

The Senate

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Procedure Committee

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Restructuring the committee system

First report of 2006

August 2006

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## MEMBERS OF THE COMMITTEE

Senator the Hon P Calvert  
President of the Senate

Senator J Hogg  
Deputy President and Chair of Committees, **Chair**

Senator the Hon N Minchin  
Leader of the Government in the Senate

Senator C Evans  
Leader of the Opposition in the Senate

Senator A Bartlett

Senator the Hon H Coonan

Senator A Eggleston

Senator the Hon J Faulkner

Senator A Ferguson

Senator the Hon R Ray



**FIRST REPORT OF 2006**  
**RESTRUCTURING THE COMMITTEE SYSTEM**

The committee reports to the Senate on the proposed alterations to the committee system.

On 22 June 2006 the Senate referred the following matter to the Procedure Committee for inquiry and report by 10 August 2006:

Proposals to alter the structure of the Senate committee system, announced by the Leader of the Government on 20 June 2006.

The Procedure Committee has considered the proposals, announced in a joint press release by the Leader and Deputy Leader of the Government in the Senate on 20 June 2006, to combine the functions of legislation and references committees under single legislative and general purpose standing committees, chaired by government senators. In particular, the committee has considered the number of committees, the workload distribution and portfolio allocation, the size and composition of committees and membership arrangements.

The Leader and Deputy Leader of the Government in the Senate had proposed that legislation and references committees be amalgamated, into legislative and general purpose committees, and that ten such committees be established.

The committee has confined its consideration of the proposals to an examination of the practicability of the new structure and the amendments to standing orders required to give it effect. On this basis, the committee's report is supported by all members. However, Opposition and Australian Democrat members of the committee indicated that their participation in this inquiry should not be taken as support for the restructuring of the committee system with which they strongly disagreed in principle. Having considered the mechanics of the restructure, the committee leaves it to the Senate to determine its merits.

The required amendments to the standing and other orders to give effect to the restructure are shown in Appendix A. The restructure is based on the following principles:

**(1) NUMBER OF COMMITTEES**

The number of legislative and general purpose standing committees, established under standing order 25, will be reduced from sixteen to eight by combining the functions of the legislation and references committees. At this stage, no change is proposed to the existing allocation of portfolios or to the subject areas covered by the present system of eight paired committees. Consequently, no changes are required to the individual designations of the committees as currently provided in standing order 25(1). The new committees will be known in each case as the "Senate Standing Committee on [designated subject]".

## **(2) FUNCTIONS OF COMMITTEES**

The new committees will inherit all of the functions currently performed by the corresponding predecessor legislation and references committees under paragraphs (a) and (b) of standing order 25(2).

## **(3) TRANSITIONAL ARRANGEMENTS**

The new committees will take over all matters being considered by the corresponding predecessor legislation and references committees and not disposed of by the commencement date, with the same terms of reference and reporting dates.

## **(4) CHAIRS OF COMMITTEES**

Each of the new committees will be required to elect as its chair a member appointed to the committee on the nomination of the Leader of the Government in the Senate.

## **(5) DEPUTY CHAIRS**

Six of the new committees will elect as deputy chair a member appointed to the committee on the nomination of the Leader of the Opposition in the Senate. The remaining two deputy chairs will be members nominated by minority groups. The allocation of deputy chairs will be worked out on the same basis that chairs of references committees are allocated under the existing system.

## **(6) COMPOSITION OF COMMITTEES**

Each committee will comprise eight members as follows: four nominated by the Leader of the Government in the Senate, three nominated by the Leader of the Opposition in the Senate and one nominated by minority groups and independent senators.

Existing categories of participating and substitute members will continue.

## **(7) QUORUMS**

No changes to the existing quorum provisions in standing order 29 are proposed.

## **(8) REMUNERATION OF DEPUTY CHAIRS**

The committee noted the Government's intention to make a submission to the Remuneration Tribunal on allowances for deputy chairs of committees, but did not otherwise consider this matter.

## **(9) CHAIRS' COMMITTEE**

It is proposed that the Chairs' Committee established under standing order 25(11) include the deputy chairs of committees in order to preserve the existing consultative role of this committee.

#### **(10) COMMENCEMENT DATE**

The committee proposes 11 September 2006 as the date of commencement. This will provide time for parties to determine nominations for membership of the restructured committees and for the Department of the Senate to implement any changes to committee support arrangements.

#### **(11) CONSEQUENTIAL AMENDMENTS**

The standing orders use the term “legislation committees” in several places. Proposed amendments to the standing orders shown in Appendix A include consequential amendments to replace the term “legislation committees” with the generic “legislative and general purpose standing committees” where appropriate.

#### **SUBSTITUTE MEMBERS OF COMMITTEES – PROPOSED TEMPORARY ORDER**

In connection with its consideration of alterations to the committee system, the Procedure Committee considered the need for more flexible arrangements for appointing substitute members to committees.

The committee recommends that the following operate as a temporary order with effect from 11 September 2006 till the first sitting day in 2007:

If a member of a committee appointed under standing order 25 is unable to attend a meeting of the committee, that member may in writing to the chair of the committee appoint a participating member to act as a substitute member of the committee at that meeting. If the member is incapacitated or unavailable, a letter to the chair of a committee appointing a participating member to act as a substitute member of the committee may be signed on behalf of the member by the leader of the party or group on whose nomination the member was appointed to the committee.

The committee proposes to keep this matter under review.

John Hogg  
Deputy President  
Chair





## APPENDIX A

### PROPOSED AMENDMENT OF STANDING ORDERS AND OTHER ORDERS OF THE SENATE

(text to be deleted is shown ~~thus~~; new text is shown *thus*)

#### **25 Legislative and general purpose**

- (1) At the commencement of each Parliament, legislative and general purpose standing committees shall be appointed, as follows:

Community Affairs

~~References Committee~~

~~Legislation Committee~~

Economics

~~References Committee~~

~~Legislation Committee~~

Employment, Workplace Relations and Education

~~References Committee~~

~~Legislation Committee~~

Environment, Communications, Information Technology and the Arts

~~References Committee~~

~~Legislation Committee~~

Finance and Public Administration

~~References Committee~~

~~Legislation Committee~~

Foreign Affairs, Defence and Trade

~~References Committee~~

~~Legislation Committee~~

Legal and Constitutional

~~References Committee~~

~~Legislation Committee~~

Rural and Regional Affairs and Transport

~~References Committee~~

~~Legislation Committee.~~

- ~~(2) (a) The references committees shall inquire into and report upon matters referred to them by the Senate, other than the matters to be referred to the legislation committees.~~

- ~~(b) The legislation committees shall inquire into and report upon estimates of expenditure referred to them in accordance with standing order 26, any bills or draft bills referred to them, annual reports in accordance with a reference of such reports to them, and the performance of departments and agencies allocated to them.~~
- (2) *The committees shall inquire into and report upon:*
- (a) *matters referred to them by the Senate, including estimates of expenditure in accordance with standing order 26, bills or draft bills, annual reports in accordance with paragraph (20); and*
- (b) *the performance of departments and agencies allocated to them.*
- (3) References concerning departments and agencies shall be allocated to the committees in accordance with a resolution of the Senate allocating departments and agencies to the committees.
- (4) The committees shall inquire into and report upon matters referred to their predecessor committees appointed under this standing order and not disposed of by those committees, ~~in accordance with the allocation of matters in paragraph (2),~~ and in considering those matters may consider the evidence and records of those committees relating to those matters.
- (5) (a) The ~~reference~~ committees shall consist of ~~6~~ 8 senators, ~~2~~ 4 nominated by the Leader of the Government in the Senate, 3 nominated by the Leader of the Opposition in the Senate and one nominated by minority groups and independent senators.
- ~~(b) The legislation committees shall consist of 6 senators, 3 nominated by the Leader of the Government in the Senate, 2 nominated by the Leader of the Opposition in the Senate and one nominated by minority groups and independent senators.~~
- (6) (a) The committees to which minority groups and independent senators make nominations shall be determined by agreement between the minority groups and independent senators, and, in the absence of agreement duly notified to the President, any question of the representation on a committee shall be determined by the Senate.
- (b) The allocation of places on the committees amongst minority groups and independent senators shall be as nearly as practicable proportional to the numbers of those minority groups and independent senators in the Senate.
- (7) (a) Senators may be appointed to the committees as substitutes for members of the committees in respect of particular matters before the committees.
- (b) On the nominations of the Leader of the Government in the Senate, the Leader of the Opposition in the Senate and minority groups and independent senators, participating members may be appointed to the committees.
- (c) Participating members may participate in hearings of evidence and deliberations of the committees, and have all the rights of members of committees, but may not vote on any questions before the committees.

- (d) A participating member shall be taken to be a member of a committee for the purpose of forming a quorum of the committee if a majority of members of the committee is not present.
- (8) A committee may appoint sub-committees consisting of 3 or more of its members, and refer to any such sub-committee any of the matters which the committee is empowered to consider.
- ~~(9) The references committee and the legislation committee for each subject area may meet together by decision of each committee to confer on any matter referred to either committee and to coordinate their work where necessary.~~
- ~~(10)~~ (e a) Each ~~legislation~~ committee shall elect as its chair a member nominated by the Leader of the Government in the Senate.
- (a-b) Each of 6 ~~references~~ committees shall elect as its *deputy* chair a member nominated by the Leader of the Opposition in the Senate, and each of 2 ~~references~~ committees shall elect as its *deputy* chair a member of the largest *a* minority group in the Senate.
- ~~(b c)~~ The *deputy* chairs to which members nominated by the Leader of the Opposition in the Senate and members of the largest minority group are elected shall be determined by agreement between the opposition and the largest minority ~~group~~ *groups*, and, in the absence of agreement duly notified to the President, any question of the allocation of *deputy* chairs shall be determined by the Senate.
- (d) Each committee shall elect one of its members as its deputy chair and the member so elected shall act as the chair of the committee when the member elected as chair is absent from a meeting of the committee or the position of chair is temporarily vacant.
- ~~(e) Where the chair of a committee is a member nominated by the Leader of the Government in the Senate, the deputy chair shall be a member nominated by the Leader of the Opposition in the Senate or minority groups and independent senators, and where the chair is a member nominated by the Leader of the Opposition in the Senate or minority groups and independent senators, the deputy chair shall be a member nominated by the Leader of the Government in the Senate.~~
- (f e) When votes on a question before a committee are equally divided, the chair, or the deputy chair when acting as chair, shall have a casting vote.
- (g f) The chair, or the deputy chair when acting as chair, may appoint another member of a committee to act as chair during the temporary absence of both the chair and deputy chair at a meeting of the committee.
- ~~(11)~~ The chairs *and deputy chairs* of the committees, together with the chairs *and deputy chairs* of any select committees appointed by the Senate, shall constitute the Chairs' Committee, which may meet with the Deputy President in the chair, and may consider and report to the Senate on any matter relating to the operations of the committees.

~~(1211)~~ Except as otherwise provided by the standing orders, the reference of a matter to a committee shall be on motion after notice, and such notice of motion may be given:

- (a) in the usual manner when notices are given; or
- (b) at any other time by a senator:
  - (i) stating its terms to the Senate, when no other business is before the chair, or
  - (ii) delivering a copy to the Clerk, who shall report it to the Senate at the first opportunity;

and shall be placed on the Notice Paper for the next sitting day as business of the Senate and, as such, shall take precedence of government and general business set down for that day.

~~(1312)~~ Matters referred to the committees should relate to subjects which can be dealt with expeditiously.

~~(1413)~~ A committee shall take care not to inquire into any matters which are being examined by a select committee of the Senate appointed to inquire into such matters and any question arising in this connection may be referred to the Senate for determination.

~~(1514)~~ A committee and any sub-committee shall have power to send for persons and documents, to move from place to place, and to meet and transact business in public or private session and notwithstanding any prorogation of the Parliament or dissolution of the House of Representatives.

~~(1615)~~ All documents received by a committee during an inquiry shall remain in the custody of the Senate after the completion of that inquiry.

~~(1716)~~ A committee shall be empowered to print from day to day any of its documents and evidence. A daily Hansard shall be published of public proceedings of a committee.

~~(1817)~~ A committee shall be provided with all necessary staff, facilities and resources and shall be empowered to appoint persons with specialist knowledge for the purposes of the committee, with the approval of the President.

~~(1918)~~ A committee may report from time to time its proceedings and evidence taken and any recommendations, and shall make regular reports on the progress of its proceedings.

~~(2019)~~ A committee may authorise the broadcasting of its public hearings, under such rules as the Senate provides.

~~(2120)~~ Annual reports of departments and agencies shall stand referred to the ~~legislation~~ committees in accordance with an allocation of departments and agencies in a resolution of the Senate. Each committee shall:

- (a) Examine each annual report referred to it and report to the Senate whether the report is apparently satisfactory.
- (b) Consider in more detail, and report to the Senate on, each annual report which is not apparently satisfactory, and on the other annual reports which it selects for more detailed consideration.
- (c) Investigate and report to the Senate on any lateness in the presentation of annual reports.
- (d) In considering an annual report, take into account any relevant remarks about the report made in debate in the Senate.
- (e) If the committee so determines, consider annual reports of departments and budget-related agencies in conjunction with examination of estimates.
- (f) Report on annual reports tabled by 31 October each year by the tenth sitting day of the following year, and on annual reports tabled by 30 April each year by the tenth sitting day after 30 June of that year.
- (g) Draw to the attention of the Senate any significant matters relating to the operations and performance of the bodies furnishing the annual reports.
- (h) Report to the Senate each year whether there are any bodies which do not present annual reports to the Senate and which should present such reports.

## **26 Estimates**

- (1) Annual and additional estimates, contained in the documents presenting the particulars of proposed expenditure and additional expenditure, shall be referred to the ~~legislation~~ *legislative and general purpose standing* committees for examination and report.
- (2) The committees shall hear evidence on the estimates in public session.
- (3) Not more than 4 committees shall hear evidence on the estimates simultaneously.
- (4) When a committee hears evidence on the estimates, the chair shall, without motion, call on items of expenditure in the order decided upon and declare the proposed expenditure open for examination.
- (5) The committees may ask for explanations from ministers in the Senate, or officers, relating to the items of proposed expenditure.
- (6) The report of a committee on the estimates may propose the further consideration of any items.
- (7) A Hansard report of the committees' hearings of evidence on the estimates shall be circulated, in a manner similar to the daily Senate Hansards, as soon as practicable after each day's proceedings.

- (8) Participating membership of ~~legislation~~ committees shall not have effect in respect of proceedings on estimates, other than the formation of a quorum, but any senator may attend a meeting of a ~~legislation~~ committee in relation to estimates, question witnesses and participate in the deliberations of the committee at such a meeting and add a reservation to a report relating to estimates.
- (9) After a committee has considered proposed expenditure referred to it by the Senate and agreed to its report to the Senate, the committee shall fix:
  - (a) a day for the submission to the committee of any written answers or additional information relating to the proposed expenditure; and
  - (b) in respect of the annual estimates only, a day for the commencement of supplementary meetings of the committee to consider matters relating to the proposed expenditure.

The day fixed under subparagraph (9)(b) shall be not less than 10 days after the day fixed under subparagraph (9)(a).

- (10) A senator may lodge with a committee, not less than 3 working days before the day fixed under subparagraph (9)(b), notice of matters, relating to the written answers or additional information, or otherwise relating to the proposed expenditure referred to the committee, which the senator wishes to raise at the supplementary meetings of the committee. A notice shall be forwarded by the committee to the minister in the Senate responsible for the matters to which the notice relates.
- (11) A committee may determine at any time the number and duration of any supplementary meetings.
- (12) At a supplementary meeting, questions may be put to ministers or officers relating to matters of which notice has been given, and the proceedings of the committee shall be confined to those matters, but the committee shall otherwise conduct the proceedings in accordance with this standing order.
- (13) A committee may report to the Senate any recommendation for further action by the Senate arising from the committee's supplementary meetings.
- (14) Written questions relating to the estimates may be supplied to the secretaries of the committees, who shall distribute them to the relevant departments and to members of the committees. Answers shall be supplied to, and circulated by, the secretaries.

## **74 Questions on notice**

- (1) Notice of a question shall be given by a senator signing and delivering it to the Clerk, fairly written, printed, or typed. Notice may be given by one senator on behalf of another.
- (2) The Clerk shall place notices of questions on the Notice Paper in the order in which they are received.

- (3) The reply to a question on notice shall be given by delivering it to the Clerk, a copy shall be supplied to the senator who asked the question, the publication of the reply is then authorised, and the question and reply shall be printed in Hansard.
- (4) A senator who has received a copy of a reply pursuant to this standing order may, by leave, immediately after questions without notice, ask the question and have the reply read in the Senate.
- (5) If a minister does not answer a question on notice asked by a senator within 30 days of the asking of that question, or if a question taken on notice during a hearing of a ~~legislation~~ **legislative and general purpose standing** committee considering estimates remains unanswered 30 days after the day set for answering the question, and a minister does not, within that period, provide to the senator who asked the question an explanation satisfactory to that senator of why an answer has not yet been provided:
  - (a) at the conclusion of question time on any day after that period, the senator may ask the relevant minister for such an explanation; and
  - (b) the senator may, at the conclusion of the explanation, move without notice – That the Senate take note of the explanation; or
  - (c) in the event that the minister does not provide an explanation, the senator may, without notice, move a motion with regard to the minister’s failure to provide either an answer or an explanation.

## **115 Committal**

- (1) After the second reading, a bill shall be considered in a committee of the whole immediately, unless:
  - (a) the bill is referred to a standing or select committee; or
  - (b) no senator has:
    - (i) circulated in the Senate a proposed amendment or request for amendment of the bill, or
    - (ii) required in debate or by notification to the chair that the bill be considered in committee of the whole.
- (2) After a bill has been read a second time a motion may be moved:
  - (a) without notice for referring the bill to a committee;
  - (b) on notice for an instruction to the committee of the whole.
- (3) The further consideration of a bill referred to a standing or select committee shall be an order of the day for:
  - (a) where a day is fixed for the report of the committee, that day; or

- (b) where no day is fixed for the report of the committee, the sitting day next occurring after the day on which the committee reports on the bill.
- (4) (a) Where proposed expenditure has been considered and reported on by a ~~legislation~~ **legislative and general purpose standing** committee, an appropriation bill authorising that proposed expenditure shall not be considered in committee of the whole, unless, prior to the further consideration of the bill subsequent to the second reading, a senator has circulated in the Senate a proposed amendment or request for amendment of the bill.
- (b) Where an appropriation bill is considered in committee of the whole in accordance with this paragraph:
- (i) the only questions put by the chair shall be:
    - (A) that any amendment or request for amendment moved to the bill be agreed to, and
    - (B) that the bill be reported with any amendment or request for amendment agreed to by the committee; and
  - (ii) debate shall be confined to the purpose of any amendment or request for amendment moved to the bill.
- (c) At any stage of the consideration of an appropriation bill, other than in committee of the whole, an amendment, other than an amendment or a request for an amendment to the bill, arising from a recommendation of a ~~legislation~~ **legislative and general purpose standing** committee, may be moved to the question before the chair.
- (5) When the order of the day relating to a bill which is the subject of a committee report pursuant to standing order 24A is called on, the following procedures shall apply:
- (a) A motion may be moved without notice that the report of the committee be adopted (if the committee has recommended amendments to the bill, this motion shall have the effect of amending the bill accordingly, but may not be moved if other proposed amendments to the bill have been circulated in the Senate by a senator).
  - (b) If a motion under subparagraph (a) is moved, following the disposal of that motion a motion may be moved by a minister, or, in respect of a bill introduced into either House of the Parliament other than by a minister, by the senator in charge of the bill, that consideration of the bill be an order of the day for a future day, or that the bill not be further proceeded with.
  - (c) If no motion under subparagraph (a) or (b) is agreed to, a motion may be moved without notice that the bill again be referred to the committee for reconsideration, provided that such motion:
    - (i) indicates the matters which the committee is to reconsider, and
    - (ii) fixes the day for the further report of the committee,



and if such motion is agreed to the bill shall stand referred to the committee, and the further consideration of the bill shall be an order of the day for the day fixed for the further report of the committee.

- (d) If no motion under subparagraph (b) or (c) is agreed to, consideration of the bill shall be resumed at the stage at which it was referred to the committee, provided that, if the consideration of the bill in committee of the whole has been concluded and the committee has recommended amendments to the bill or requests for amendments, the bill shall again be considered in committee of the whole.
- (6) On a motion on notice and a motion under this standing order to refer a bill to a committee, and on an amendment for that purpose to a question in respect of any stage in the passage of a bill after its second reading, a senator shall not speak for more than 5 minutes, and at the expiration of 30 minutes, if the debate be not sooner concluded, the President shall put the question on the motion and any amendments before the chair, but if a senator wishes to move a further amendment at that time, that amendment may be moved and shall be determined without debate.

## PROCEDURAL ORDERS OF CONTINUING EFFECT

### Legislation

#### **6 Reference of Tax Expenditures Statement to legislation committees considering estimates**

The annual Tax Expenditures Statement stands referred to ~~legislation~~ *legislative and general purpose standing* committees for consideration by the committees during their examination of the estimates of government expenditure under standing order 26.

### Parliamentary secretaries

#### **19 Powers**

- (1) Any senator appointed a parliamentary secretary under the *Ministers of State Act 1952* may exercise the powers and perform the functions conferred upon ministers by the procedures of the Senate, but may not be asked or answer questions which may be put to ministers under standing order 72(1) or represent a Senate minister in relation to that minister's responsibilities before a ~~legislation~~ *legislative and general purpose standing* committee considering estimates.
- (2) This order is of continuing effect.

## BROADCASTING OF SENATE AND COMMITTEE PROCEEDINGS

#### **3 Broadcasting of proceedings of legislation committees when considering estimates**

The public proceedings of ~~legislation~~ *legislative and general purpose standing* committees when considering estimates may be relayed within Parliament House and broadcast by radio and television stations in accordance with the conditions contained in paragraphs (4) and (5) of the order of the Senate relating to the broadcasting of committee proceedings, and in accordance with any further conditions, not inconsistent with the conditions contained in those paragraphs, determined by a committee in relation to the proceedings of that committee.