

## **Strengthening the parliament: increased participation by all Members**

- 3.1 The two underlying principles of the *Agreement for a Better Parliament: Parliamentary Reform* (the Agreement) – reinforcing the identity of ‘local MPs’ and their communities in our democratic system and strengthening parliament by enhancing opportunities for all Members to participate<sup>1</sup> – are being adopted partly through an increase in the time for and prominence of private Members’ business. The Agreement seeks to achieve this by:
- increasing the time available for private Members’ business in the House and Main Committee;
  - adding to opportunities for private Members to raise issues; and
  - changing the order of business to give greater prominence to private Members’ business.
- 3.2 This chapter presents preliminary data on the allocation and use of the additional opportunities for private Members and addresses the need to balance these opportunities with the need to allocate sufficient time for government business. Based on feedback and data from the early stages of the 43<sup>rd</sup> Parliament, the Committee draws attention to aspects it believes warrant close monitoring. These will be considered further in Chapter 5.

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<sup>1</sup> *Agreement for a Better Parliament: Parliamentary Reform*, Preamble.

## More opportunities for contributions by private Members

- 3.3 Increased participation by Members has primarily been achieved by changes to the order of business in the House and Main Committee (considered below), and an increase in sitting hours (considered in more detail in Chapter 5). The order of business now provides additional:
- time for private Members' business: on Monday mornings and evenings in the Chamber and the Main Committee;<sup>2</sup>
  - time on Mondays, Tuesdays and Wednesdays for adjournment debates in the Chamber;<sup>3</sup>
  - opportunities for 90 second statements: now taking place in the Chamber in the 15 minutes prior to Question Time on Mondays, Wednesdays and Thursdays;<sup>4</sup> and
  - time for Matters of Public Importance: an extra 30 minutes and now scheduled to follow on immediately after Question Time and presentation of documents.<sup>5</sup>
- 3.4 In total, the maximum time available under the standing orders<sup>6</sup> for participation by private Members<sup>7</sup> in the House and Main Committee<sup>8</sup> has increased from 10 hours and 20 minutes in the 42<sup>nd</sup> Parliament to 19 hours and 45 minutes in the 43<sup>rd</sup> Parliament, with the largest increase in private Members' business.

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2 Total time allocated for committee and delegation business and private Members' business on Mondays in the Chamber increased from 1 hour to 3 hours 30 mins; in the Main Committee increased from 1 hour 35 minutes to 5 hours. (See standing orders 1, 34, 41, 192.)

3 At these times debate is not required to be relevant to the question – standing order 76(a) – enabling each Member to choose their topics. The length of adjournment debate in the Chamber increased from 30 minutes to 1 hour on Mondays, Tuesdays and Wednesdays although the Agreement provided for an increase only on Mondays and Tuesdays. (See standing orders 1, 29, 31, 34.)

4 Members' 90 second statements moved from Main Committee on Mondays to the Chamber on Mondays, Wednesdays and Thursdays. (See standing orders 1 and 43).

5 Allocation of time for MPI extended from 1 hour to a maximum of 1 hour and 30 minutes on Tuesdays and Wednesdays. Time allocated on Thursdays remains in effect unchanged (See standing orders 1 and 34). The MPI was previously scheduled to follow Ministerial Statements.

6 Standing orders 1, 34 and 192, 20 October 2010.

7 Includes committee and delegation business, private Members' business, 90 second statements, 3 minute constituency statements, adjournment debate, debate on matters of public importance, and grievance debate.

8 Does not include time available for government business and committee and delegation business in the Main Committee on Wednesdays and Thursdays, or additional time provided 'if required' under standing order 192, 20 October 2010.

## Allocated time for private Members' business

- 3.5 In the 42<sup>nd</sup> Parliament, on Monday evenings, the time for private Members' business comprised 1 hour in the House and 1 hour 35 minutes in the Main Committee.<sup>9</sup> Eight and a half hours is now available on Mondays (3 and a half hours in the House and 5 hours in the Main Committee).<sup>10</sup>
- 3.6 As in previous parliaments, time for private Members' business is shared with other non-government business, including up to 10 minutes for presentation of petitions and responses by the Petitions Committee Chair, and time for committee and delegation business.
- 3.7 As proposed in the Agreement, a Selection Committee was (re)established to select and schedule items of non-government business, including private Members' business.<sup>11</sup>

## The Selection Committee and private Members' business

- 3.8 Standing order 222 prescribes the composition, powers and responsibilities of the Selection Committee.<sup>12</sup> Its three main roles are to:
- schedule committee and delegation business and private Members' business for each sitting Monday in accordance with standing orders 39 to 41;
  - recommend items of private Members' business to be voted on; and
  - 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 standing order 143(b).
- 3.9 The Committee may also determine speaking times for second reading debates on private Members' bills.<sup>13</sup> If a second reading motion is agreed to, further consideration of the bill is accorded priority over other private

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9 This time included up to 10 minutes for the presentation of petitions and Ministerial responses, and time for committee and delegation reports.

10 As in the 42<sup>nd</sup> Parliament, this time includes up to 10 minutes for petitions and time for Committee and delegation business.

11 *Agreement for a Better Parliament: Parliamentary Reform*, Clause 1. Note: The role of the Selection Committee in the 41<sup>st</sup> Parliament and previous parliaments was more limited than its current role. Refer to Chapter 2, p 9 for more information. There was no Selection Committee in the 42<sup>nd</sup> Parliament.

12 Refer to Chapter 2, p 9 for more information.

13 Subject to standing order 1; standing order 222(a)(iv), 20 October 2010.

Members' business and the Committee may determine times for consideration of the remaining stages.<sup>14</sup>

- 3.10 As anticipated, following its establishment the Selection Committee has been refining its practices and procedures. It meets each sitting Tuesday (primarily to schedule committee and delegation and private Members' business for the next sitting Monday) and Wednesday (primarily to consider bills for referral to committees). The Committee reports its determinations and recommendations to the House on Wednesdays and Thursdays. It has adopted general principles to guide its allocation of priorities regarding private Members' business.<sup>15</sup> These include the importance of the subject, the level of interest, and the extent of discussion on the subject in the parliament and elsewhere.

### **Private Members' motions and bills**

- 3.11 Data for the early stages of the 43<sup>rd</sup> Parliament show how the additional time allocated for private Members' business has been used. As at 4 March 2011, Members have lodged 116 items of private Members' business on the Notice Paper (101 motions and 15 private Members' bills).<sup>16</sup>
- 3.12 69 of the 101 private Members' motions were lodged by government Members, 25 by opposition Members and seven by non-aligned Members.
- 3.13 Of the seven private Members' motions lodged by non-aligned members, five were lodged by the Greens Member and two by Independents.
- 3.14 Of the 101 private Members' motions, 59 were debated, comprising 38 from government Members, 19 from opposition Members and two from non-aligned Members. Fifteen were voted on<sup>17</sup>: two from government Members, 12 from opposition Members and one from a non-aligned Member.
- 3.15 Of the 150 Members in the House, 48 contributed to the 101 private Members' motions lodged. Twenty-five Members lodged one motion each and the remaining 76 motions were shared across 23 Members.
- 3.16 In the first sitting period of the previous (42<sup>nd</sup>) parliament, only 10 private Members' motions were debated: five from government Members and five from opposition Members. None were put to a vote.

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14 Parliament of Australia website, viewed on 15 December 2010 at: <http://www.aph.gov.au/house/committee/selc/role.htm>.

15 These were reported to the House on 21 October 2010 and are included at Appendix D.

16 Chamber Research Office statistics.

17 Includes one disallowance motion, HR Deb, 1 March 2011, 1872-1881.

- 3.17 Of the 15 private Members' bills lodged in the 43<sup>rd</sup> Parliament (as at 3 March 2011), 14 were introduced in the House: 5 by non-aligned Members, 7 by shadow Ministers and 2 by the Leader of the Opposition. At 4 March, the Selection Committee had recommended 6 of these be voted on, and 2 others be referred to a House standing committee for further consideration. Of the 6 private Members' bills recommended for voting on, 2 were passed, 3 were negatived and 1 was still before the House. The Committee notes that the bill which was still before the House was discharged on 24 March 2011 after a bill with similar objectives was introduced by the Attorney-General. Both the Attorney-General and the Leader of the Opposition acknowledged the constructive cooperation which had achieved this outcome.<sup>18</sup>
- 3.18 In the first sitting period of the previous (42<sup>nd</sup>) parliament only one private Member's bill was introduced, but did not proceed beyond the first reading. In previous parliaments, private Members' bills were only occasionally debated and even then, usually not voted on. Historically, very few private Members' bills have been passed by the House.<sup>19</sup>

### **Committee comment**

- 3.19 There are mixed views as to whether the extent of the increase in time available to private Members was necessary, and some Members have questioned whether the additional time is being used effectively.
- 3.20 Informal feedback from the non-aligned Members indicated a variety of views and some were strongly in favour of retaining the increased private Members' time.
- 3.21 Feedback from government and opposition Members overwhelmingly indicated that the increase in time allocated to private Members' business was excessive. The issue of the allocation of time is covered in Chapter 5.
- 3.22 There was a perception that, in some cases, motions were proposed to fill the long periods allocated for private Members' business. Yet, some Members were concerned that there were occasionally private Members' motions and bills they wished to speak to, but could not, because there was not sufficient time allocated for that particular item.

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18 HR Deb, 24 March 2011, 3143-5, 3176.

19 From 2000-2009, 9 of the 122 private Members' bills presented were debated at the second reading stage (including a Speaker's bill, debated 16 March 2005), Chamber Research Office statistics. Prior to the 43<sup>rd</sup> Parliament, the last private Member's bill passed by the House was the Adelaide Airport Curfew Bill 1999, read a third time on 28 June 1999.

- 3.23 A number of Members also found that five minutes (often the period of time allocated by the Selection Committee) was not enough time to speak to private Members' items. Therefore, there may be instances where the time allocated for a debate for a particular item and, within that, the speaking times, do not take into account the significance of the topics under discussion.
- 3.24 There may be value in encouraging a reduction in the number of motions that are proposed, thereby enabling a greater number of speakers to debate fewer motions and possibly to speak for longer to them. The Selection Committee's general principles allow for this.<sup>20</sup>
- 3.25 The Selection Committee's principles and broad mandate under standing order 222 would enable it to address these concerns and exercise greater flexibility in the time it allocates to debates on items of private Members' business and to the speaking times it allows.
- 3.26 The Committee notes that the Selection Committee does make some variation in the length of debate but it may be worth considering greater flexibility.

### **Recommendation 1**

- 3.27 **The Committee recommends that the Selection Committee be encouraged to implement the 'General principles relating to the selection of private Members' business' and exercise the flexibility that is available to it pursuant to standing order 222 and the principles, particularly in relation to the length of debates and speaking times allocated.**
- 3.28 The Selection Committee's report of 21 October 2010 recommended that the general principles endorsed by the Selection Committee relating to the selection of private Members' business be adopted by the House.<sup>21</sup>
- 3.29 The standing orders used to provide (prior to 2003) that items of private Members' business be selected in accordance with general principles adopted by the House<sup>22</sup> and the Committee would be pleased if this provision were reinstated. This might assist the Selection Committee in applying the principles.

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20 House Selection Committee, Report No. 3, 21 October 2010 p 6.

21 House Selection Committee, Report No. 3, 21 October 2010 p 6.

22 See, for example, standing order 331(c), 8 October 2001.

## Recommendation 2

- 3.30 **The Committee recommends that the House take up the Selection Committee's recommendation that it consider adopting the 'General principles relating to the selection of private Members' business' (contained in Report No. 3 of the Selection Committee of 21 October 2010).**
- 3.31 The Selection Committee determines which items of private Members' business are to be voted on, but it does not schedule the votes (which are taken in government business time, necessitating an initial suspension of standing orders to enable the inclusion of private Members' business, and placing scheduling responsibility with the Government).<sup>23</sup>
- 3.32 This issue warrants monitoring. One option would be to schedule votes on items of private Members' motions and bills during private Members' business (as was considered during negotiations on the Agreement).<sup>24</sup> Consideration might also be given to listing the items of private Members' business to be voted on in the Notice Paper.<sup>25</sup>
- 3.33 The Committee deals with the overall allocation of time for private Members' business in the context of the emerging issues discussed in Chapter 5.

## Other opportunities for private Members

- 3.34 Additional opportunities for private Members to raise matters of their choice include:
- adjournment and grievance debates;<sup>26</sup>
  - Members' 90 second statements and 3 minute constituency statements;<sup>27</sup> and
  - Matters of Public Importance.<sup>28</sup>

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23 *Agreement for a Better Parliament: Parliamentary Reform*, Clause 6.1.

24 HR Deb, 25 November 2010, 3767.

25 Mr B Wright, Clerk of the House of Representatives, *Submission no. 1*, p 3.

26 See footnote 3 in this chapter for more information.

27 See footnote 4 in this chapter for more information.

28 See footnote 5 in this chapter for more information.

- 3.35 Reforms in the 43<sup>rd</sup> Parliament have included changes to some of these opportunities – discussed below.

### **Adjournment debates**

- 3.36 In a typical sitting week the time for adjournment debates in the House has increased from 2 hours in the 42<sup>nd</sup> Parliament to 3 and a half hours in the 43<sup>rd</sup> Parliament.<sup>29</sup> In the first four-week sitting period of the 42<sup>nd</sup> Parliament there were 17 adjournment debates and 101 speakers, averaging 25.3 speakers per week, compared to the first five-week period of the 43<sup>rd</sup> Parliament when there were 21 adjournment debates and 214 speakers, averaging 42.8 speakers per week.<sup>30</sup>

### **Members' 90 second statements and three minute constituency statements**

- 3.37 In the 43<sup>rd</sup> Parliament, Members' 90 second statements have been moved to the House, taking place on Mondays, Wednesdays and Thursdays, in the 15 minutes before Question Time.<sup>31</sup> A total of 134 statements were made in the first five sitting weeks. Members have made full use of the time.
- 3.38 The move back to the Chamber and the new timeslot expose the issues to a wider audience and provide a dynamic lead-in to Question Time.
- 3.39 Members continue to raise a range of issues during three minute constituency statements in the Main Committee on Mondays, Wednesdays and Thursdays. (The Agreement did not effect a change to this.)

### **Matters of Public Importance**

- 3.40 Discussion on Matters of Public Importance (MPIs) provides opportunities for debate on a topical issue and is usually proposed by a non-government Member. In the previous parliament up to one hour was available for the MPI, following Question Time, presentation of documents, and Ministerial statements, on Tuesdays, Wednesdays and Thursdays. Now, the MPI is discussed following Question Time and the presentation of documents, and the maximum time has been increased to one and a half hours on Tuesdays and Wednesdays (the time on Thursdays remaining in effect unchanged).<sup>32</sup>

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29 The 30 minute adjournment debates on Thursdays in the Main Committee have not changed.

30 Chamber Research Office statistics as at 10 January 2011.

31 Rather than one segment from 6.40-6.55pm in the Main Committee on Mondays.

32 See standing orders 1 and 46, 20 October 2010.



- 3.41 To date in the 43<sup>rd</sup> Parliament 25 MPIs have been discussed.<sup>33</sup> Twenty-four have been proposed by the opposition with roughly equal number of speakers from the government and opposition. So far no MPI has been proposed by a non-aligned Member.<sup>34</sup>
- 3.42 The average time taken for discussion on an MPI in the first sitting period of the 43<sup>rd</sup> Parliament was 1 hour and 8 minutes. For the equivalent period in the 42<sup>nd</sup> Parliament the average time was 52 minutes.

### **The balance between private Members' business and government business and the nature of legislative debate**

- 3.43 The proportion of time spent on private Members' motions and bills in the first sitting period of the 43<sup>rd</sup> Parliament was more than double the equivalent time in the 42<sup>nd</sup> Parliament, increasing from 8% to 17%.
- 3.44 Increased participation of all Members is central to the Agreement, however, it is also vital to operations of the parliament and the government, that adequate time is available to transact the business of government, which for the most part is government legislation. There has been a small decrease in the proportion of time allocated to government business, although data show that the total time spent on government business has increased slightly. During the first five sitting weeks of the 43<sup>rd</sup> Parliament an average of 19 hours and 32 minutes per week was committed in the House and Main Committee to government business and 63 government bills were presented to the House. For the equivalent period in the 42<sup>nd</sup> Parliament, the average time spent on government business in the House and Main Committee was 18 hours and 50 minutes. During the first four sitting weeks of the 42<sup>nd</sup> Parliament 50 government bills were presented to the House.
- 3.45 The passage of legislation is necessarily a time-consuming process and some observers have described debates on legislation as lengthy and uninteresting.<sup>35</sup> The Agreement includes proposals to make debate on legislation more efficient, lively and interactive.<sup>36</sup>
- 3.46 Standing orders have now reduced maximum speaking times on bills for most Members from 20 minutes to 15 minutes.<sup>37</sup> The Selection Committee

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33 As at 24 March 2011.

34 Chamber Research Office statistics, 2011.

35 Standing Committee on Procedure, *Encouraging an interactive Chamber*, December 2006, p 1.

36 *Agreement for a Better Parliament: Parliamentary Reform*, Clause 11.

37 See Clause 11 of the Agreement and (revised) standing order 1 as at 20 October 2010. This reduced time limit does not apply to speeches by the mover, Leader of the Opposition or

may further reduce speaking times to 5 or 10 minutes when many Members wish to speak – although it has not yet done so. A sessional order which allows up to 5 minutes for questions and answers at the end of second reading speeches has been introduced<sup>38</sup> but to date no Member has used it.

## Committee comment

- 3.47 A stated aim of the Agreement is to increase the authority of the parliament – relative to the executive – by increasing opportunities for participation by all Members. Initial indications are that the increased time for private Members' business has provided Members with additional opportunities. An illustration of the effectiveness of the reforms was the first successful passage of a private Member's bill originating in the House since 1999.<sup>39</sup> A second private Member's bill has also been passed by the House and is currently before the Senate.<sup>40</sup>
- 3.48 The question arises as to whether there is adequate time to deal with government business. Although the allocation of time for private Members' business is generous compared to earlier parliaments, initial indications are that this does not appear to have compromised the ability to deal effectively with government business. This may be due to a number of factors, including the increased sitting hours (considered in Chapter 5), and reduced speaking times for debate during the second reading stage of bills. There may be potential for greater efficiencies, particularly if the Selection Committee reduces speaking times when opportunities arise, however, having not observed this in practice, the Committee is not in a position to comment.
- 3.49 With regard to time limits for speeches, the Committee acknowledges the following comments made on 21 October 2010 by the Selection Committee, noting apparent inconsistencies in standing orders:

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Member representing for government bills; or to the mover, Prime Minister or Member representing, or Leader of the Opposition or Member representing for private Members' bills.

38 See sessional order 142A, 20 October 2010.

39 Mr Wilkie's private Member's bill, the Evidence Amendment (Journalists' Privilege) Bill 2010, was passed by the House on 28 October 2010 and passed (with amendments) by the Senate on 3 March 2011. The last occasion that a private Member's bill initiated in the House was passed by the House was on 28 June 1999 (*Adelaide Airport Curfew Bill 1999*).

40 Mr Hartsuyker's bill, the Environment Protection and Biodiversity Conservation (Public Health and Safety) Amendment Bill 2010, was passed by the House on 10 February 2011 and as at 24 March 2011 was before the Senate.

The [Selection] Committee reports that, in setting times for the second reading and debate on the two private Members' bills, the committee was constrained, by standing order 222 (a) (iv) and standing order 1, from setting speaking times of 10 minutes per speaker for all speakers on the bill, including the mover and the Member representing the Prime Minister. The committee notes, however, that, under standing order 222 (c), the committee may determine the times allotted for each member speaking in private Members' business debates.

The [Selection] Committee suggests that the Procedure Committee, in monitoring and reviewing the procedural reforms implemented for the 43rd Parliament, consider proposing amendment of the standing orders to enable the Selection Committee the flexibility to set lesser speaking times for the mover of the second reading and the lead speaker for the Government or the Opposition, for private Members' bills.<sup>41</sup>

- 3.50 This is discussed in more detail in Chapter 5 which considers early observations on the need to fine-tune standing orders to address anomalies and to enhance the implementation of reforms to better meet the objectives of the Agreement.
- 3.51 While there is scope for greater efficiencies, based on initial observations, the Committee is cautiously optimistic that reduced speaking times and increased opportunities for committee scrutiny of bills (discussed further in Chapter 4) have improved the House's capacity to effectively manage the legislative process. However, the Committee is less optimistic about the changes intended to encourage more interactive debate. No Members have yet relied on sessional order 142A and asked questions at the end of second reading speeches. The Committee encourages Members to take up this opportunity to enliven debate.

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41 Selection Committee, Report No. 3, pp 4-5.

