

SUBMISSION TO THE STANDING COMMITTEE ON PETITIONS OF THE AUSTRALIAN PARLIAMENT HOUSE OF REPRESENTATIVES

INFORMATION ON THE PETITIONING PROCESS AT THE HOUSE OF COMMONS

HISTORICAL PERSPECTIVE

Paper Petitions

Provisions for petitions (long a feature of the pre-Confederation legislative assemblies) have always been part of the written rules of the House. The rules adopted in 1867 were somewhat expanded in 1910 and operated without substantial modification for some 76 years.

In 1986, the House adopted amendments to the *Standing Orders* based on recommendations from the Special Committee on the Reform of the House of Commons. The most significant of these changes were the requirement for petitions to be certified by the Clerk of Petitions prior to their presentation in the House, and mandatory government replies to petitions. Between 1987 and 1994, minor changes were adopted by the House, such as the requirement to include the signatories' addresses, a limit of 15 minutes on the time provided for the presentation of petitions during Routine Proceedings, the transmittal of presented petitions to the Ministry (through the Privy Council Office), and the tabling of government responses to petitions with the Clerk of the House.

In 2003, the House simplified requirements for petitions. Standing Order 36 was amended to specify that petitions could be addressed to the government, a minister or a Member of Parliament; that persons with no fixed address could sign petitions; that the subject matter could be indicated on the subsequent pages of a petition instead of the full text of the prayer; and that petitions could call for the expenditure of public funds.

Another important change provisionally adopted in 2003, and made permanent in 2004, was that any failure by the government to respond to a petition within 45 days of its presentation would be referred to the appropriate standing committee. The House believed this procedure would have a salutary effect in that it would encourage ministers and departments to comply with the timelines and requirements in the *Standing Orders*. This presumption has since turned out to be true as only a handful of unanswered petitions have been referred to a standing committee.

The most recent changes concerning paper petitions were implemented in December 2015. Amendments to the Standing Orders allowed Canadian citizens living abroad to sign a petition, rather than only citizens or residents living in Canada, and petitions concerning matters that are *sub judice* were made inadmissible for certification.¹

Electronic Petitions

In 2003, the House of Commons also considered the development of an e-petitions system. The matter was further explored in 2005 but was not pursued. It was not until 2014, with the adoption of motion M-428, a private Member's motion sponsored by Kennedy Stewart (Burnaby—

¹ A historical perspective on public petitions is further detailed in the *House of Commons Procedure and Practice*, Third Edition, at: http://www.ourcommons.ca/About/ProcedureAndPractice3rdEdition/ch_22_1-e.html.

Douglas), that the House again considered the possibility of accepting e-petitions. On February 26, 2015, the Standing Committee on Procedure and House Affairs presented the results of its study to the House in its 33rd Report, including recommendations to establish an e-petitions process with a detailed description of how this new system would operate with regard to the creation, the certification, the publishing, the managing of signatures, and the archiving of e-petitions. The Report also provided for the relevant changes in the Standing Orders.² The report was concurred in by the House on March 11, 2015, and the new system was implemented for the beginning of the 42nd Parliament (December 3, 2015).

CURRENT STANDING ORDER CONCERNING PETITIONS

STANDING ORDER 36³

Paper petitions to be examined by Clerk of Petitions.

(1) Prior to presentation, the Clerk of Petitions shall examine all paper petitions, and in order to be presented, they must be certified correct as to form and content by the said Clerk.

Form of paper petitions.

(1.1) In order to be certified, pursuant to section (1) of this Standing Order, every paper petition shall:

- (a) be addressed to the House of Commons, the House of Commons in Parliament assembled, the Government of Canada, a Minister of the Crown or a Member of the House of Commons;
- (b) contain a clear, proper and respectful prayer which may call for the expenditure of public funds;
- (c) be written, typewritten or printed on paper of usual size;
- (d) be free of alterations and interlineations in its text;
- (e) have its subject-matter indicated on every sheet if it consists of more than one sheet of signatures and addresses;
- (f) contain only original signatures and addresses written directly onto the petition and not pasted thereon or otherwise transferred to it;
- (g) not concern a matter in which one or more of the heads of relief sought are currently *sub judice*; and
- (h) contain at least twenty-five signatures from citizens or residents of Canada, other than Members of Parliament, and where the signatories have a fixed place of residence, their addresses.

² The full text of the Committee's 33rd Report is available at:

<http://www.ourcommons.ca/DocumentViewer/en/41-2/PROC/report-33/>.

³ The Standing Orders of the House of Commons can be found on the Website at:

<http://www.ourcommons.ca/About/StandingOrders/Index-e.htm>

Electronic petitions to be examined by Clerk of Petitions.

(2) Prior to publishing on the Parliament of Canada website, the Clerk of Petitions shall examine all electronic petitions in order to determine that they are correct as to form and content.

Form of electronic petitions.

(2.1) In order to be published on the website, pursuant to section (2) of this Standing Order, every petition shall:

- (a) be addressed to the House of Commons, the House of Commons in Parliament assembled, the Government of Canada, a Minister of the Crown or a Member of the House of Commons;
- (b) contain a clear, proper and respectful prayer which may call for the expenditure of public funds;
- (c) not exceed 250 words;
- (d) be sponsored by a Member;
- (e) not concern a matter in which one or more of the heads of relief sought are currently *sub judice*;
- (f) contain no Universal Resource Locators (URLs), or other links or web-based references; and
- (g) be submitted by an petitioner who has no other electronic petitions open for signature.

120 days for signature.

(2.2) Each electronic petition shall be open for signature for 120 days.

Similar items. Clerk of Petitions to decide.

(2.3) The Clerk of Petitions shall be responsible for determining whether an electronic petition is so similar as to be substantially the same as one already open for signature, in which case the last electronic petition received shall be returned to its sender without having appeared on the website.

Electronic petitions to be certified by Clerk of Petitions.

(2.4) In order to be certified by the Clerk of Petitions for presentation to the House, every electronic petition shall contain at least 500 signatures from citizens or residents of Canada, other than Members of Parliament, and where the signatories have a fixed place of residence, their addresses.

Members answerable.

(3) Members sponsoring an electronic petition or presenting petitions to the House shall be answerable that they do not contain impertinent or improper matter.

Member's endorsement.

(4) Every Member presenting a petition shall endorse his or her name thereon.

Filing with Clerk of the House.

(5) A petition to the House may be presented by a Member at any time during the sitting of the House by filing the same with the Clerk of the House.

Presentation in the House.

(6) Any Member desiring to present a petition, in his or her place in the House, may do so on “Presenting Petitions”, a period not to exceed fifteen minutes, during the ordinary daily routine of business.

No debate.

(7) On the presentation of a petition no debate on or in relation to the same shall be allowed.

Ministry’s response.

(8)(a) Every petition presented pursuant to this Standing Order shall forthwith be transmitted to the Ministry, which shall, within forty-five days, respond to every petition referred to it; provided that the said response may be tabled pursuant to Standing Order 32(1).

(b) If such a petition remains without a response at the expiration of the said period of forty-five days, the matter of the failure of the Ministry to respond shall be deemed referred to the appropriate Standing Committee. Within five sitting days of such a referral the Chair of the committee shall convene a meeting of the committee to consider the matter of the failure of the Ministry to respond.

CURRENT PROCEDURES FOR PAPER AND ELECTRONIC PETITIONS

Paper Petitions⁴

In general, paper petitions are initiated by citizens and, once signatures are collected, the petition is sent to the office of a Member of Parliament who will present the petition to the House. Prior to presentation in the House, the Member must provide the petition to the Office of Private Members’ Business for certification by the Clerk of Petitions. Once the Clerk of Petitions is satisfied that the petition complies with Standing Order 36 and other practices of the House, a green certificate is attached to the petition and sent to the office of the Member sponsoring it to indicate that it has been certified and is ready for presentation to the House. Uncertified petitions are returned to the Member’s office with a blue certificate, outlining the reasons (and procedural references) for the rejected petition or pages of the petition.

Electronic Petitions

A petitioner must create an account on the House of Commons website before beginning the process to initiate the e-petition. Before it is posted on the website and open for signature, the e-petition must be supported by five individuals, identified by the petitioner. Subsequently, the petitioner must ensure that a Member of Parliament agrees to sponsor the petition. These steps are both completed electronically through the House of Commons’ e-petition system. Once the e-petition has been sponsored, it is reviewed in the system by a procedural clerk at the Journals Branch and, if admissible, the e-petition is published on the website. The petition is open for signature during a period of 120 days. After that period has elapsed, a procedural clerk examines

⁴ For a detailed summary of the procedures for paper and electronic petitions, see the relevant Guides found on the House of Commons petitions’ webpage at: <https://petitions.ourcommons.ca/en/Home/About>.

the validity of the signatures and, if there are at least 500 valid signatures, the petition is certified and returned to the office of the sponsoring Member for presentation to the House.⁵

Presentation to the House and Government Responses

Following the certification of the petition, Members of Parliament may decide which day they wish to present the petition, whether paper or electronic, to the House. To this end, a 15-minute period during Routine Proceedings is dedicated each day to the presentation of petitions, though the maximum time is not normally used. A Member may also choose to distribute a certified petition to another Member who can then present it to the House. Uncertified petitions may be presented only with the unanimous consent of the House. The same consent is also required if a Member wishes to present a petition outside Routine Proceedings, though any certified petition may also be filed with the Clerk of the House at any time when the House is sitting for inclusion in the *Journals* of that day.

Once presented, a petition is sent to the government (Privy Council Office) for a response within 45 days. Responses to e-petitions are posted on the e-petitions website⁶ while responses to paper petitions are sent to the office of the presenting Member of Parliament. The matter of the failure of the government to respond to a petition within 45 days is referred to a standing committee chosen by the Member of Parliament presenting the petition to the House.

STANDING COMMITTEE ON PROCEDURE AND HOUSE AFFAIRS

The House of Commons does not have a Standing Committee on Petitions. As the procedures relating to petitioning in the House of Commons are enshrined in the Standing Orders, the Standing Committee on Procedure and House Affairs is usually given the Order of reference by the House to study matters related to petitions. A special committee may also be established to undertake such a study, as it was the case in 1986 with the Special Committee on the Reform of the House of Commons.

Review of the House of Commons Electronic Petitions System

The Standing Committee on Procedure and House Affairs is currently continuing its two-year review of the e-petitions system as recommended in its 33rd Report in 2015. To date, two meetings were held and an overview of the current process, as well as suggestions to enhance it, were brought to the attention of the Committee.⁷ Of particular interest are the following issues which could be taken into consideration by the Committee:

- The 120-day opening period for an e-petition to garner signatures;
- The threshold of 500 signatories for certifying an e-petition;
- The need for an e-petition to be supported by 5 individuals prior to publication on-line.

⁵ For further information, please refer to the submission sent to the Committee on July 20, 2018, in which the process for e-petitions was described.

⁶ For examples of government responses to petitions, please see <https://petitions.ourcommons.ca/en/Petition/Responses>.

⁷ The meetings were held on November 7, 2017 and May 8, 2018. For more information, the Committee Evidence can be consulted at: <http://www.ourcommons.ca/Committees/en/PROC/StudyActivity?studyActivityId=9755818>.

In the course of its study, the Committee is also reviewing the current process for paper petitions. Some rules and practices that some regard as unduly restrictive were brought to the attention of the Committee, such as the prohibition of images and logos, the address requirements for signatories, and the size of paper used for petitions. In the report that led to the creation of the e-petitions system, the Committee had expressed a desire that both paper and electronic petitions, along with the government's responses, be available electronically. Given the volume of paper petitions, this was not possible in the initial phase of the project. However, as part of a second phase, paper petitions and the government's responses could be made available electronically in the future, should it be included in the Committee's recommendations to the House. At this time, the Committee has not yet reported back to the House on the matter.