and sessional orders'. This inquiry, generally adopted each parliament, allows the Committee to fulfil its procedural monitoring role. The inquiry allows the Committee to identify any issues, irregularities or problems with the standing orders and propose adjustments or improvements.
- 1.2 In the 43rd Parliament, the Committee produced a series of reports monitoring the review of the procedural changes made in response to the requirements of the hung parliament. Those reports and the Committee's final report on the maintenance of the standing and sessional orders informed a number of the changes put in place in the 44th Parliament.¹
- 1.3 House standing orders were amended and reformed to suit the context of the hung parliament, and then in response to the events and experience of that parliament. It has been a long period of turbulence and change for the House and there have been some procedures adopted that do not necessarily meet the needs of the House as well as they could.
- 1.4 This report challenges some arrangements that give the Executive more control over the business and proceedings of the House than has been customary or can be justified by the Government's legitimate need to control its agenda. Excessive Executive dominance raises concerns about the erosion of the rights of Members, the separation of powers and the authority of the House over its own affairs.
- 1.5 Elements of this report seek to reassert the distinction between the House and the Executive. Further, it examines the reforms put in place in the

¹ *Interim report: Monitoring and review of procedural changes implemented in the 43rd Parliament, April 2011; Monitoring and review of procedural changes implemented in the 43rd Parliament: 4th Report, November 2012; Maintenance of the standing and sessional orders, June 2013.*

House of Commons committee system, and considers whether these reforms could be applied to the House of Representatives.

Conduct of the inquiry and structure of the report

- 1.6 Due to the possibility of an earlier than anticipated election, the Committee chose not to call for submissions to this inquiry. The Committee felt that it was imperative that the procedural issues it has identified over the 44th Parliament be put on the record so that they may be addressed at the earliest possible opportunity.
- 1.7 Chapter 2 considers key changes to the scheduling of private members business and the election of chairs and deputy chairs of House committees. It considers the successful reforms that the House of Commons has undertaken in these areas and proposes that the House undertake similar reforms.
- 1.8 Chapter 3 addresses technical amendments to improve the standing orders and puts forward some further matters to provoke thought and discussion for possible future consideration and adoption by the House.

Private Members' business and appointments of committee positions

2.1 The Australian Constitution was influenced by the doctrine of the separation of powers. However, the Westminster tradition creates a relationship between the legislature and the executive in what the *House of Representatives Practice* describes as a 'fusion of powers.' It is because of this fusion of powers that the legislature must proactively protect its rights against executive dominance. As *House of Representatives Practice* explains:

Although this fusion of powers in the Westminster tradition may be regarded as a strength, it is also recognised as a potential danger. It is accepted to be undesirable for all or any of the two of the three powers to come under the absolute control of a single body. There are therefore checks and balances which prevent the fusion of executive and legislative powers from being complete. The essence of a democratic Parliament is that the policy and performance of government must be open to scrutiny, open to criticism, and finally open to the judgement of the electors. When Government puts its policy and legislation before Parliament it exposes itself to the scrutiny and criticism of an organised Opposition and of its own Members, who may be critical of, and suggest changes to, government policy and administration. Parliament is an important brake on the misuse of executive power of the Government collectively, or Ministers individually. It is essential that there be no erosion of Parliament's role in scrutinising the actions of government, such as might cause the Parliament to become a mere 'rubber stamp' in respect of

government policy. Through the procedures of the House and the will of individual Members, and especially through the institutionalised Opposition, the executive and legislative functions remain sufficiently distinct.¹

- 2.2 The House has faced a period of change in recent years that has tested its practices and procedures. Most significantly, the 2010 election delivered a hung Parliament and an agreement between the major parties and the crossbench on items of parliamentary reform.
- 2.3 The *Agreement for a better Parliament: Parliamentary reform* (the Agreement), which was endorsed by all the major political parties at the time, was intended to bring about cultural change by way of procedural reform and change in some of the practices of the House. The Agreement was based on two principles:
- to confirm 150 local MP's (and by extension their communities) as the foundation blocks of our Australian system of democracy, and increasing the authority of the Parliament in its relationship with the Executive.²
- 2.4 Some of the changes to the standing orders that arose from the Agreement were discontinued or varied at the commencement of the 44th Parliament. Some were specific to the context of the hung Parliament, such as non-aligned chairs of certain committees, and may well have been expected to be reversed on return to majority government. However, there were changes made to the standing orders at the commencement of the 44th Parliament that favoured the Executive to a greater degree than had prevailed in the Parliaments preceding the 43rd Parliament.
- 2.5 The Government of the day should be able to pursue its legislative agenda and be given adequate scope within the Parliament to do so. However, this should not undermine the important separation between the House and the Executive, nor come at the expense of the capacity of the House to scrutinise Executive action. The House and its Members ought to be mindful to safeguard their rights and prerogatives against excessive encroachment by the Executive.

1 *House of Representatives Practice*, 6th edn, pp. 44-45.

2 *Agreement for a better Parliament: Parliamentary reform*, October 2010.

2.6 Over approximately the same period that the House of Representatives was experiencing minority government and the transitions to and from it, the United Kingdom House of Commons was undertaking a range of reforms in an effort to improve the standing of the Parliament after a series of crises seriously undermined public confidence in the institution. A House of Commons Reform Committee was established to investigate ways in which to strengthen the institution.

We believe that the House of Commons has to become more vital an institution, less sterile in how it operates, better able to reflect public concerns, more transparent, and more vigorous in its task of scrutiny and accountability. ... In order to address this we must give Members back a sense of ownership of their own institution, the ability to set its own agenda and take meaningful decisions, and ensure the business of the Chamber is responsive to public concerns.³

2.7 The structural reforms implemented by the House of Commons are proving successful in rebuilding the reputation of the Commons and assisting Members to be more effective in their parliamentary roles. Of particular interest to the Committee are the reforms made to parliamentary control of business and the work of Members through the committee system. These reforms included:

- the establishment of an independent backbench business committee; and
- the election of chairs of committees by the House using a preferential voting system and secret ballot.

2.8 While the House of Commons was addressing its own particular set of circumstances, elements of its response to the crisis are a salient reminder that all Members must safeguard the rights, privileges, and prerogatives that belong to them as Members of the House, independently of their membership of political parties. The remainder of this chapter will consider these new elements of House of Commons' practice and consider their applicability for the House of Representatives.

3 House of Commons, House of Commons Reform Committee, *Rebuilding the House: First report of the session 2008-09*. November 2009, p. 7.

Selecting and programming private Members' business

- 2.9 As a matter of principle, the House should be in control of non-government business. While the House has always accepted that the Government may arrange government business before the House as it thinks fit⁴, the House is responsible for managing non-government business and should be careful not to forfeit this prerogative to the Executive.

History of the Selection Committee

- 2.10 In 1986 on the recommendation of the Procedure Committee, the House established a system for selecting and programming non-government business.⁵ The Selection Committee was initially established by sessional order on 9 December 1987 and became a permanent feature under a standing order adopted on 15 March 1988. It comprised 11 Members, 6 of whom were government Members.⁶
- 2.11 For most of the time since 1987 the Selection Committee has had an important role in managing non-government business. It was not established in the 42nd Parliament⁷ but was re-established in the 43rd Parliament recognising that it was an important mechanism for 'enhancing the participation of all Members in the management of the House of Representatives.'⁸
- 2.12 Currently the Selection Committee is charged with: arranging the timetable and order of committee and delegation business and private Members' business in the House and the Federation Chamber; selecting items of private Members' business and committee and delegation business for referral to the Federation chamber or return to the House; referring controversial bills to committees; and setting speaking times for second reading debates.⁹
- 2.13 The Selection Committee currently consists of eleven members, four ex-officio positions being: the Speaker (or Deputy Speaker in the absence of the Speaker), as Chair of the Committee; the Chief Government Whip or

4 Standing order 45.

5 Standing Committee on Procedure, *Days and hours of sitting and the effective use of the time of the House*, May 1986.

6 Sessional order 28D, *Sessional orders 9 December 1987*; standing order 28D, *Standing and Sessional Orders*, 15 March 1988.

7 During the 42nd Parliament a meeting of the Whips performed this function and made recommendations to the House which were effected when adopted by the House.

8 *Agreement for a better Parliament: Parliamentary reform*, October 2010, Clause 1.

9 Standing order 222.

nominee, the Opposition Whip or nominee, the Third Party Whip or nominee; as well as four government Members and three non-government Members.¹⁰ This is large in comparison with most of the other domestic committees, which are mostly seven or nine members.

- 2.14 While the Selection Committee has generally operated in a collegiate manner, and has adopted principles to guide its decision making¹¹, the ex-officio appointment of Whips, which are party political positions¹², to this committee has institutionalised a system in which it is taken for granted that political parties may exert significant control over the selection and programming of committee and delegation business and private Members' business.

House of Commons Backbench Business Committee

- 2.15 While the Selection Committee has worked effectively, the Procedure Committee considers that its standing and operation would be enhanced by adopting, in its structure and operation, the principles that are manifest in the structure and operation of the House of Commons Backbench Business Committee. These are discussed in the following paragraphs.

- 2.16 Until the implementation of the report of the House of Commons Reform Committee, the House of Commons had no process for involving backbench Members in the selection and allocation of time for non-government business. In November 2009, as part of its reform agenda, the Reform Committee recommended the establishment of a Backbench Business Committee to manage non-government elements of the Commons agenda based on the following objective:

We should seek to enhance the House of Commons' control over its own agenda, timetable and procedures, in consultation with Government and Opposition, whilst doing nothing to reduce or compromise such powers where they already exist.¹³

- 2.17 The Backbench Business Committee membership comprises only backbench Members in proportion to the representation of parties in the House. The Chair of the Committee is elected by the House of Commons as a whole, following procedures that apply to all House of Commons committees (*see below*).

10 Standing order 222.

11 see *House of Representatives Practice*, 6th edn, pp. 575.

12 *House of Representatives Practice*, 6th edn, pp. 55.

13 House of Commons, House of Commons Reform Committee, *Rebuilding the House: First report of the session 2008-09*. November 2009, p. 12.

- 2.18 This highlights the extensive provision in standing order 222 for ex-officio members on the House of Representatives Selection Committee, essentially the Whips of the major parties, and the Speaker (or, in her or his absence, the Deputy Speaker) as the Chair. It is not necessary for the Speaker or Deputy Speaker to chair the Selection Committee. Both these offices have other significant responsibilities and any number of private Members would be competent to undertake the task. Similarly, it is an unnecessary requirement that the Whips, or their nominees, be ex-officio members of the Selection Committee.
- 2.19 Finally, it would be consistent with the purpose of the Selection Committee for there to be at least one crossbench Member appointed to it to ensure that all private Members have representation.
- 2.20 The House of Commons Backbench Business Committee also differs from the Selection Committee in the processes it employs to select items of business for debate.
- 2.21 Commons Members are expected to submit formal applications to the Committee requesting that their business be brought forward for debate. Members may then attend one of the Committee's weekly meetings to present the case for why their item should be selected for debate. Members must indicate what support they have from other Members and how much time they wish to have allocated for the debate. These meetings are open to the public and broadcast.¹⁴ Following the public meeting, the Committee deliberates in private to select business and allocate time for successful applications.
- 2.22 This process not only has the benefit of allowing the public to see how business is planned but it engages Members in the business and procedures of the House. The requirement for Members to demonstrate a measure of support for proposed debates ensures that there will be participation in the debates on items selected. Applications are encouraged to have cross party support. In a much larger House where competition for time is intense, Members are able to utilise their applications to the Committee to demonstrate to constituents what they are doing to progress topical issues in Parliament.¹⁵
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14 House of Commons *Standing Orders*, February 2016, standing order 152J. *See also*, House of Commons, Backbench Business Committee, accessed 7 March 2016, <parliament.uk/business/committees/committees-a-z/commons-select/backbench-business-committee/how-the-backbench-business-committee-works/>.

15 *See for example* 'MPs to meet Backbench Business Committee to push for beer duty escalator debate' in *The Publican's Morning Advertiser*, 22 October 2012, accessed 8 March 2016 <morningadvertiser.co.uk/Drinks/Beer/MPs-to-meet-Backbench-Business-Committee-to-push-for-beer-duty-debate>

2.23 A review of the Backbench Business Committee's early operation found that it had:

made a significant impact, enhancing the transparency of scheduling non-government business, improving the relevance of Commons debates and showing itself to be an excellent method of holding government to account.¹⁶

2.24 The Backbench Business Committee offers an interesting model for the House to consider to better engage Members in the management of House business.

Enhancing the status of private Members' business

2.25 The Committee considers that it would enhance the status of private Members' business in the House of Representatives if Members assumed more direct responsibility for justifying the merits of their items of business over the others available for selection and applying for time. Cross party support for an item of business should enhance its chances of selection. Supporting Members would not necessarily be required to agree with the terms of the motion but would support the debate taking place and be willing to participate.

2.26 This should lead to more engagement with private Members' business generally, and the selection of topics for debate that generate more interest among Members. The Whips' task may be eased to one where they list speakers for debates rather than having to find them.

2.27 The Committee also strongly supports the general principles for the selection and programming of private Members business (see Appendix B). The Selection Committee has previously recommended that the House adopt these principles.¹⁷ The Procedure Committee concurs with this recommendation and considers that the House should adopt these principles as a resolution of continuing effect.

2.28 A reformed Selection Committee comprised entirely of private Members, following general principles for the selection and programming of non-government business adopted by the House with continuing effect, and led by a Chair elected by the House as a whole (*see below*), would be a significant reform that would enhance the standing of private Members' business in the eyes of Members and the public at large.

2.29 The Committee has also considered the functions of the Selection Committee and considers that the deletion, at the commencement of this

16 Foster, D. 'Going 'Where Angels Fear to Tread: How Effective was the Backbench Business Committee in the 2010-2012 Parliamentary Session' in *Parliamentary Affairs* (2013) 1-19, p. 1.

17 Selection Committee, *Report No. 3*, 21 October 2010.

Parliament, of the capacity to recommend to the House that certain items of private Members' business be voted on was an unnecessary constriction of its role. It should be reinstated.

- 2.30 In respect of the provision empowering the Selection Committee to set speaking times for second reading debates on government bills, the committee makes the observation that this function, which was added when the Selection Committee was re-established in the 43rd Parliament, has never been exercised. Further, the Committee considers that this function is inconsistent with the purpose of a committee whose primary role is to select and program non-government business. It should be deleted.
- 2.31 The Committee supports reform of the Selection Committee to put the selection and programming of non-government business firmly in the control of private Members and to alter the functions of the Committee to affirm its role in respect of non-government business. In summary the changes the committee is recommending are that:
- the Selection Committee consist of nine Members: five government Members and four non-government Members, including one Member from the crossbench;
 - the Chair of the Selection Committee should be elected by the House as a whole following the process recommended later in this chapter;
 - the Selection Committee have the capacity to recommend items of private Members' business to be put to a vote;
 - the function to set speaking times for second reading debates on government bills be deleted; and
 - the House adopt the general principles for the selection and programming of private Members' business by resolution with continuing effect.

Recommendation 1

The Committee recommends that the House adopt the 'general principles relating to the selection of private Members' business' at Appendix B of this report by resolution with continuing effect.

Recommendation 2

The Committee recommends that SO 222 be revised as outlined in Appendix A.

Committee positions

Committee members appointed to the Ministry

- 2.32 It is considered inappropriate for ministers to sit on committees due to the role committees play in scrutinising the Executive. When ministerial appointments take place over the course of a parliament it is common for new ministers to also hold committee memberships until they are discharged from their service on committees by the House. It is generally expected that these Members do not participate in committee business.¹⁸
- 2.33 This creates a potential conflict whereby a member of the Executive remains on a committee with full access to committee records and proceedings. In the case of committee chairs, they may continue to be eligible for an allowance for this duty on top of their ministerial salary until they formally cease to hold the position.
- 2.34 Some statutory committees contain provision in their establishing legislation for a membership to cease if the Member is appointed as a Minister (or Speaker).¹⁹ While there is provision in standing order 229(b) for Members to be appointed to or discharged from committees if the House is not expected to meet for at least two weeks by way of the relevant whip writing to the Speaker, there is usually a short delay in Members being discharged from committees after their appointment.

¹⁸ *House of Representatives Practice*, 6th edn, p. 656.

¹⁹ See for example *Public Works Committee Act 1969*; *Intelligence Services Act 2001*.

- 2.35 It would be quicker, more transparent and administratively simpler if those Members appointed as ministers (including assistant ministers and parliamentary secretaries) were automatically discharged from committee service on appointment as a minister. This can be achieved through an amendment to standing order 229.

Recommendation 3

The Committee recommends that standing order 229 be amended to insert new part (d) to read:

(d) any Member appointed as a minister immediately ceases to be a member of all committees.

Chair and deputy chair appointments

- 2.36 The introduction to this chapter alluded to changes to the standing orders at the beginning of this Parliament which effected a transfer of power from Members of the House to the Executive. The Committee has particular and significant concerns with the amendment to Standing Order 232 that provides for the chairs of general purpose standing committees to be appointed by the Prime Minister and for deputy chairs to be appointed by the Leader of the Opposition.
- 2.37 There are some core issues about the role of committees, their relationship to the House and to the Executive that ought to be considered in any change to procedures affecting their roles and membership. Committees are established and appointed by the House to perform functions that the House itself is not well suited to perform. Committees also have an oversight and scrutiny role over the Executive.²⁰
- 2.38 Prior to this amendment, House general purpose standing committees conducted elections for the positions of chair and deputy chair, and this continues to be the case for joint committees. While parties or party leaders always had significant input to the selection of Members for these roles, the right of a committee to choose its chair was respected and it was not unknown for the party nominees to be opposed and ballots conducted.²¹
- 2.39 The direct appointment of these positions raises the vexed issue as to whom the chair and deputy chair are responsible. As far as possible,

20 *House of Representatives Practice*, 6th edn, p. 639.

21 *House of Representatives Practice*, 6th edn, p. 660.

Committee processes ought to be consistent with those of the House. As the Speaker is elected by and responsible to the House, by extension a chair should be elected by either the House or her or his committee and is, of course responsible to both.

- 2.40 In effecting the change to SO 232, the Executive has appropriated for itself, and the opposition leadership, a function which properly belongs to the House and its Members. It is also inconsistent with the practice for joint committees, which continue to elect their chairs and deputy chairs, no change to this arrangement being possible without the concurrence of the Senate.
- 2.41 In reviewing this matter the Committee is attracted to reforms to committees undertaken by the House of Commons which unequivocally recognise the rights of Members in the way in which committees are appointed. In particular the reforms are:
- committee members to be nominated may be selected by parties in private but the process by which this selection is undertaken must be transparent and democratic;²² and
 - chairs are elected by secret ballot of the whole House.
- 2.42 In proposing the election of chairs by secret ballot of the House, the House of Commons Reform Committee stated:
- It should be for the House and not for the Executive to choose which of its Members should scrutinise the Executive: the House should also have a strong if not decisive influence on the identity of the Chair.²³
- 2.43 The Reform Committee also noted that 'the credibility of select committees could be enhanced by a greater and more visible element of democracy in the election of members and chairs.'²⁴
- 2.44 The House of Commons has now held elections of chairs of committees for two parliaments. To nominate, Members must write a statement of 500 words outlining why they are nominating, their relevant skills and experience and a proposed future programme for the committee. Members nominating must be supported by at least 15 nominators

22 House of Commons, House of Commons Reform Committee, *Rebuilding the House: First report of the session 2008-09*. November 2009, p. 28. Resolution of the House of Commons, 4 March 2010. This reform was in response to criticism that many Members did not have an opportunity to serve on committees as membership was dominated by long-serving Members. This is not an issue of concern for the House.

23 House of Commons, House of Commons Reform Committee, *Rebuilding the House: First report of the session 2008-09*. November 2009, p. 24.

24 House of Commons, House of Commons Reform Committee, *Rebuilding the House: First report of the session 2008-09*. November 2009, p. 24.

including a minimum number from outside their party. The names of nominators and the nominees statements are published on the Order Paper and on the internet, which in turn has generated media and public interest in the process, resulting in greater interest in committee work.²⁵

2.45 In reviewing the reforms to committee chair and membership processes, the House of Commons Liaison Committee stated:

The House should resist any attempt by the front-benches to overturn the [Commons Reform Committee] reforms and make the election of chairs less democratic and representative. Such a retrograde step would harm the standing of select committees in their role of holding to account the Government of the day. A return to appointment of chairs behind closed doors or just within parties would be unacceptable.²⁶

2.46 The Commons Liaison Committee also found that the significance and profile of Commons committees had positively increased and the profile and status of chairs had also risen. The 2015 election of committee chairs was highly contested.

2.47 All Members have a responsibility to protect the rights, privileges, and prerogatives that belong to them as Members of the House against excessive encroachment by the Executive. The effectiveness of committees in performing their scrutiny role is diminished by the perception that chairs are beholden to the Executive by virtue of their appointment. And less effective scrutiny does not lead to better government. Committees report to the House and therefore the House should be responsible for determining the arrangements for the appointment of chairs and deputy chairs. Prior to the 44th Parliament, the House delegated the appointments to these offices to the committees it established.

2.48 The Committee is attracted to the practice in place in the House of Commons where the whole House elects committee chairs. It is a clear and unequivocal expression of the principle that the Members of the House should choose who among them should lead the committees examining

25 UK Parliament website, *Election of House of Commons Select Committee Chairs*, accessed 16 February 2016, <www.parliament.uk/about/how/committees/select/election-of-hoc-select-committee-chairs>. Also see for example: 'Election fever hits House of Commons again.' *The Birmingham Mail* website, accessed 16 February 2016, <birminghammail.co.uk/news/midlands-news/election-fever-hits-house-commons-9431250>. 'MPs vote on sought-after select committee posts' *The Guardian* website, accessed 16 February 2016, <theguardian.com/politics/2015/jun/16/mps-vote-select-committee-chairs>.

26 House of Commons, Liaison Committee, *Legacy report: First report of session 2014-15*, March 2015, p. 8, accessed 16 February 2016, <publications.parliament.uk/pa/cm201415/cmselect/cmliaisn/954/954.pdf>.

issues of public concern and scrutinising government policy and administration.

2.49 In order to effect this change, the Committee proposes the following process:

- on the day that standing and/or select committees are established the Speaker shall issue a call for nominations for positions of Chair to be received within four sitting days;
- only government Members are eligible to nominate, Ministers are not eligible;
- written nominations shall be delivered to the Clerk by 5pm on the closing day of nominations and the Clerk will publish all nominations as soon as practicable after receipt;
- each nomination shall be supported by three Members, at least one of whom must be a Member who is not a member of the same party as the nominee;
- no Member may sign the nomination of more than one Member for Chair of the same committee;
- if there is only one candidate for Chair of a committee, that candidate shall be declared elected without a ballot;
- if there is more than one candidate for Chair of a committee a secret ballot shall be conducted by the Clerk on a sitting day as soon as practicable following the close of nominations;
 - ⇒ all Members of the House shall be eligible to vote, no votes may be given by proxy;
 - ⇒ the ballot shall be open between 9am and 1pm, the Clerk and Deputy Clerk shall count the votes immediately after the close of the ballot, and any Member may act as a scrutineer during the count;
 - ⇒ Members voting shall be given a ballot paper listing the candidates in alphabetical order which must be numbered in order of preference;
 - ⇒ any candidate with more than half of the first preference votes shall be declared elected but if no candidate has more than half of the first preference votes, the candidate with the lowest number of first preference votes will be eliminated and the votes distributed as per the preferences on those ballot papers, and this process shall be repeated until one candidate has over half the preferences;
- The Speaker shall declare the names of successful candidates as soon as practicable after the closure of the ballot;

- A Chair elected under this process will be appointed a member of the committee to which he or she has been elected chair;
 - At the first meeting of a committee, a Deputy Chair shall be elected by the Committee and only non-government Members are eligible to nominate for the position of deputy chair.
- 2.50 All Standing Committees should be subject to this standing order, including the domestic committees except the House Committee and the House Appropriations and Administration Committee.²⁷
- 2.51 The committee is strongly of the view that if the House will not support this reform then, at an absolute minimum, the House should return to the long standing practice in place prior to the 44th Parliament under which committees elected their chairs and deputy chairs.

Recommendation 4

The Committee recommends that standing order 232 be omitted and be replaced with standing order 232 outlined in Appendix A.

The Committee further recommends that standing order 137A as outlined in Appendix A be adopted to give effect to the provisions of standing order 232.

27 Privileges and Members' Interests, Publications, Petitions, Procedure Committees.

Proposed standing order amendments

- 3.1 This chapter proposes standing order amendments based on the Committee's observations of the practices of this Parliament. Some proposals are in response to changes made in this Parliament and how these changes have worked in practice.
- 3.2 The chapter also proposes some items for consideration by the House or a future Procedure Committee that have arisen from practices of the House observed during this Parliament.

Statements by indulgence of the Chair

- 3.3 On occasion, the Chair grants indulgence for Members to speak on a range of matters. Members will seek indulgence, for example, to speak on matters of special significance, to make a personal explanation or to make valedictory remarks. Indulgence applies to permission or leave from the Chair as distinct from leave of the House. As such speeches are entirely within the discretion of the Speaker, time limits have not applied.
- 3.4 At the beginning of the 44th Parliament, however, the House agreed to amend standing orders to impose a 20 minute time limit specifically on valedictory remarks.¹ Such remarks remain at the discretion of the Speaker and the Committee is of the view that imposing a time limit conflicts with the concept of indulgence.
- 3.5 It has also been observed that, in practice, the time limit for valedictory remarks has not been generally enforced this Parliament.² The Committee therefore recommends that the time limit for valedictory remarks be omitted from the standing orders.

1 VP (13.12.13) 49; Standing order 1 at 26 March 2015.

2 See H.R. Deb (21.10.2015) 11947.

Recommendation 5

The Committee recommends that standing order 1 be amended to omit the time limit for valedictory remarks.

Return of items from the Federation Chamber

- 3.6 In prior Parliaments, it was the practice of the House that items of private Members' business were returned from the Federation Chamber by way of a formal report by the Speaker or a motion moved in the House. On suggestion of the Clerk, the Procedure Committee recommended that (the existing) standing order 197(a)³ instead be relied on to return private Members' business from the Federation Chamber.⁴
- 3.7 At the commencement of the 44th Parliament, Standing Order 197 (a) and (b) was amended such that 'any Member' was omitted and 'a Minister' was inserted in its place. This standing order has been relied upon for the return of business to the House.
- 3.8 As there is not always a Minister present in the Federation Chamber, the practical effect of this amendment is that in order to return an item of business to the House, leave must be granted to another Member to move this motion. This creates an awkward pause in proceedings and an additional unnecessary procedural step.
- 3.9 In the Committee's view, it is unnecessary for a Minister to be required to move this motion and would assist in the smooth flow of business between the Federation Chamber and the House if any Member could move to return items to the House.

Recommendation 6

The Committee recommends that Standing Order 197 be amended to omit 'a Minister' and insert 'any Member' in its place.

3 Standing and sessional orders as at 20 October 2010, standing order 197(a) provided for any Member to move 'that further proceedings be conducted in the House' and 197(b) provided for any Member to move that a matter be returned to the House.

4 *Maintenance of the standing and sessional orders*, June 2013, p. 6.

Successive divisions

- 3.10 Once a division is called for and accepted by the Chair the division bells are rung for four minutes before the doors are locked and tellers are appointed for each side to record the names of the Members voting. When successive divisions are taken, the Chair appoints tellers immediately and the bells are rung for one minute only.⁵
- 3.11 Previously, the procedures for a successive division were enacted when there was no intervening debate between a division and the call for a subsequent division. Standing orders were amended on 19 March 2014 to provide that procedures for a successive division be enacted when a division is called no more than three minutes following a division.⁶
- 3.12 On moving the amendments to the standing orders, the Leader of the House noted that there was often confusion around what constituted ‘intervening debate’ and subsequent uncertainty over whether a four-minute or one-minute division was required. He advised that the change was intended to save the time of the House, by not requiring that the bells be rung for four minutes shortly after a prior division, when all Members were already present in the chamber.
- I chose three minutes as a compromise to ensure that proceedings would move rapidly whilst preventing members who have left the chamber from getting too far away. Hopefully this will speed up successive divisions and enable us to get back to the business of debating legislation.⁷
- 3.13 If there is 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. A Member must report to the tellers if he or she wishes to vote differently than in the previous division; voted in the previous division and does not wish to vote in the current division or did not vote in the previous division and wishes to vote in the current division.⁸
- 3.14 Previously, the standing orders provided that the tellers record each Member’s vote in a successive division as being the same as it was in the previous division unless a Member reports to them. In March 2014, the House amended this provision to clarify that tellers must, unless advised by the Member, take each Member’s vote as being the same as it was in the

5 See standing orders 126-131 at 26 March 2015.

6 Votes and Proceedings, 19 March 2014, p. 391. Standing order 131 (a) at 26 March 2015.

7 HR Deb, 19 March 2014, 2397.

8 Standing order 131(b) at 26 March 2015.

previous division. The Leader of the House described the purpose of the change as follows:

Members will be well aware that in cases of successive divisions a significant amount of time is taken up in counting votes, even though in almost all cases the results are identical. This amendment substitutes the word 'take' for 'record' in standing order 131(b). It clarifies that the tellers should consider votes in such divisions to be identical to the preceding vote unless members have reported to the tellers. It will decrease the amount of time spent on counting divisions, meaning that there will be more time for debate in the chamber.⁹

- 3.15 A full count should, however, be carried out in a successive division if it is clear to the Chair that most Members wish to vote differently or if there is confusion or error in the count by the tellers.¹⁰
- 3.16 It is now two years since the reforms to successive divisions were adopted and the House is well-placed to reflect on their effectiveness in practice. While the Committee accepts that the intent of the changes was to improve efficiency in voting procedures, it is concerned that an unintended consequence could be the inaccurate recording of some divisions.
- 3.17 Firstly, the Committee sees a clear issue with allowing three minutes between a division and a successive division. This potentially creates a scenario in which a Member leaves the Chamber directly after a division, walks away for three minutes and is unable to return to the Chamber in time when the bells are rung for one minute for a successive division. Under the current standing orders, if the Member fails to report to the tellers which, presumably they will have had no opportunity to unless they have anticipated a successive division, their vote is likely to be taken even if they are not present in the Chamber. This essentially provides an absent vote. It cannot have been the intention of the House to provide for a vote to be recorded for a Member in these circumstances.
- 3.18 It is the Committee's view that the House should return to the previous requirement that there be no intervening debate between a division and a successive division. It may be that the Speaker should have certain limited discretion over what constitutes 'intervening debate' in these situations. If the House prefers the certainty of a set time period, it would be more appropriate if there was a maximum of one minute allowed between a

9 H.R. Deb. (19.3.14) 2395.

10 Standing order 131(c) at 26 March 2015.

division and a successive division, ensuring that all Members who wish to attend a vote are able to do so.

Recommendation 7

The Committee recommends that standing order 131(a) be amended to provide that if a division is called following a division and there is no intervening debate, the Speaker shall appoint tellers immediately and the bells shall be rung for one minute.

- 3.19 The Committee is also concerned that removing the discretion of tellers to count the vote in successive divisions could lead to errors in the official record. The Committee considers that the requirement that tellers take each Member's vote in a successive division as the same as it was in the previous division unless advised by the Member is inherently flawed. Accurate recording of the votes of the House of Representatives is an issue of integrity and should not be compromised for reasons of efficiency. It is therefore the view of the Committee that the tellers should have the discretion to record the vote in a way that is efficient but, more importantly, accurate.

Recommendation 8

The Committee recommends that standing order 131(b) be amended to provide that, in a successive division, the tellers may record each Member's vote as being the same as it was in the previous division unless a Member reports to them.

Personal explanations

- 3.20 Standing order 68 has been amended to provide:
- If a Member has given a personal explanation to correct a misrepresentation and another Member subsequently repeats the matter complained of, the Speaker may intervene.
- 3.21 In moving the amendment to the standing order, the Leader of the House stated that this was intended to prevent a Member having to continuously rise to correct misrepresentations on the same matter. He said:
- The Speaker will be able to decide that, if a misrepresentation has already been corrected, the continued making of that misrepresentation is disorderly.¹¹
- 3.22 The standing order as written presents some difficulties for the Speaker. It has always been the responsibility of Members to explain how they have been misrepresented as permitted by standing order 68 and Members also have recourse under standing order 69(e) to speak a second time if they have been misunderstood or misrepresented during a debate.
- 3.23 The inclusion of the above clause in standing order 68 places the onus on the Speaker to intervene. With no clear sanction, it is unclear what sort of intervention the Speaker is expected to make and the Committee considers the sanctions available to the Speaker for disorderly conduct under standing order 94 or even withdrawing the call would be extreme in these circumstances.
- 3.24 Speaker Smith has noted that 'it is a difficult standing order. ... Apart from the fact it is difficult enough to know every word that is being said, it is unreasonable to expect the Hansard reporters to capture every part of an interjection.'¹²
- 3.25 The Committee understands the intent of the insertion to standing order 68 but considers that its implementation has posed unintended difficulties for the Speaker. The Committee will continue to monitor the situation.

Library Committee

- 3.26 Standing order 217 provides for a Library Committee to be appointed to consider matters about the provision of library services to Members. No Members have been appointed to this committee since 2006.¹³ Instead

11 H.R. Deb. (13.03.2013) 91.

12 H.R. Deb. (02.03.2016) 2828.

13 *House of Representatives Practice*, 6th edn, p. 644.

these duties are now undertaken by the Joint Standing Committee on the Parliamentary Library which was established in late 2005.¹⁴

- 3.27 As this is the case, the Committee considers that there is no longer any need for Standing Order 217 to be in effect.

Recommendation 9

The Committee recommends that Standing Order 217 be omitted.

Minor technical amendments

- 3.28 A number of minor technical amendments are proposed in order to clarify certain standing orders, and as consequential changes reflecting amendments made to related standing orders. These are:
- the definition of ‘visitor’ in **standing order 2** needs to be amended in order to reflect the definition in standing order 257 that ‘a visitor does not include an infant being cared for by a Member’.
 - The definition ‘present a document’ in **standing order 2** should be amended to clarify that a document presented in the Federation Chamber is taken to have been presented to the House. It is the practice of the House that documents may be presented in the Federation Chamber.¹⁵ Explicit provision is made for the presentation in the Federation Chamber of committee reports under SO 39(b), and petitions under SO 207(b). However, in other cases (S.Os 28, 143, 199, 200–203, 209, 215, 219, 245) standing orders refer only to documents being presented to the House. In practice the relevant standing order is understood to also apply to documents presented in the Federation Chamber. However, it would be best to make this clear in order to prevent misunderstandings, for example, over whether only documents presented in the House are authorised for publication under SO 203, or are in the custody of the Clerk under SO 28, or whether only petitions presented in the House are referred to Ministers under SO 209.
 - **standing order 34 – Figure 2. House order of business.** It is proposed that ‘Documents’ be reinstated to the routine of business under standing order 34. The presentation of documents was omitted from the order of business under SO 34 at the start of the current Parliament,

¹⁴ *House of Representatives Practice*, 6th edn, p. 649.

¹⁵ *House of Representatives Practice*, 6th edn, p. 602.

when the cells in Figure 2 after 'Question Time', formerly labelled 'Documents, Ministerial statements, MPI' were relabelled 'Ministerial statements, MPI'. However, standing order 202 continues to refer to 'the period for presentation of documents under standing order 34'. In addition, the resolution of the House 'Procedures for tabling ministerial papers' of 9 December 1987 (page 108 of current edition of the Standing Orders) refers to 'the procedures for the tabling of ministerial papers following questions without notice, pursuant to standing order 101.' SO 101 is footnoted as referring to current SO 34. The usual practice continues to be that documents are in fact presented after Question Time according to a previously circulated list, and it would be helpful if this was recognised in the order of business. The provision in Figure 2 for presentation of documents at this time does not prevent Ministers presenting documents at other times (S.O. 199(b)).

- **standing order 192, Figure 4. Federation Chamber order of business** should be amended to insert 'and/or Committee and delegation business' in the Monday afternoon 'Government business' time period. Current practice is that, if necessary, committee and delegation business is scheduled in this period and this provision needs to be inserted to match current practice. Further, the presentation of Figure 4 should be amended to clarify the indicative nature of business as previously recommended by the Procedure Committee;¹⁶
- **standing order 198(b)** needs to be amended to clarify that the role of the Clerk of the Federation Chamber is to certify bills or other items of business to be reported to the House. The current wording 'bill or other matter' could be read as encompassing matters that the Deputy Speaker must report to the House – disorder in the Federation Chamber, under SO 187(c) – which it is not subject to certification by the Clerk.
- **standing order 247** needs to be amended to reflect changes made to standing orders 39(b)(i) and 222(a)(i) to provide for committee reports to be tabled in the Federation Chamber. The words 'to the Federation Chamber' should be added to standing order 247 (a) and 247 (c) and the words 'to the House' should be omitted from 247(b).

16 Standing Committee on Procedure: *Role of the Federation Chamber: Celebrating 20 years of operation*. June 2015; *Maintenance of standing and sessional orders*, June 2013.

- 3.29 While these are minor amendments which make no changes to practice, the Committee is of the view that addressing these matters in the text of the standing orders would be helpful to Members and assist the House with the smooth conduct of its business.

Recommendation 10

The Committee recommends that standing orders 2, 34, 192, 198, and 247 be amended as outlined in Appendix A.

Matters for future consideration

- 3.30 The following matters are for future consideration by the House, draft standing orders are included at Appendix C in order to support deliberations.

Deferred divisions

- 3.31 The Committee has been concerned that, on several occasions in recent weeks, divisions have been called during periods that Members expected to be free from divisions – that is, periods where divisions are deferred in accordance with standing order 133. Unexpected divisions called during these periods are disruptive to Members' work outside the Chamber.
- 3.32 The culprits are generally procedural motions moved by a Minister in response to attempts to move motions to suspend standing orders to debate a matter. Standing order 133 provides for the automatic deferral of any division called for during these periods, except for divisions on a motion moved by a Minister during the period for deferred divisions.
- 3.33 The disruptive divisions took place because the motions were moved by a Minister, not because they were procedural motions – procedural motions moved by private Members have been deferred during these periods.¹⁷
- 3.34 To reduce the disruption called by unscheduled divisions during these protected periods the Committee proposes an amendment to standing order 133 to clarify a Minister's ability to have a division held on a motion moved by her/himself during the relevant period. This takes into account that there may be circumstances where the Minister may wish a division

17 E.g. VP (09.03.98) 2788 ('Question be now put' deferred); VP (09.12.96) 399 ('Member be now heard' deferred).

on her/his own motion to be deferred. A draft standing order is included at Appendix C for consideration.

- 3.35 While considering deferred divisions the Committee also considered whether the Question Time period should be included in standing order 133 as a period during which divisions are deferred. However, this matter is more than a technical amendment and the Committee will consider it during its concurrent Question Time inquiry.

Debate management motions

- 3.36 In view of the now well-established practice of debate management motions the Committee has considered the continuing need for standing orders 82 to 85 'Debate of urgent matters' – the formal guillotine procedure. In this context the Committee has also considered debate management motions themselves, and whether and how they should be covered in the standing orders.
- 3.37 For over 10 years, Leaders of the House in successive governments have developed the practice of moving what were originally referred to as 'programming motions following suspension of standing orders'.¹⁸ Since 19 March 2014 the procedure has been described in a new section in standing order 1 as 'suspension of standing or other orders on notice relating to the programming of government business'. However, the preferred term seems recently to have become 'debate management motion'.
- 3.38 Now that debate management motions have become established practice, it seems unlikely that the existing guillotine procedures in the standing orders will be used again. The most recent guillotine following a declaration of urgency occurred on 12 September 2005.
- 3.39 Rather than omitting the whole section in the standing orders 'Debate of urgent matters' (SOs 82 to 85) or allowing it to remain but in effect be redundant, it may be preferable to amend this section of the standing orders to recognise the use of debate management motions. The Committee has attempted this in its draft rewrite of SOs 82 to 85 which is included, for discussion, at Appendix C.

18 *House of Representatives Practice*, 6th edn, p. 392.

- 3.40 The Committee has concluded that this subject goes beyond the scope of a technical amendment and that it needs more detailed consideration. However it is raising the subject for discussion as a matter that could be further examined in future.

Dr Andrew Southcott MP
Chair
30 March 2016

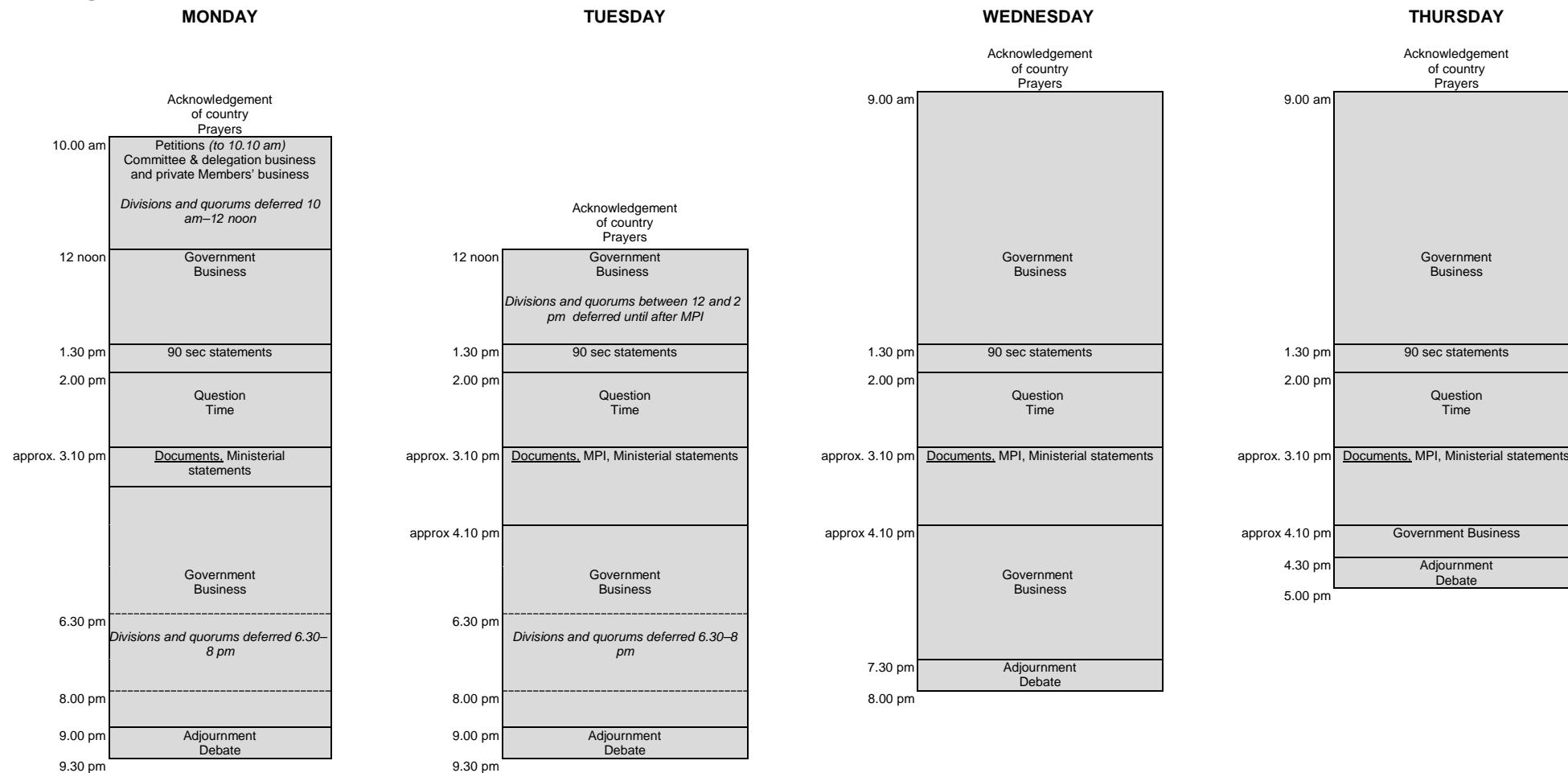


Appendix A – Proposed amendments to the standing orders

Proposed amendment	Reason for amendment
<p><i>Statements by permission from the Speaker (by indulgence)</i></p> <p>Valedictory remarks</p> <p>_____ Member _____ 20 mins</p> <p>Other statements</p> <p><i>(e.g. adding to answer, personal explanation, privilege)</i></p> <p>Member _____ at the discretion of the Speaker</p>	<p>Restores statements by permission of the Speaker to the prerogative of the Speaker's indulgence.</p>
<p>2 Definitions</p> <p>...</p> <p><i>present a document</i> means table a document. <u>A document presented to the Federation Chamber is taken to have been presented to the House.</u></p> <p>...</p> <p><i>visitor</i> means a person other than a Member or parliamentary official <u>or an infant being cared for by a Member.</u></p>	<p>Clarifies the status of documents presented in the Federation Chamber</p> <p>Align with standing order 257</p>
<p>131 Successive divisions</p> <p>(a) If a division is called no more than three minutes following a division, and there is no intervening debate, the Speaker shall appoint tellers immediately and the bells shall be rung for one minute.</p> <p>(b) If there is 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 shall take <u>may record</u> each Member's vote as being the same as it was in the previous division unless a Member reports to them.</p>	<p>Resolves the scenario where a Member may not be able to return to the Chamber in time.</p> <p>Gives tellers the discretion to record the vote as being the same or count the vote in full.</p>

34 Order of business

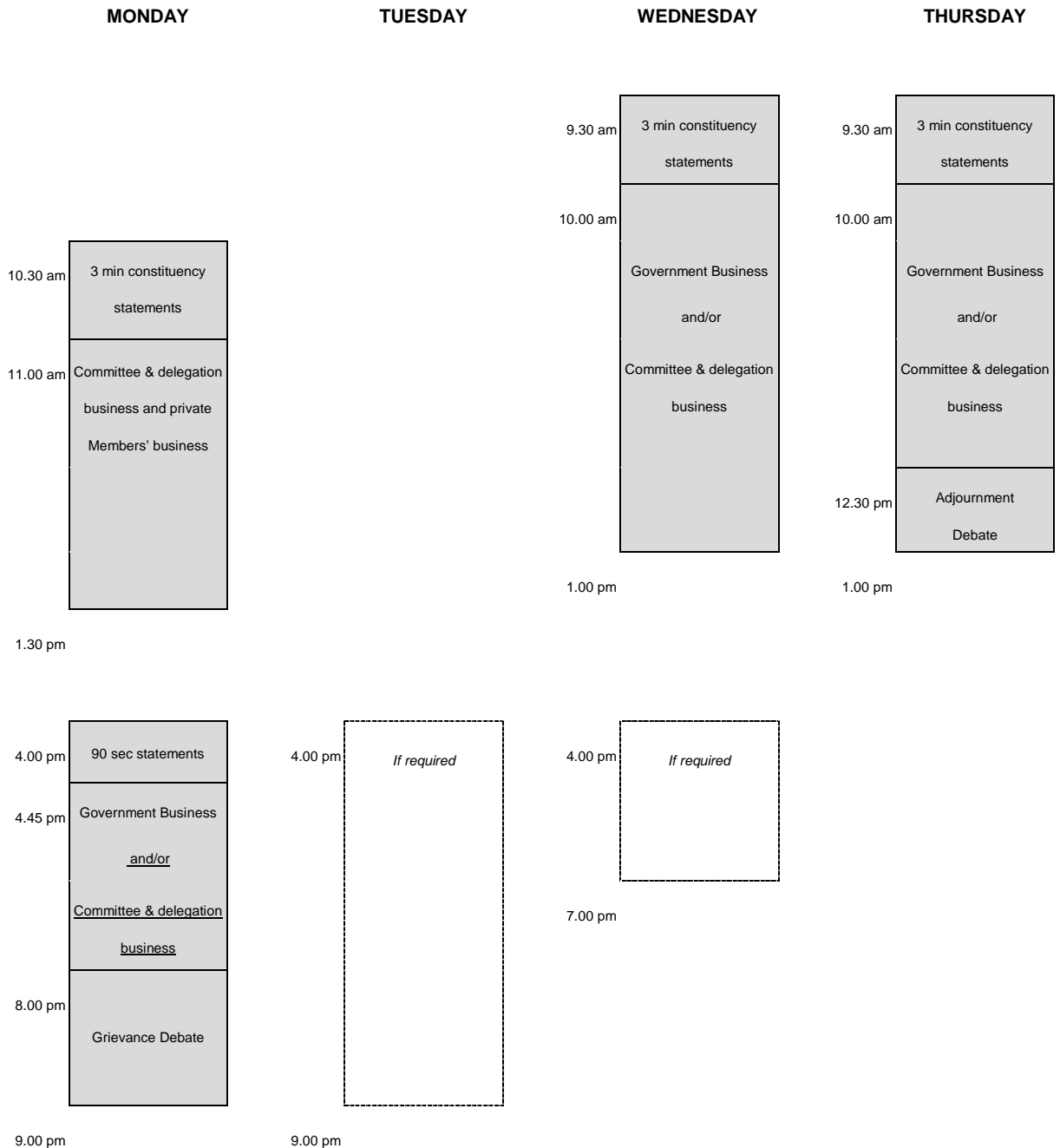
Figure 2. House order of business



Insert 'documents' to the routine of business to reflect standing order 202 and the resolution of the House 'Procedures for tabling ministerial papers' of 9 December 1987.

192 Federation Chamber’s indicative order of business

Figure 4. Federation Chamber indicative order of business



The meeting times of the Federation Chamber are fixed by the Deputy Speaker and are subject to change. Times shown for the start and finish of items of business are approximate. Adjournment debates can occur on days other than Thursdays by agreement between the Whips.

This amendment is a change to presentation only, which will produce no change in practice. It reflects that the order of business in the Federation Chamber is indicative rather than prescriptive and the practice of committee and/or delegation business being conducted in the Monday 4:45pm-8:00pm time period.

Proposed amendment	Reason for amendment
<p>197 Return of matters to the House</p> <p>The Federation Chamber may return a matter to the House before its consideration is completed.</p> <p>(a) A matter may be returned to the House on a motion moved without notice at any time by a Minister <u>by any Member</u>— That further proceedings be conducted in the House.</p> <p>...</p> <p>(b) The House may at any time require a matter to be returned for further consideration, on a motion moved without notice by a Minister <u>by any Member</u>. The matter must be set down for consideration at a later hour that day.</p> <p>...</p>	<p>Reflects current practice, recognising that Ministers are rarely available in the Federation Chamber to put this motion.</p>
<p>198 Report to the House</p> <p>...</p> <p>(b) The Clerk of the Federation Chamber shall certify a copy of the bill or other matter <u>item of business</u> to be reported to the House, together with any schedules of amendments and unresolved questions. Unless otherwise provided, the Speaker shall report the matter at a later hour that day when other business is not before the House.</p>	<p>Clarify the role of the Clerk of the Federation Chamber.</p>
<p>217 Library Committee</p> <p>A Library Committee shall be appointed to consider any matter about the provision of library services to Members referred to it by the House or by the Speaker.</p> <p>(b) The committee shall consist of seven Members.</p>	<p>Omit</p>
<p>222 Selection Committee</p> <p>(a) A Selection Committee shall be appointed to:</p> <p>(i) arrange the timetable and order of committee and delegation business and private Members' business for each sitting Monday in accordance with <i>standing orders 39 to 41</i>;</p> <p>(ii) select private Members' notices and other items of private Members' and committee and delegation business for referral to the Federation Chamber, or for return to the House;</p> <p>(iii) select bills that the committee regards as controversial or as requiring further consultation or debate for referral to the relevant standing or joint committee in accordance with <i>standing order 143</i>; and</p> <p>(iv) subject to <i>standing order 1</i>, set speaking times for second reading debates.</p> <p>(iv) recommend items of private Members' business to be voted on.</p> <p>(b) The committee shall consist of eleven <u>nine</u> members: the Speaker, or in the absence of the Speaker the Deputy Speaker, the Chief Government Whip or his or her nominee, the Chief Opposition Whip or his or her nominee, the Third Party Whip or his or her nominee, four <u>five</u> government Members, and three <u>four</u> non-government Members, <u>including, if there are non-aligned Members, one non-aligned Member.</u> The Speaker shall be the Chair of the committee. The Chair of the Committee shall be elected in accordance with <i>standing order 137A</i>. A quorum shall be three members of the committee.</p>	<p>Amend membership and role</p>

Proposed amendment	Reason for amendment
<p>(c) For committee and delegation business and private Members' business, the committee may determine the order of consideration of the matters, and the times allotted for debate on each item and for each Member speaking.</p> <p>(d) In relation to committee and delegation business and private Members' business the committee must report its determinations to the House in time for its decisions to be published on the Notice Paper of the sitting Thursday before the Monday being considered. In relation to bills the committee must report its determinations as soon as practical in respect of each bill or each group of bills.</p> <p>(e) Reports of the committee under paragraph (d) will be treated as having been adopted when they are presented. Reports will be published in Hansard.</p> <p>(f) A referral by determination of the Selection Committee pursuant to paragraph (a)(ii) or (a)(iii), once the determination has been reported to the House, is deemed to be a referral by the House.</p>	
<p>229 Appointment of committee members</p> <p>...</p> <p>(d) any Member appointed as a minister immediately ceases to be a member of all committees.</p>	<p>New part to immediately discharge committee Members appointed as Ministers</p>
<p>232 — Appointment of committee Chair and deputy Chair</p> <p>(a) — Before the start of business and at any time a vacancy occurs, a committee shall be informed of the name of the member who has been appointed by the Prime Minister to be its Chair. The Chair shall have a casting vote only.</p> <p>(b) — A committee shall also be informed of the name of the member who has been appointed by the Leader of the Opposition to be its deputy Chair. The deputy Chair shall act as Chair of the committee whenever the Chair is not present at a meeting. If neither the Chair nor deputy Chair is present at a meeting, the members present shall elect another member to act as Chair at the meeting.</p> <p>232 Election of Committee Chair and Deputy Chair</p> <p>(a) Unless otherwise provided the Chair of a committee shall be elected by secret ballot under <i>standing order 137A (Ballot for Committee Chair)</i>.</p> <p>(b) Before the start of business a committee shall elect a non-government member as its Deputy Chair, who shall act as Chair of the committee whenever the Chair is not present at a meeting. If neither the Chair nor deputy Chair is present at a meeting, the members present shall elect another member to act as Chair at the meeting.</p> <p>(c) The Chair shall have a casting vote only.</p>	<p>New standing order to reflect proposed election of Chairs by the House as a whole.</p>
<p>247 Report presented</p> <p>(a) A member of the committee must present the report of the committee together with the minutes of proceedings, to the House <u>or Federation Chamber</u>.</p> <p>(b) When a report is presented to the House, it may be ordered to be made a Parliamentary Paper with or without the documents accompanying it.</p> <p>(c) Special arrangements are required for times when the House is not sitting and a committee has completed a report of an inquiry. The committee may send the report to the Speaker, or to the Deputy Speaker if the Speaker is unavailable. When the Speaker or the</p>	<p>Reflect standing orders 39(b)(i) and 222(a)(i)</p>

Proposed amendment	Reason for amendment
Deputy Speaker receives the report: <ul style="list-style-type: none"> (i) the report may be published; and (ii) he or she may give directions for the printing and circulation of the report. The committee must then present the report to the House <u>or</u> <u>Federation Chamber</u> as soon as possible. <p style="text-align: center;">...</p>	

Proposed standing order to provide procedures for electing chairs of committees

137A Ballot for Committee Chair

Nomination

- (a) Whenever a position of Committee Chair that is elected under this standing order is vacant the Speaker must call for nominations for the position and will set a closing day for nominations and a day for the ballot. The closing day for nominations must be four sitting days after the call for nominations. The day for the ballot shall be a sitting day as soon as practical after the closing day for nominations.
- (b) Only government Members are eligible for nomination. Ministers, including Assistant Ministers and Parliamentary Secretaries, are not eligible.
- (c) Nominations of candidates shall be in writing and must be received by the Clerk of the House by 5.00 pm on the closing day for nominations.
- (d) The Clerk shall publish lists of the candidates and their accompanying signatories as soon as practicable following the close of nominations.
- (e) Each nomination shall consist of a signed statement made by the candidate declaring his or her willingness to stand for election, accompanied by the signatures of at least three other Members. At least one of the three must be a Member who is not a member of the same party as the candidate.
- (f) A Member may not sign the statement of more than one candidate for chair of the same committee.
- (g) A Member may not be a candidate for more than one position of chair elected under this standing order.

Election

- (h) Election shall be by secret ballot held between 9.00 am and 1.00 pm in a place appointed by the Speaker. All Members of the House are eligible to vote.
- (i) If there is only one candidate for the chair of a committee, that candidate shall be declared elected without a ballot.

- (j) Each Member intending to vote shall be provided with a ballot paper for each committee bearing the names of the candidates listed in alphabetical order.
- (k) Members vote by ranking all candidates in order of preference. Any candidate who receives more than half the first preferences shall be declared elected. If no candidate is so elected, the candidate or candidates with the lowest number of first preferences shall be eliminated and their votes distributed among the remaining candidates according to the preferences on them. If no candidate has more than half the votes, the process of elimination and distribution is repeated, until one candidate has more than half the votes.
- (l) Counting shall take place under arrangements made by the Clerk of the House. Any Member may act as a scrutineer during the count.
- (m) The Speaker shall have power to give directions on any matter of doubt arising from the conduct of a ballot or from an individual ballot paper and to vary the timings given in paragraph (h).
- (n) The Speaker shall declare the successful candidates elected as soon as practicable after the closing of the ballot.
- (o) A chair elected under this order is a member of the committee of which he or she is elected chair.



Appendix B – General principles relating to the selection of private Members’ business

1. In formulating the priority to be given to items of private Members’ business the Selection Committee shall have regard to:
 - (a) the importance of the subject;
 - (b) the current level of interest in the subject;
 - (c) the extent of the current discussion on the subject both in the Parliament and elsewhere;
 - (d) the extent to which the subject comes within the responsibility of the Commonwealth Parliament;
 - (e) the probability of the subject being brought before the House by other means within a reasonable time; and
 - (f) whether the subject is the same, or substantially the same, as another item of business which has been debated or on which the House has already made a decision in the same period of sittings and, if so, whether new circumstances exist.
2. The Committee shall accord priority to private Members’ business:
 - (a) with regard to the numbers of Members affiliated with each party in the House;
 - (b) in a way which ensures that a particular Member or the Members who comprise the Opposition Executive do not predominate as the movers of the items selected;
 - (c) in a way which seeks to ensure balance is achieved over each period of sittings;
 - (d) in a manner that ensures appropriate participation by non-aligned Members.

3. When a private Member has the responsibility for the carriage of a bill transmitted from the Senate for concurrence, the bill shall be accorded priority following the question for the second reading being put to the House in the same way as a private Member's bill originating in the House is accorded priority by standing order 41.
4. Priority shall not be accorded to any item of private Members' business if the matter should be dealt with by the House in another, more appropriate, form of proceeding.
5. The general principles set out above shall be observed by the Selection Committee but nothing in the general principles shall be taken to prevent the Selection Committee departing from those general principles in order to meet circumstances, which, in its opinion, are unusual or special.
6. These general principles shall continue in effect until altered by the House following a report from this or a future Selection Committee.



Appendix C – Draft standing orders for consideration

Proposed amendment	Reason for amendment
<p>Debate management motions and of urgent matters</p> <p>82 Urgent bill</p> <p>(a) A Minister may declare a bill, or a number of related bills, to be urgent at any time.</p> <p>(b) When a bill or bills are is declared urgent, the question— That the bill(s) be considered urgent— must be put immediately and resolved without amendment or debate.</p> <p>(c) — 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. Any motion shall be subject to standing orders 84 (limited debate on allotment of time) and 85 (proceedings on urgent matter).</p> <p>(d) — The order for the consideration in detail stage may allocate times to particular clauses or parts of the bill.</p>	<p>Declaration may cover more than one bill (currently SOs need to be suspended for this)</p> <p>Deleted provisions in (c) and (d) are now included below in SO 84(b)</p>
<p>83 Urgent motion</p> <p>(a) Once a motion has been moved, a Minister may declare the motion to be urgent.</p> <p>(b) When a motion is declared urgent, the question— That the motion be considered urgent— must be put immediately and resolved without amendment or debate.</p> <p>(c) — If the question is agreed to, a Minister may immediately move a motion specifying times for the urgent motion. Any motion is subject to standing orders 84 (limited debate on allotment of time) and 85 (proceedings on urgent matter).</p>	<p>Deleted provision in (c) now included below in SO 84(b)</p>

Proposed amendment	Reason for amendment								
<p>84 Limited debate on motion for allotment of time <u>Debate management motion</u></p> <p>(a) A debate management motion may be moved by a Minister</p> <p>(i) _____ on notice;</p> <p>(ii) _____ without notice, in respect of matters that the House has agreed be considered urgent pursuant to <i>standing orders 82 or 83</i>.</p> <p>(b) _____ The motion may specify times for a motion or for any stage of a bill. For the consideration in detail stage of a bill the motion may allocate times to particular clauses or parts of the bill.</p> <p>(c) _____ A debate management motion may cover more than one related items of business, may set out special procedures to be followed, and may provide for cognate debate.</p> <p>(d)(a) The maximum times for debate on a <u>debate management motion for allotment of time</u> are: whole debate 20 minutes; each Member 5 minutes.</p> <p>(e)(b) After 20 minutes, or if debate concludes earlier, the Speaker must immediately put the question on any amendment or motion already proposed from the Chair.</p>	<p>New para 84(a) — ‘allotment of time motion’ renamed ‘debate management motion and defined</p> <p>New para 84(b) incorporates deleted elements from 82 and 83 above</p> <p>New para 84(c) expands the scope of debate management motion to match current practice.</p> <p>Debate times remain same as for current allotment of time motion (shorter than suspension motions)</p>								
<p>85 Proceedings on urgent matter subject to debate <u>management motion</u></p> <p>(a) If a time has been set for the start of an urgent matter which is subject to a debate management motion, at the set time the business before the House or the Federation Chamber must be interrupted and all necessary steps taken so that the urgent matter can proceed.</p> <p>(b) At the end of the times allotted for particular proceedings the Speaker must conclude the proceedings:</p> <p>(i) First the Speaker shall immediately put any question already proposed from the Chair, and then put any other question required to dispose of the urgent matter.</p> <p>(ii) If the Government has circulated copies of amendments, new clauses and schedules, and modifications to a bill, at least two hours before the end of the allotted time, they shall be treated as if they have been moved.</p> <p>(c) <i>Standing order 81</i>, providing for the closure of a question, shall not apply to any proceedings for which time has been allotted which are subject to a debate management motion.</p>	<p>No changes to SO 85 apart from name of motion</p>								
<p>1 Maximum speaking times</p> <p>Suspension of standing or other orders on notice relating to the programming of government business</p> <table data-bbox="242 1666 1086 1832"> <tr> <td>Whole debate</td> <td>25 mins</td> </tr> <tr> <td>Mover</td> <td>15 mins</td> </tr> <tr> <td>Member next speaking</td> <td>10 mins</td> </tr> <tr> <td>Any other Member</td> <td>5 mins</td> </tr> </table> <p><i>(standing order 47)</i></p>	Whole debate	25 mins	Mover	15 mins	Member next speaking	10 mins	Any other Member	5 mins	<p>Related to above changes</p>
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<p>Urgent matters — allotment of time for debate</p> <p><u>Debate management motion</u></p> <table data-bbox="242 1951 1086 2047"> <tr> <td>Whole debate</td> <td>20 mins</td> </tr> <tr> <td>Each Member</td> <td>5 mins</td> </tr> </table> <p><i>(standing order 84)</i></p>	Whole debate	20 mins	Each Member	5 mins	<p>Related to above changes</p>				
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Proposed amendment	Reason for amendment
<p>133 Deferred divisions on Mondays and Tuesdays</p> <p>...</p> <p>(e) This standing order does not apply to a division called on a motion moved by a Minister on Mondays and Tuesdays, during the periods specified in this standing order.</p> <p><u>(e) Except that if a motion is moved by a Minister during a period specified in this standing order, the Minister can require that a division on the motion not be deferred.</u></p>	<p>Clarifies the Minister's ability to call a division</p>