

3 Voting in the Senate

In the Senate, questions are decided by a majority. The President of the Senate has a deliberative vote on all questions, as does every other senator and, unlike the Speaker of the House of Representatives, does not exercise a casting vote. When the votes are equally divided, the question is lost. These rules are contained in [section 23 of the Constitution](#) which is designed to preserve the equality of each senator's vote.

1. Determining the vote

On the voices

Most votes in the Senate are determined on the voices. The chair puts the question, senators vote by calling "Aye" or "No" in turn, and the chair declares the result based on an assessment of whether the "ayes" or "noes" are in the majority. This assessment is based on a knowledge of how senators will vote.

By division

The chair's call may be challenged by senators calling for a division. If two or more senators declared by the chair to be in the minority challenge the chair's call, the chair informs the chamber that a division is required and orders that the bells be rung. The bells are rung for four minutes to enable senators to assemble in the chamber. The doors are then locked and the chair repeats the question, inviting those voting for the motion to sit to the right of the chair and those voting against the motion to sit to the left.

All senators in the chamber must vote except for the President or the Chair of Committees or, in practice, any temporary chair, who may choose not to vote when in the chair. Other senators have the option of abstaining by not attending the division.

The chair appoints *tellers* to count the vote, one for the "ayes" and one for the "noes". Tellers are usually party whips. The vote is recorded by the clerks at the table who cross off senators' names on a list as they are called by the tellers. One clerk records the "ayes", the other the "noes". When all names have been recorded, the tellers and clerks cross-check the results which are then announced by the chair. Lists of senators voting for and against a motion are reproduced in the *Journals of the Senate* and in *Hansard*.

The procedures for calling, voting in and recording divisions are contained in [standing orders 98 to 105](#). These procedures include the following rules:

- a division may be called for only by two or more senators who voted against the majority as declared by the chair
- a lone senator calling for a division may have his or her vote recorded in the *Journals* without a division
- senators must vote in a division in the same way as they voted on the voices
- senators must be present to vote

- a senator who calls for a division must not leave the chamber until the division has taken place
- the call for a division may be withdrawn by leave (unanimous consent of all senators present) at any time before the tellers are appointed
- senators must remain seated during a division; and
- if a point of order is taken during a division, senators may speak to it while seated.

By leave, a group of senators voting against a motion may have their votes recorded, as an alternative to a division.

The rationale for these rules is explained in [Chapter 11](#) of *Odgers' Australian Senate Practice*.

One minute divisions

If divisions are held successively, without intervening debate, the bells are rung for one minute for each successive division, rather than the usual four minutes. Although the chair, if aware of the possibility, generally warns senators if a one minute bell is likely, noise in the chamber often prevents senators from receiving the message. Therefore, if the bells ring soon after a division, senators who have left the chamber need to be aware that they may have only one minute to return. Television monitors in Parliament House display a time signal in the top right hand corner indicating how much time remains for a senator to reach the chamber. A caption also indicates whether the bells are ringing for a quorum or a division.

Pairs

The system of pairing is an unofficial system managed by the party whips to preserve the voting strengths of the parties in the Senate and prevent results by misadventure. A senator who is expected to vote on one side but who is absent is “paired” with a senator who is expected to vote on the other side and who is also absent, or who refrains from voting for the purpose. Pairing arrangements also apply to Senate vacancies. Because they are unofficial, pairing arrangements are not recorded in the *Journals*, but they may be included in the voting lists shown in *Hansard* (if the tellers provide the pairing arrangements to *Hansard* at the time of the division).

Errors, confusion or misadventure in divisions

If counting or recording errors or confusion occur which cannot be corrected (for example, by the tellers certifying that a pairing error occurred), another division is held. In practice, divisions may also be held again by leave if misadventure prevents a senator reaching the chamber and the result does not reflect the voting strengths of the parties and independents. Misadventure may include mechanical or electronic failures leading to malfunctioning bells or lifts and the senator concerned is usually called upon to explain the misadventure. The Senate invariably grants leave to ensure that questions are not determined by accidents of this sort.

2. Questions determined by special majorities

A simple majority is more than half of the senators who are present for the vote, while an absolute majority is more than half of all possible votes (39). Two types of decision require an absolute majority under the standing orders of the Senate. These are:

- decisions to suspend standing orders without notice (see [standing order 209](#)); and
- decisions to rescind (or “undo”) an order of the Senate (see [standing order 87](#)).

In practice, such votes are rare because the need to rescind orders rarely arises and the use of contingent notices for the suspension of standing orders obviates the need for an absolute majority in most cases (see [Guide No. 5](#)—Suspension of Standing Orders).

[Section 128](#) of the Constitution also requires that a bill to alter the Constitution be passed by an absolute majority of each House. Standing orders provide that senators will be notified before the Senate votes on the third reading of a bill to alter the Constitution, and a roll call is held to determine whether all senators are present. Modern practice is to dispense with some or all of the standing orders relating to the roll call (see [standing orders 106 to 110](#)). However, the bells are always rung and names of senators voting on the third reading of a constitutional alteration bill are recorded in the *Journals*, even if no division is called, to ensure that the constitutional requirements are met. If the bill goes to a referendum, official “Yes” and “No” cases may be authorised by the members of parliament voting for and against the bill, respectively, and distributed to electors by the Australian Electoral Commission.

3. Secret ballots

Most questions in the Senate are determined in public, as befits a representative democratic body. However, the standing orders provide for secret ballots to elect the President, Deputy President and members of committees where the number of candidates exceeds the number of positions available. See [chapter 11](#) of *Odgers’ Australian Senate Practice* for further details.

4. The effect of equally divided votes

The constitutional rules about Senate voting have a profound impact on the procedures of the Senate. In particular, they affect the legislative process and the form of the question put by the chair at the various stages of consideration of a bill.

The aim of legislative deliberation is to determine whether a bill, its several component parts and any textual amendments have the support of a majority of the Senate. Thus the questions for each major stage of consideration take the following form:

That this bill be now read a first/second/third time.

If the votes are equally divided, the question is lost and, lacking majority support, the bill proceeds no further.

During committee of the whole, detailed consideration of the bill takes place and amendments may be proposed. Amendments take one of two forms:

- proposals to omit clauses; or
- proposals to make textual changes by omitting words, inserting or adding words, or omitting **and** substituting words.

Where a clause is proposed to be omitted, the question takes the form:

That the clause stand as printed.

This question is designed to test whether a majority supports the clause remaining in the bill. An equally divided vote indicates the absence of a majority in support of the clause; the question is therefore lost and the clause is removed from the bill. Putting the question in an apparently more straightforward way:

That the clause be omitted

would produce a flawed result on an equally divided vote. On such an outcome, the *question* would be lost and a clause which did not enjoy majority support would *remain* in the bill. Therefore, this form of the question is not used except where the Senate is *requesting* the House of Representatives to make an amendment which the Constitution precludes the Senate from making itself (see [Guide No. 16](#)—Consideration of Legislation). Such *requests* must be supported by a majority.

The same principles apply to the consideration of messages from the House of Representatives disagreeing to amendments made by the Senate. See [Guide No. 18](#)—Communications between the Houses, for more detail.

Need assistance?

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

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