

## Ministerial statements – further options paper

### *Background*

Ministerial statements are the traditional way of announcing significant government policy developments, or of communicating matters of ministerial responsibility to the Houses. The system of ministerial representation that operates in the Commonwealth Parliament ensures that there is an appropriate means for such statements to be made and/or tabled in both Houses.<sup>1</sup>

Debates on ministerial statements can be among the more significant policy debates that take place in a House.

Traditionally, ministerial statements are made by leave, consistent with the principle that a House determines its own business. Debate on any such statement is also by leave, consistent with the same principle. As noted in the earlier discussion paper, the executive government has no unfettered right to impose its business on the Senate except in accordance with the routine of business, or a specific decision of the Senate or the granting of leave.

However, a distinction is drawn between ministerial statements made orally and those which are tabled as documents. Because of their responsibilities in relation to public affairs, the standing orders of many jurisdictions (including the Senate) recognise a right for ministers to table documents.

### *Practice in other jurisdictions*

In some Houses, the routine of business includes a place for ministerial statements to be made, although this is no guarantee that statements will be made at that time.

#### – House of Representatives

The routine of business is established by a chart attached to standing order 34 which shows a place for ministerial statements to be made after question time and the MPI. Such statements are made *by leave*. A new standing order agreed to in March 2015 provides as follows:

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When the House has granted a Minister leave to make a ministerial statement, the House shall be deemed to have granted leave for the Leader of the

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<sup>1</sup> A principle that is not always observed. See Attachment 1 for a survey of 1-7-2014 to present and Attachment 2 for 2012.

Opposition, or Member representing, to speak in response to the statement for an equal amount of time.

– ACT Legislative Assembly

Recently amended practice in the ACT legislative Assembly is for ministerial statements to be presented without leave at one of two opportunities specified in the routine of business (morning and afternoon), but a statement may be made without leave only if the Speaker has been notified two hours in advance and copies have been circulated to all members. After the statement is made, the minister tables a copy and moves a motion to take note of the paper. Debate occurs in accordance with the normal rules of debate (15 minutes for the first government, opposition and cross-bench member, 10 minutes for all other members).

The relevant parts of the standing order are as follows:

74. The Assembly shall proceed each day with its ordinary business in the following routine:

Prayer or reflection  
Presentation of petitions  
**Ministerial statements**  
Notices and orders of the day  
Questions without notice  
Presentation of papers  
**Ministerial statements**  
Matter of public importance  
Notices and orders of the day:

...

provided further that, in relation to ministerial statements, copies shall be provided to the Speaker for circulation to all Members two hours prior to the time at which the statement is proposed to be made; and that Ministers shall table a copy of the statement and move that the paper be noted.

*(Adopted 27 November 2012. Amended 4 June 2015)*

– UK House of Commons

Complex rules and conventions govern the presentation and debate of ministerial statements in the UK House of Commons, key features of which are:

- ministerial statements are made after questions, but preferably not on Opposition days
- prior notice must be given to the Speaker but neither his/her permission nor leave of the House is required
- notice is given where practicable by informal means (notice boards) or by notice of intention to make an oral statement included in the Order Paper

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- copies are made available to members and the press as soon as the minister sits down (Speaker's ruling)
  - advance copies are provided to the Opposition spokespeople as a matter of courtesy
  - questions arising from the statement are allowed by the Speaker and ministerial replies given
  - alternatively, as a result of the adoption of suggestions by the Modernisation Committee, around an hour is set aside for such statements on Tuesday-Thursday with set times for contributors (no more than 10 minutes for the minister making the statement, followed by 5 minutes for the official opposition reply and 3 minutes for the second largest opposition party spokesperson).

Much remains in the discretion of the Speaker, including whether ministerial statements may be made at other times of the day.

#### *Current Senate Practice*

Ministerial statements have not been formally recognised in the standing orders as an element of the routine of business at any time in the Senate's history. However, they have been – and continue to be – informally recognised on the Order of Business or Senate "Red" where they appear every afternoon before business proper resumes. Before recent changes were adopted, ministerial statements (by leave) appeared in the same bracket as tabling of documents by the President, ministers, committees and the Clerk. Under the new arrangements, all documents are handed in at the beginning of the day on Monday-Wednesday while committee reports also have a dedicated slot on Tuesday-Thursday.

Note that under current arrangements, there is nothing to prevent ministerial statements from being tabled with the handed-in documents and some have been. This means that senators have a right to speak to them later in the day. If, on the other hand, ministerial statements are presented in their traditional slot, any response – whether it is a statement or a motion to take note – can only be done by leave.

In considering options for a clear and definite procedure for the presentation and debate of ministerial statements, a threshold issue is whether all ministerial statements are the same. Some may be considered routine and may be dealt with appropriately under the new procedures for presentation and debate of documents. Those statements considered by senators to be of greater significance could be dealt with outside that framework, either by the traditional method or in accordance with a specific rule.

The key elements in the different jurisdictions examined are as follows:

- notice given to the Presiding Officer, whether formally or informally

- an assumption that the opportunity to respond is a necessary part of the process.

The key difference is whether ministers require leave to make statements, a difference that is largely determined by differences in culture and which is of little practical impact because of the right of ministers to table documents if denied leave to make an oral statement.

On the issue of notice, informal practices that have prevailed in the past include the release of information about forthcoming statements so that they may be included on the Red, and the provision of advance notice (and possibly advance copies) to opposition spokespeople and cross-benchers. On the other hand, this information is sometimes embargoed and there is a related caution about preserving a minister's opportunity to present a statement to his or her House without being pre-empted by its presentation in the other, meaning that statements are often presented to the Houses on different days. A bicameral system means that the simplicity of the ACT Legislative Assembly's formal requirement for prior circulation of ministerial statements to all members could not be effectively codified for the Commonwealth Houses, each of which has complete autonomy to control its own business.

### *Suggestions*

1. Ministerial statements continue to be included as an item on the Red for those occasions when there is a desire to debate a significant statement.
2. The practice of presenting routine ministerial statements with documents handed in at the commencement of sittings continue, consistent with recent attempts to streamline presentation and consideration of documents.
3. Governments be encouraged to present ministerial statements to both Houses unless the statement concerns an issue of relevance to one House only
4. Governments be encouraged to provide information about forthcoming ministerial statements in time for consideration by the Whips meeting (for consultation on whether a statement should be presented separately at the designated place on the Red).
5. Governments be encouraged to notify Opposition spokespeople and cross-benchers in advance of particular ministerial statements.
6. Create a right for senators to move a motion to take note of a ministerial statement without notice.

In relation to suggestion (6), if a minister is given leave to make an oral statement, or if a minister tables a statement at the designated place on the Red, an amendment to standing order 169 could allow a motion to be moved without notice to take note of

the statement (including by the minister him- or herself). Such an amendment could take the following form:

- (3) If a ministerial statement is presented to or tabled in the Senate, it shall be in order for a senator to move a motion without notice to take note of the statement. On any such motion, a senator may speak for not more than 10 minutes and paragraph (2) applies to the total time limit for individual or successive motions.

*[paragraph (2) would have the effect of placing a 30 minute time limit on the debate on one statement and a 60 minute time limit on debate on two or more statements presented consecutively]*

Clerk's Office

October 2015

## Attachment A

## Ministerial statements presented to Parliament since 1 July 2014

| Both houses  | Tabled Senate | Tabled HoR |
|--|---------------|------------|
| National Security  | 22.9.14       | 22.9.14    |
| G20-OECD tax and transparency  | 22.9.14       | 4.9.14     |
| Investment   | 24.9.14       | 23.9.14    |
| Malaysia Airlines Flight MH17  | 1.10.14       | 30.9.14    |
| Spring repeal day  | 28.10.14      | 22.10.14   |
| Infrastructure   | 30.10.14      | 30.10.14   |
| First Protocol to Amend the Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area (Nay Pyi Taw, 26 August 2014) | 25.11.14      | 24.11.14   |
| The Australian Government's response to the Aviation Safety Regulation Review report   | 3.12.14       | 3.12.14    |
| Our achievements in schools and cross-border education   | 9.2.15        | 4.12.14    |
| Closing the Gap  | 11.2.15       | 11.2.15    |
| Capability through diversity   | 2.3.15        | 2.3.15     |
| A compact between the generations: The 2015 intergenerational report   | 5.3.15        | 5.3.15     |
| Murray-Darling Basin Plan  | 26.3.15       | 26.3.15    |
| Partnership for regional growth 2015-16 (part of the Budget package)   | 12.5.15       | 12.5.15    |
| Centenary of Anzac and Anzac Day 2015  | 13.5.15       | 14.5.15    |
| China-Australia Free Trade Agreement   | 17.6.15       | 17.6.15    |
| Science and innovation: Building Australia's industries of the future  | 19.8.15       | 17.8.15    |
| 2015 review of the Export Market Development Grants (EMDG) scheme  | 19.8.15       | 20.8.15    |
| Senate ONLY  | Tabled Senate |            |
| Australian National Action Plan on Women, Peace and Security 2012-18   | 15.7.14       |            |
| Launch of the Second Action Plan of the National Plan to Reduce Violence against Women and their Children 2010 to 2022           | 16.7.14       |            |
| Iraq   | 1.9.14        |            |
| Military service   | 28.10.14      |            |
| Afghanistan and Iraq   | 3.12.14       |            |
| 59th session of the United Nations Commission on the Status of Women   | 14.5.15       |            |
| Centenary of Anzac and Anzac Day 2015 Revised  | 10.8.15       |            |
| House of Representatives ONLY  |               | Tabled HoR |
| Japan-Australia Economic Partnership Agreement   |               | 15.7.14    |
| Australia-India Nuclear Cooperation Agreement  |               | 28.10.14   |
| Progress on road safety  |               | 2.12.14    |
| Delivering prosperity and growth for Australia   |               | 4.12.14    |
| Iraq and Afghanistan and operations in the Middle East   |               | 26.2.15    |
| Autumn repeal day 2015   |               | 18.3.15    |
| Mental health in the Australian Defence Force  |               | 24.3.15    |
| Offer of repatriation—Terendak Cemetery  |               | 25.5.15    |

## Attachment B

## Ministerial statements presented to Parliament in 2012

| Both houses  | Tabled Senate        | Tabled HoR        |
|--|----------------------|-------------------|
| Afghanistan, dated 24 November 2011  | 7.2.12               | (21.11.11)        |
| Murray-Darling Basin reform  | 7.2.12               | (21.11.11)        |
| The Government's response to people trafficking  | 7.2.12               | (21.11.11)        |
| The implementation of an effective aid program for Australia   | 7.2.12               | (23.11.11)        |
| Recent events in Papua New Guinea  | 8.2.12               | 7.2.12            |
| The situation in Syria   | 8.2.12               | 7.2.12            |
| Livestock trade to the Middle East   | 9.2.12               | 13.2.12           |
| Defence authority security vetting   | 9.2.12               | 8.2.12            |
| Afghanistan, dated 9 February 2012   | 27.2.12              | 9.2.12            |
| HMAS Success Commission of Inquiry   | 27.2.12              | 9.2.12            |
| The global economy   | 27.2.12              | 9.2.12            |
| Closing the gap  | 27.2.12              | 15.2.12           |
| The situation in Syria and Iran  | 27.2.12              | 15.2.12           |
| Workplace deaths   | 19.3.12              | 14.3.12           |
| International Women's Day 2012   | 19.3.12              | 14.3.12           |
| Helping the world's poor (part of the Budget package)  | 9.5.12               | 8.5.12            |
| Continuing our efforts to close the gap (part of the Budget package)   | 9.5.12               | 8.5.12            |
| Securing a clean energy future (part of the Budget package)  | 9.5.12               | 8.5.12            |
| Stronger regions, stronger nation (part of the Budget package)   | 9.5.12               | 8.5.12            |
| Afghanistan, dated 10 May 2012   | 18.6.12              | 10.5.12           |
| Afghanistan, dated 24 May 2012   | 18.6.12              | 24.5.12           |
| Government response to the review of military compensation arrangements  | 18.6.12              | 23.5.12           |
| 20th Anniversary of the Mabo native title decision   | 18.6.12              | 31.5.12           |
| The global economy   | 19.6.12              | 18.6.12           |
| Homelessness   | 21.6.12              | 20.6.12           |
| Retirement of the Inspector of Transport Security and tabling of the offshore oil and gas resources sector security inquiry report | 26.6.12              | 25.6.12           |
| National Road Safety Strategy  | 28.6.12              | 27.6.12           |
| Asbestos management review   | 20.8.12              | 16.8.12           |
| Afghanistan, dated 16 August 2012  | 20.8.12              | 16.8.12           |
| Government affordability assistance brings record child care growth  | 12.9.12              | 11.9.12           |
| Progress towards a National Disability Insurance Scheme  | 12.9.12              | 11.9.12           |
| Future of workers' penalty rates and public holidays   | 19.9.12              | 18.9.12           |
| Investment in nuclear medicine and treatment   | 19.9.12              | 20.9.12           |
| A viable future for Australia's pulp and paper industry  | 30.10.12             | 29.10.12          |
| Afghanistan: Progress in transition, preparation for the future  | 31.10.12             | 31.10.12          |
| Tender outcomes of the Disability Employment Services  | 31.10.12             | 30.10.12          |
| Government's response to people trafficking  | 27.11.12             | 26.11.12          |
| Apology to people subjected to sexual or other forms of abuse in Defence   | 27.11.12             | 26.11.12          |
| <b>Senate ONLY</b>   | <b>Tabled Senate</b> |                   |
| Australia Network  | 7.2.12               |                   |
| Queensland floods: Update on current emergency events  | 7.2.12               |                   |
| Status of Queensland floods reconstruction   | 7.2.12               |                   |
| <b>House of Representatives ONLY</b>   |                      | <b>Tabled HoR</b> |
| Hastie Group   |                      | 30.5.12           |