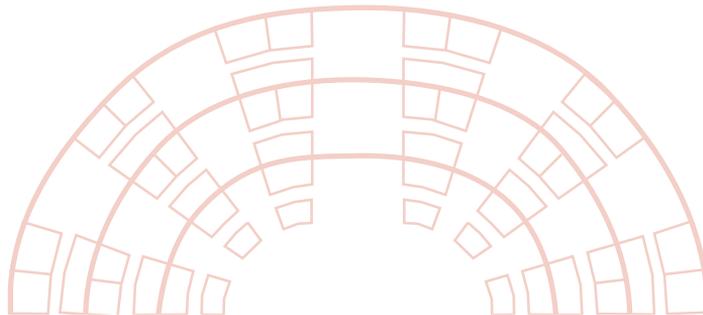
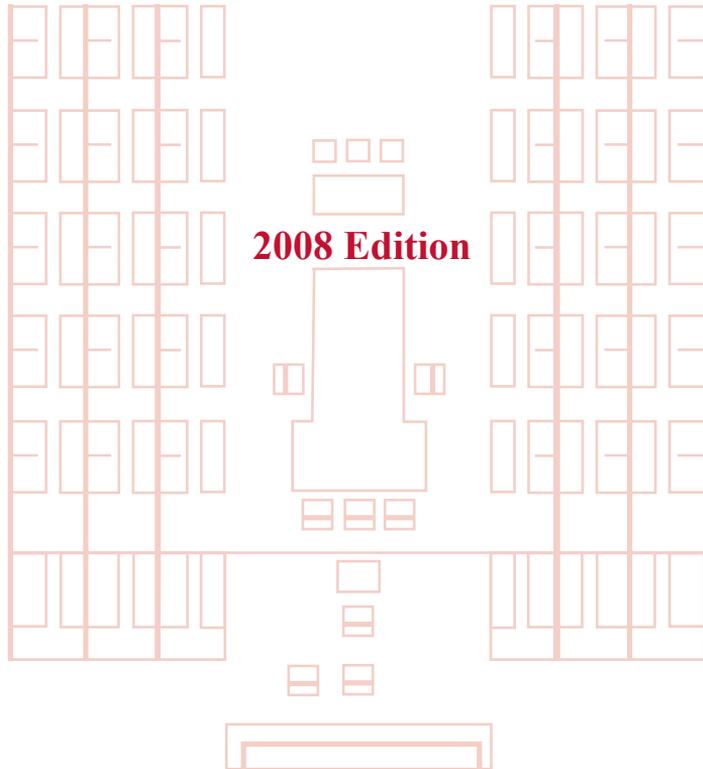




AUSTRALIAN SENATE



# Senators' Guide to Procedures



2008 Edition



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2008 edition

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## 1. Introduction

This guide aims to provide senators with an introduction to the procedures they are most likely to use in the Senate. It briefly sets out the most frequently used procedures and refers to those standing and other orders which are relevant. Forms of motions applicable to the various procedures are included where applicable. More detailed information may be found in *Odgers' Australian Senate Practice*, 11th edition and supplements, and, in relation to selected topics, in the *Pocket Guide to Senate Procedure* (also published on the internet as *Brief Guides to Senate Procedure* at [www.aph.gov.au/Senate/pubs/guides/index.htm](http://www.aph.gov.au/Senate/pubs/guides/index.htm)).

## 2. Notices of Motion

Decisions of the Senate begin as motions moved by senators. The first step in moving a motion is to give notice of it. Except as otherwise provided by the standing orders, a motion may not be moved except after notice (see section 3). This requirement may be overcome only by leave (unanimous consent of senators present), or by the suspension of standing orders, which if moved without notice requires an absolute majority of all senators. [SO 79, 209]

Notice of a motion is given either orally at the time specified in the daily routine of business and delivering a signed copy to the table, or by delivering the signed notice to the table not later than the time for giving notices on each sitting day. The second is now the more commonly used method. Notices to be lodged by this method may also be delivered to the Clerk Assistant (Table), located in the Table Sub-office (Programming) at the rear of the chamber on the government side (Room SG.105). [SO 76(1)]

A notice of motion for a reference to a legislative and general purpose standing committee may be given when no other business is before the chair, or may be delivered to the table (or to Room SG.105) at any time during the course of a sitting day. [SO 25(11)]

A notice may be given in general terms provided that its precise terms are delivered to the table (or Room SG.105) at least the day before the day for which it is given. A notice does not have effect for the day on which it is given. Two or more notices may not be given consecutively by a senator if any other senator wishes to give a notice. [SO 76(6), (9) and (10)]

A senator may alter a notice of motion given in the senator's name prior to the day for which it is given, or alter the day for bringing it on. A pro forma letter for either action (known as a standing order 77 letter) may be found on the Senate website at <http://www.aph.gov.au/Senate/work/index.htm#senators>. The letter should be delivered to Room SG.105 by not later than the adjournment on the day preceding the day for which the notice was given. [SO 77(1) and (2)]

With one exception, a notice of motion or a proposed amendment may be withdrawn by the proposer at any time before it is called on or moved. Once a motion has been moved it is in the possession of the Senate and may be withdrawn only by leave. A senator wishing to withdraw a notice of motion for the disallowance of an instrument which is by statute subject to disallowance by the Senate must give notice of intention to withdraw it, thereby providing an opportunity for other senators to transfer such notices of motion to their names. [SO 77(3), 78, 83, 91(3)]

A contingent notice of motion may be given so that a motion to suspend standing orders may be moved contingent upon some other procedure occurring. This is

particularly useful in overcoming any difficulties with leave or absolute majorities. As with other notices, it does not have effect for the day on which it is given.

A motion or amendment may not anticipate an order of the day or another motion of which notice has been given, unless the new notice is a more effective method of proceeding. A motion not moved when it is called on lapses. [SO 83, 85]

A notice of motion must be legible, signed by the senator and show the day proposed for moving the motion. It must consist of a clear and succinct proposed resolution or order relating to matters within the competence of the Senate and shall not contain statements, quotations or other matter not strictly necessary to make it intelligible. [SO 76(1) and (7), but see SO 76 generally]

A notice usually takes the following general form:

I give notice that, on the next day of sitting [or on a specified number of sitting days after today, or on a nominated date], I shall move:

That [for example]

- the following bill be introduced: A bill for an Act to ...
- the time for presentation of the report of the ... Committee on ... be extended to ...
- the ... Regulations, made under the ... Act ... be disallowed
- the ... Committee be authorised to meet during the sitting of the Senate on ... between ... and ... for the purpose of holding a public hearing for its inquiry into ...
- the following matter be referred to the ... Committee for inquiry and report by ...
- in the opinion of the Senate ...
- the Senate notes/condemns/congratulates/deplores etc. ...

### 3. Motions not requiring notice

Notice is not required for the following motions:

- for the adjournment of the Senate, when moved by or on behalf of a minister [SO 53(2)]
- connected with the conduct of the business of the Senate, when moved by a minister [SO 56]
- for taking note of a document presented by a minister under standing order 61, an answer by a minister to a question without notice or a report of a committee tabled on Wednesdays or Thursdays under standing order 62(4)
- for a petition not to be received [SO 69(3)]
- for a bill to proceed without formalities (that is, to skip the requirement in the standing orders for different stages to occur on different days) and for bills to be taken together on their introduction [SO 113(2)]
- for the adoption of a report of the Selection of Bills Committee, or of a standing or select committee report on certain bills [SO 24A(4), 115(5)]
- for the reference of a bill to a committee after the second reading [SO 115(2)]
- for the reconsideration of certain bills by a standing or select committee [SO 115(5)]
- for the consideration of a bill as an urgent bill, and subsequent motions, when moved by a minister [SO 142(1) and (2)]
- for the chair of the committee of the whole to report progress and ask leave to sit again (this motion must not be repeated within 15 minutes of its being moved) [SO 144(6), 148(2)]
- for a message to be sent to the House of Representatives communicating a resolution of the Senate [SO 154]
- for a document quoted by a senator to be laid upon the table [SO 168(3)]
- for the printing or consideration on another day of a document which has been presented [SO 169(1)]
- for the extension of time for a senator to speak, in general debate [SO 189(1)]

- for dissent from a ruling of the President, and that the question of dissent requires immediate determination [SO 198]
- for the closure of a debate (in committee of the whole, this must not be repeated within 15 minutes of its having been moved) [SO 144(6), 199(1)]
- for the adjournment of a debate [SO 201(1)]
- in cases of urgent necessity, for the suspension of standing or other orders. [SO 209(1)]

## 4. Formal Business

On the day for which it is given, or to which it has been postponed, a notice of motion may be resolved ahead of other business, but without debate, by being taken as formal business. This procedure is particularly useful for general business items which may not otherwise be reached in the order of business.

Provided that no senator objects, the notice is taken as formal by means of the following procedure:

President: "I shall now proceed to the discovery of Formal Business. Are there any formal motions?"

Senator: "Mr President, I ask that general business notice of motion no. 234, relating to ..., be taken as a formal motion"

President: "Is there any objection to this motion being taken as formal? There being no objection, I call Senator ..... to move the motion"

Senator: "I move the motion standing in my name"

President: "The question is that the motion be agreed to"

Any senator may object to a motion being taken as formal, which results in its remaining on the Notice Paper for later debate. [SO 66]

## 5. Routine of Business and Postponement of Business

Standing Order 57 provides for the order of business to be followed on each sitting day of the week. For details, see **Appendix B**.

Ministers or parliamentary secretaries may at any time without notice move any motion connected with the conduct of the business of the Senate, for example, to vary the routine of business for the day. They may also arrange the notices of motion and orders of the day under Government Business on the Notice Paper as they think fit. [SO 56, 65]

A senator who wishes to postpone consideration of a notice or order of the day of which the senator has charge must, before the time for postponement of business, deliver to the Clerk written notification of the postponement. A pro forma may be found on the Senate website at <http://www.aph.gov.au/Senate/work/index.htm#senators> and should be lodged in Room SG.105 (see section 2). When the President calls on placing of business, the Clerk reports accordingly. Any other postponement motion may be moved only by leave, except for a minister who is able to postpone business by motion under standing order 56. [SO 67]

Motions may be moved or postponed by any other senator at the request of the senator in charge of it. [SO 97(3)]

Senators, other than ministers or parliamentary secretaries, may not move motions to rearrange the order of business except by leave, by the suspension of standing orders, or pursuant to contingent notice (see section 2 above).

## 6. Government and General Business

Government Business is business introduced on behalf of the government by ministers and parliamentary secretaries. Most business introduced by other senators is General Business.

Government Business takes precedence over General Business except on Thursdays, when a time is provided in the routine of business for General Business, subject to a time limit of 2½ hours. On alternate Thursdays, General Business orders of the day take precedence over General Business notices of motion, although in practice matters for General Business are determined by arrangement and an appropriate motion is moved by a minister or parliamentary secretary. [SO 59]

## 7. Precedence of Certain Business

Certain business, whether introduced by ministers or other senators, is given special precedence.

A motion relating to a matter of privilege, where the President has determined that the motion should be given precedence of other business, takes precedence of all other business on the day for which the notice is given. A matter of privilege arising during the proceedings of the Senate also has precedence over all other business until determined. [SO 81, 197(3)]

Business of the Senate, which takes precedence over all Government and General Business for the day on which it is set down, consists of motions for leave of absence to senators, motions concerning the qualification of senators, motions for the disallowance of instruments which are subject to disallowance by the Senate, orders of the day for the presentation of reports from committees, and motions to refer matters to standing committees. [SO 25(11), 58]

A motion for the consideration or adoption of a report of a committee, and any relevant government statement, takes precedence over other General Business. A time of not more than 1 hour is provided on Thursdays for the consideration of orders of the day relating to committee reports, debate at that time being subject to a speaking time limit of 10 minutes. A senator who speaks during that time does not forfeit the right to speak if the orders of the day are called on in the normal routine of business, but this happens only rarely. [SO 60, 62]

## 8. Leave of the Senate

A senator may seek leave of the Senate to do what would not otherwise be in order. Normally leave is sought to make a statement or to move a motion of which notice would otherwise be required. Any senator may refuse leave. In practice, requests for leave are generally negotiated between senators prior to the request for leave being made in the chamber. Some routine matters are invariably dealt with in motions moved by leave (including committee memberships and leave of absence for senators). [SO 88, 190]

Leave is usually sought in the following terms:

I seek leave to [for example]

- move a motion relating to ...
- move a motion to postpone general business notice of motion no. ...
- make a statement/personal explanation
- table a document (*for senators who are not ministers*)
- move amendments (x) to (y) together (*in committee of the whole on bills*).

## 9. Bills

### (i) INTRODUCTION AND ADJOURNMENT

The standing orders provide both for the major stages of bills to be considered on different days, and for a simplified and faster procedure, subject to agreement by the Senate. The second method is now used in all cases. A Senate bill is introduced after a motion on notice specifying the bill's long title is agreed to, and motions are then moved together to take the bill to the second reading stage. If any senator so requires, these motions are put separately. Debate on the motion for the second reading is usually adjourned after the speech of the senator who moves that motion. A bill transmitted from the House of Representatives is reported by the President, and the same motions are then moved to take the bill to the second reading stage as for Senate bills.

Standard motions for the introduction of a Senate bill are as follows:

I move – That the following bill be introduced: A Bill for an Act to amend the Social Security Act 1997 to ..., and for related purposes

*(when motion agreed to)*

I present the bill and move that it may proceed without formalities and be now read a first time

*(when motion agreed to and Clerk has read the long title)*

**[for non-ministers]** I move – That the bill be now read a second time and I seek leave to table an explanatory memorandum, to have my second reading speech incorporated in Hansard, and to continue my remarks *(when leave is granted, debate continues on another day; mover has the right to speak when debate resumes)*

OR

**[for ministers]** I table the explanatory memorandum and move that this bill be now read a second time. I seek leave to have the second reading speech incorporated in Hansard

*(when leave granted)*

I move that the debate be now adjourned *(when motion agreed to, debate continues on another day unless the minister moves that the resumption of debate be an order of the day for*

*a later hour of the day)*

When bills are received from the House of Representatives the President reports the receipt of the messages transmitting the bills and standard motions are moved by ministers in the following terms:

These bills are being introduced together. After debate on the motion for the second reading has been adjourned, I shall move a motion to have the bills listed separately on the Notice Paper.

I move — That these bills may proceed without formalities, may be taken together, and be now read a first time.

*(when motion agreed to and Clerk has read short titles)*

I move — That these bills be now read a second time and I seek leave to have the second reading speeches incorporated in Hansard.

*(when leave granted)*

I move — That the debate be now adjourned.

*(when agreed to)*

I move — That the resumption of the debate be an order of the day for a later hour. *(if applicable)*

*(when agreed to)*

I move — That the bills be listed on the Notice Paper as separate orders of the day. *(if applicable)*

In order to be dealt with in a period of sittings ***(defined as a period during which the Senate adjourns for not more than 20 days)***:

- a government bill must be introduced into either House in the previous sittings; and
- a bill introduced into the House of Representatives in the previous sittings must be received by the Senate in the first two-thirds of the current sittings.

Bills may be exempted from the operation of the order only after a motion, moved after notice or by leave, is agreed to. The general rule is modified in respect of bills introduced following a general election and bills received by the Senate a second time in the circumstances described in section 57 of the Constitution. [SO 111-113]

**(ii) FIRST READING OF NON-AMENDABLE BILLS**

Bills which the Senate may not amend are sometimes described as “money bills”, although this term is also loosely extended to include all financial bills, many of which can be amended by the Senate. Where a bill is one which the Senate may not amend, such as a bill imposing a tax or a bill appropriating money for the ordinary annual services of government, the motion for its first reading may be debated and matters not relevant to the subject matter of the bill may be discussed. This is an opportunity for senators to raise matters without a specific motion concerning such matters. The procedure is used only rarely because of the many opportunities to speak on matters of public interest, the address-in-reply, and adjournment debates under Standing Orders 3, 53(4) and 57(2). [SO 112(2)]

**(iii) SECOND READING AMENDMENTS**

Amendments may be moved to the motion for the second reading of a bill, but must be relevant to the subject matter of the bill. [SO 114]

Examples include amendments to:

- express an opinion about the bill or the government's handling of the related policy issues (the most common type of second reading amendment)
- reverse the effect of the motion so that the bill is defeated at that point
- refer the bill to a committee
- delay further consideration of the bill.

A senator who has circulated a second reading amendment moves it during the course of their second reading speech, unless there is already a second reading amendment before the chair. In this case, the senator should foreshadow that they will be moving a second reading amendment, and move it when the question on the earlier amendment has been determined. For speaking rights, see section 11 (ix).

To move an amendment, the following form of words is standard:

I move the second reading amendment circulated in my name  
[or, where the senator wants to read out the amendment – I  
move the following amendment to the second reading of the  
bill: At the end of the motion, add "but the Senate is of the  
opinion ..."]

**(iv) REFERENCE OF BILLS TO COMMITTEES**

Bills may be referred to committees by any of the following means:

- on motion without notice for the adoption of a report of the Selection of Bills Committee [SO 24A(4)]
- by an amendment to the motion for the second reading [SO 114(3)]
- on motion without notice after a bill has been read a second time [SO 115 (2)]
- on motion after notice [SO 25(11)]
- by an amendment to the motion for the adoption of a report from committee of the whole.

The first method is the most common. A pro forma for submission of a referral proposal to the Selection of Bills Committee via one of its members may be found on the Senate website at <http://www.aph.gov.au/Senate/work/index.htm#senators>.

#### **(v) REQUESTS IN RESPECT OF NON-AMENDABLE BILLS**

Where a bill is one which the Senate may not amend, requests for amendments of the bill may be made to the House of Representatives at various stages of the consideration of the bill. Where the Senate makes such requests (usually in committee of the whole), the third reading of the bill does not take place until those requests have been finally dealt with. The House of Representatives does not consider any Senate amendments to a bill until any requests to that bill have been finally determined and the bill read a third time. [SO 129, 140]

Under a continuing order of the Senate, requests must be accompanied by a statement of reasons for their being framed as requests and a statement from the Clerk on whether the amendments would be regarded as requests under the precedents of the Senate. [Order C1]

#### **(vi) PROCEEDINGS SUBSEQUENT TO SECOND READING**

After a bill has been read a second time, the Senate resolves itself into a committee of the whole, unless the bill has been referred to a standing or select committee. Additionally, if no senator has circulated amendments or requested that the bill be considered in committee of the whole, there is no committee stage and the chair calls the minister (or the senator in charge of the bill) to move the motion for the third reading immediately. If a bill is considered in committee of the whole, it is taken clause by clause or may, by leave, be taken as a whole. The second method is now invariably used. During committee of the whole proceedings reports from standing and select committees may also be considered and adopted. Particular clauses may be debated and amendments or requests for

amendments moved in respect of them. Where multiple sets of amendments have been circulated, a running sheet is usually prepared to assist proceedings. The running sheet sets out a suggested order and groupings for dealing with the circulated amendments. At the conclusion of the committee stage, the Chair of Committees reports the bill, with or without amendments or requests for amendments, and it is normal for the third reading then to be moved unless there are requests. [SO 115-125]

Annual appropriation bills which have been considered in estimates hearings of committees are not considered in committee of the whole unless specific amendments or requests have been circulated not later than completion of the second reading of the bills. [SO 115(4)]

Typical procedures associated with these stages are as follows:

- **For ministers moving multiple government amendments/requests**

I table a supplementary explanatory memorandum relating to the government amendments [and/or requests] to be moved to this bill. The memorandum was circulated in the chamber on [date]. I now seek leave to move Government amendments [and/or requests] (x) to (y) together.

*(when leave granted)* I move amendments [and/or requests] (x) to (y) circulated by the government.

- **For non-government senators moving multiple amendments/requests**

I seek leave to move Opposition [etc.] amendments [and/or requests] (a) to (z) together.

*(when leave granted)* I move amendments [and/or requests] (a) to (z) circulated in my name/by the Opposition etc.

**[Note that leave is not required to move one amendment or request at a time]**

- **Where a clause, item, Schedule, Division etc. is to be opposed**

The Chair puts the question in the form: "That the clause/item/Schedule/Division etc. stand as printed"

Vote "No" to delete it from the bill; vote "Yes" to retain it in the bill.

**[Note that these are dealt with separately from "normal" textual amendments because the questions to be determined are different]**

- **To report progress and continue later/tomorrow etc**

I move – That the committee report progress and have leave to sit again

*(if motion agreed to and progress reported)*

I move – That the committee have leave to sit again on the next day of sitting [or at a later hour today]

- **For ministers\*, when the Chairman has reported to the Senate on completion of proceedings on the bill in committee of the whole**

I move – That the report of the committee be adopted

*(when motion agreed to)*

I move – That the bill be now read a third time

*(may be debated, when agreed to Clerk reads the bill title)*

**[Note that the third reading is not moved at this point if requests have been agreed to]**

- **For ministers\*, immediately after the second reading, if no committee stage is required**

I move – That the bill be now read a third time

*(may be debated, when agreed to Clerk reads the bill title).*

\* or the senator in charge of a private senator's bill.

#### **(vii) AMENDMENTS MADE BY ONE HOUSE**

Special procedures apply to Senate bills which the House of Representatives has amended and to House of Representatives bills where that House disagrees with amendments made by the Senate. Usually such bills are again considered in committee of the whole, and motions are prepared within the Table Office to give effect to the procedural requirements in each case. [SO 126, 127, 132, 133, 134]

#### **(viii) URGENT BILLS (THE "GUILLOTINE")**

At any stage of the consideration of a bill a minister may declare the bill an urgent bill, and may move that the bill be considered an urgent bill. This motion must be put without debate. If the motion is agreed to, a minister may then move a motion or motions specifying time limits for the stages of the bill. Time limits may be specified for particular stages of the consideration of the bill, or for particular clauses of the bill in committee, or may apply to all remaining stages. The motion specifying the time limits may not be debated for more than one hour and a senator may not speak to it for more than 10 minutes. When the times specified in such a motion, if it is carried, have expired, the appropriate questions for concluding the proceedings on the bill must be put by the chair without further debate. These motions may be moved in respect of more than one bill at the same time. [SO 142]

Non-government senators usually have a series of contingent notices for the suspension of standing orders to enable them to attempt to defeat the various restrictions on speaking and speaking times in the procedures for urgent bills.

## 10. Amendments

Except as otherwise provided in the standing orders, a relevant amendment may be moved to any motion before the Senate. Amendments may seek to insert or add words to a motion, to leave out words, or to leave out words in order to insert or add words. The mover of a motion or a senator who has spoken to it may not move an amendment, except by leave. A senator may not move more than one amendment to a motion (except by leave). After an amendment is moved, a senator who has already spoken to the motion may speak again to the amendment. Once moved, an amendment may be withdrawn only by leave. [SO 90, 188]

The following rules apply in relation to amendments:

- an amendment may not be moved if it is the same in substance as one already determined [SO 92]
- an amendment may not be moved if it would merely reverse one already made [SO 92]
- an amendment must be disposed of before another amendment to the original question can be moved, although the proposed amendment may be foreshadowed, and is moved and put immediately after the first amendment is disposed of [SO 91]
- amendments may be proposed to a proposed amendment [SO 93]
- when a question has been amended it is then put as amended. [SO 91]

For matters not subject to amendment, see the list in section 11(xii).

## 11. Debate

### (i) THE CALL

A senator seeks the call of the chair to speak in debate by rising and saying "Mr or Madam President".\* When two or more senators rise to seek the call of the chair to speak, the call is given to the senator who in the opinion of the chair first rose. In exercising this discretion, the chair has regard to the special responsibilities of ministers and non-government party leaders, and the practice of alternating the call between each side of the Senate. In practice, the chair is also guided by a consolidated speakers' list normally provided by the government whip's office.

See *Odgers' Australian Senate Practice*, 11th edition, pages 190-91, for an account of the practices of the Senate with respect to the allocation of the call.

\* Forms of address to the chair are as follows:

- *in the Senate*

Mr or Madam President or Deputy President or Acting Deputy President (*if one of the Temporary Chairs of Committees is in the chair*)

- *in committee of the whole*

Mr or Madam Chair (*in all cases*)

### (ii) UNPARLIAMENTARY LANGUAGE

Senators may be called to order by the chair for language which the chair regards as unparliamentary. The standing orders protect from disrespect or offensive words each House of the Parliament and certain persons and classes of persons, including the Sovereign, the Governor-General, Governors of States, members of the Parliament and of State and Territory Parliaments, and the judiciary. [SO 193]

The use of objectionable words and the refusal to withdraw them may be reported by the President to the Senate, and treated as disorder (see section 22).

(iii) **TIME LIMITS ON SPEECHES**

The time limits applying at present to speeches by senators are shown in **Appendix A**. The main time limits are:

- generally: 20 minutes, but this time may be extended by motion by not more than 10 minutes [SO 189(1)]
- in reply: 20 minutes only [SO 189(2)]
- motions to take note of government documents: 5 minutes [SO 61(3)]
- motions to take note of committee reports or documents presented by the President: 10 minutes [SO 62(1), (4)]
- in committee of the whole: 15 minutes on each occasion; if a senator has spoken for 15 minutes and no other senator rises that senator may speak for a further 15 minutes. [SO 189(3)]

Special time limits apply to certain debates, for example, on the first reading of a bill which the Senate may not amend, urgency motions and matters of public importance, debates on Government documents, Selection of Bills and other committee reports, debate on a proposal to adjourn the Senate and motions for suspension of standing or other orders of the Senate. Time limits also apply to the asking and answering of questions without notice. See **Appendix A**.

(iv) **IN COMMITTEE OF THE WHOLE**

In committee of the whole a senator may speak more than once to the same question (and see (iii) above). [SO 144(5), 188(2)]

(v) **ADJOURNEMENT OF DEBATE**

A motion may be moved to adjourn a debate. Such a motion may not be debated. An alternative method of adjourning a debate is for a senator who is speaking to seek leave to continue the senator's remarks at a later time. A senator who has leave to continue the senator's remarks or on whose motion a debate was adjourned is entitled to speak first when the debate is resumed, but is not obliged to exercise this right. [SO 201]

The following forms are used:

- *At the conclusion of the senator's own speech*

I seek leave to continue my remarks.

- *At the conclusion of another senator's speech*

I move: That the debate be now adjourned.

When a debate is adjourned it is necessary for the time to which it is adjourned to be fixed by the Senate. Resumption of the debate is automatically an order of the day for the next day of sitting unless another time is fixed by motion (most commonly moved by ministers under SO 56). This latter motion may be debated or amended.

I move: That resumption of the debate be an order of the day for a later hour.

A senator other than a minister may not move for the adjournment of a debate more than once, or if the senator has spoken in it. [SO 201]

#### (vi) PERSONAL EXPLANATIONS AND EXPLANATIONS OF SPEECHES

There are two ways in which a senator may make an explanation. By leave a senator may explain matters of a personal nature. [SO 190] A senator who has spoken in a debate may without leave explain a part of the senator's speech which has been misquoted or misunderstood, usually at the conclusion of the speech of the senator who has allegedly misquoted or misunderstood, provided that the explanation does not interrupt a senator who is speaking, or introduce any new or debatable matter. [SO 191] These two different types of explanations may not be debated.

#### (vii) INTERRUPTION OF SENATOR SPEAKING

A senator who has the call from the chair and is speaking may not be interrupted except upon a point of order or privilege suddenly arising or by attention being drawn to the lack of a quorum. The time taken in raising points of order or calling quorums is not taken to be part of the time allotted to the senator speaking, or to the debate, which is extended accordingly, except in the case of 40-minute adjournment debates. [SO 52, 197]

In practice interjections are generally tolerated unless the chair considers them excessive or disorderly or the speaker seeks the protection of the chair.

#### (viii) REPLY

A senator who has moved a substantive motion which may be debated may speak in reply after all other speakers, and the reply closes the debate. There is no right of reply in respect of an amendment, or certain procedural motions such as motions to suspend standing orders. [SO 188(1), 192]

**(ix) WHEN AN AMENDMENT IS MOVED**

A senator who has spoken to a motion before an amendment is moved may speak again to the amendment. If a senator speaks after an amendment has been moved, the senator is taken to have spoken to the amendment and the motion unless the senator clearly confines the remarks to the amendment, in which case the senator may speak later to the motion. [SO 188(1)]

**(x) RELEVANCE AND ANTICIPATION**

Senators' speeches must be relevant to the subject matter of the question under discussion, and must not anticipate other matters on the Notice Paper. The rule against anticipation is interpreted liberally. Specifically, the rule does not apply to the address-in-reply debate, nor where matters have been on the Notice Paper and not debated for 4 weeks or more. [SO 194]

**(xi) READING OF SPEECHES**

The standing orders contain an absolute prohibition of the reading of speeches. In practice, this rule is relaxed for ministers making second reading speeches on bills, and where senators wish to refer to intricate or technical matters in debate. The chair has ruled that copious notes may be referred to by senators in debate. [SO 187]

**(xii) MATTERS NOT SUBJECT TO DEBATE**

The following may not be debated:

- formal motions [SO 66(3)]
- motions for the postponement of business of which a senator has charge [SO 67]
- motions for the first reading of bills, except bills which the Senate may not amend [SO 112(1)]
- the motion that the question be now put (the closure) [SO 199(1)]
- the motion that the chair report progress and ask leave for the committee of the whole to sit again [SO 144(6)]

- personal explanations and explanations of speeches [SO 190, 191]
- a committee report upon its presentation, unless tabled on Wednesdays or Thursdays under standing order 62(3) [SO 39(1)]
- the motion that an objection to a ruling by the chair requires immediate determination [SO 198(2)]
- the motion that a debate be adjourned [SO 201(2)]
- the motion that a senator be suspended from the sitting of the Senate [SO 203(3)]
- a motion for an extension of time for a senator to speak [SO 189(1)]
- a motion that a bill be considered an urgent bill [SO 142(1)]
- a motion that the business of the day be called on, moved during discussion of a matter of public importance or urgency motion. [SO 75(6)]

Motions which may not be debated may not be the subject of amendment.

## 12. URGENCY MOTIONS AND MATTERS OF PUBLIC IMPORTANCE

A senator may, by writing handed in to the President no later than 12.30pm on a sitting day, propose that on that day a matter of public importance be discussed or that a motion be moved that a matter is a matter of urgency. Pro formas for both options may be found on the Senate website at <http://www.aph.gov.au/Senate/work/index.htm#senators>. Although the proposal is addressed to the President, it should be lodged in Room SG.105 (see section 2) no earlier than 8.30am on a sitting day. If two or more proposals are received, the first one to be lodged is reported. If they are received at the same time, a ballot is held to determine which proposal will be debated. Provided that the matter of urgency or of public importance is in order, and it is supported by four other senators, it is debated in the afternoon. Each senator participating in the discussion or debate, including the mover of an urgency motion in reply, may speak for 10 minutes. The time limit for discussion or debate is one hour or, if no motions to take note of answers to questions have been moved, 90 minutes. An urgency motion may not be amended. [SO 75]

### 13. Presentation and consideration of documents

The President, and ministers and parliamentary secretaries when performing their executive functions, may present documents to the Senate as of right, but other senators may not do so without leave except when presenting a report from a committee or other document ordered by the Senate to be presented. When a senator has quoted a document in debate it is in order at the conclusion of the senator's speech for a motion to be moved that the document be tabled. In respect of a document presented, it is in order to move that it be printed and that it be considered on a future day. Documents presented to the Senate are public. [SO 63, 166, 167, 168, 169]

Documents presented by ministers on Tuesdays and Wednesdays pursuant to standing order 61 may be discussed at 6.50pm on each of those days by means of motions moved without notice to take note of such documents. Debate is subject to a speaking time limit of 5 minutes and a total time limit of 30 minutes. Documents presented on Monday may be considered on Tuesday after documents presented that day while any documents not reached on Tuesday may be considered on Wednesday after documents presented that day.

Adjourned debate on any of these motions is an order of the day for not later than 6.00pm on General Business Thursdays, and any government documents not considered are automatically listed for that time on Thursdays. Debate is subject to a speaking time limit of 5 minutes and a total time limit of up to one hour, and motions may be moved to take note of documents presented during the week and not previously debated. All such orders of the day remain for consideration until disposed of. Senators who have spoken under these provisions may speak again on the same document at the time of General Business, or if an order of the day relating to that document is called upon in the normal routine of business. [SO 61]

- *to speak to a document on Tuesday or Wednesday at 6.50 pm*

I move: That the Senate take note of the document (continue speaking – 5 minute limit)

- *to keep the document on the Notice Paper (having spoken to it)*

I seek leave to continue my remarks

- *to keep the document on the Notice Paper (not having spoken to it)*

I move: That the debate be adjourned

- *to preserve the opportunity to speak later, when no other senators are interested in the document now*

I move: That the Senate take note of the document, and seek leave to continue my remarks.

## 14. Petitions

A senator who wishes to present a petition lodges it with the Clerk (in practice, by lodging it in the boxes at the front counter of the Table Office (Room SG.25)), who makes an announcement at the appropriate time in the routine of business. Petitions signed online or electronically may be lodged if the senator certifies that they have been posted and signed with the text available to the signatories. Every petition is deemed to have been received by the Senate unless a motion, moved immediately, that a petition be not received, is agreed to. All petitions must bear the Clerk's certificate that they are in conformity with the standing orders, which apply a number of restrictions to petitions. If they are not so certified, they may be presented with the approval of the President if the President is satisfied that exceptional circumstances warrant their presentation. [SO 69]

Information about presenting petitions may be found on the Senate website at <http://www.aph.gov.au/Senate/work/index.htm#senators>.

## 15. Questions seeking information

Senators may ask questions orally without notice or place questions on notice.

At the time provided in the order of business (2pm each day) for oral questions without notice, questions may be put to ministers relating to public affairs, provided that they refer to matters for which ministers have responsibility. Questions may be put to other senators relating to business on the Notice Paper of which such senators have charge, or to chairs of committees relating to the activities of committees, subject to certain restrictions. In answering questions, senators may not debate the subject matter. By established practice question time is concluded by a minister asking that further questions be placed on notice. At the conclusion of question time each day, motions may be moved without notice to take note of answers given by ministers on that day. Each senator may speak for 5 minutes, and the time for debate is 30 minutes. [SO 72]

Notice of questions is given by delivering a copy of the questions to the table (in practice, these may be lodged in the boxes at the front counter of the Table Office (Room SG.25)). A pro forma for questions on notice may be found on the Senate website at <http://www.aph.gov.au/Senate/work/index.htm#senators>. Questions of which notice is given are normally answered by provision of a copy of the reply to the senator concerned and its incorporation in Hansard, but there is provision for the question and reply to be read in the Senate by leave. [SO 74]

Questions may not anticipate discussion upon an order of the day or other matter which appears on the Notice Paper. The President may direct that the language of a question be changed if it is not in conformity with the standing orders. [SO 73]

Answers must be relevant to questions. If a minister does not answer a question on notice within 30 days, and does not give a satisfactory explanation for the delay in responding, the relevant senator may take action without notice at the conclusion of question time on any subsequent day. [SO 74(5)]

## 16. Adjournment of the Senate

A minister or parliamentary secretary may move the adjournment of the Senate at any time. More usually the adjournment is proposed by the President at the time provided by the order of business on each sitting day. When a proposal for the adjournment of the Senate is debated, matters not relevant to the question may be discussed. The chair has ruled, however, that it is not in order during an adjournment debate to revive matters already debated, or to anticipate a matter on the Notice Paper (and see para. 11(x) above). Senators may speak for 10 minutes, and the time limit for the whole debate is 40 minutes, except on Tuesdays when no time limit is imposed. When the President proposes the question, on completion of the debate the President adjourns the Senate without putting the question. [SO 53, 54]

## 17. The Closure

A motion may be moved, but not so as to interrupt the senator speaking, that the question be now put. Such motions must be put without debate or amendment, and if carried the question before the Senate must then be put without further debate. The closure motion may not be moved by a senator, other than a minister or parliamentary secretary, who has spoken in the debate in the Senate but may be moved in committee of the whole provided that it is not within 15 minutes of its having been moved previously. [SO 144(6), 199]

The form of words for the closure is:

I move: That the question be now put.

## 18. The same question

No motion or amendment may be proposed which is the same in substance as one already resolved by the Senate during the same session, but this does not apply to matters resolved more than six months previously. The prohibition is also modified in respect of bills and disallowance motions. [SO 86]

## 19. Putting the question and calling a division

The chair may divide a complicated question if each part of the question can stand alone, and normally does so at the request of any senator. If, however, a request is made for any purpose other than protecting the right of a senator to vote differently on the component questions, the chair may refuse to divide the question. The chair must divide questions for the expedited introduction of a bill or bills if requested by any senator. A question may also be divided by leave. [SO 84, 113(3)]

When the chair puts a question to the Senate and declares the result of the vote, the decision of the chair may be challenged by those senators declared to be in the minority calling for a division. Only the minority as declared by the chair may call for a division, by calling "divide" or (more commonly) "The Ayes/Noes have it". A division cannot be called for unless more than one voice has been given for the minority, but if only one senator calls for a division that senator is entitled to have the senator's vote recorded in the Journals. [SO 84, 98, 100, 102]

## 20. Quorum

The quorum of the Senate is at least one quarter of the whole number of senators (i.e. 19). A senator may at any time draw attention to the absence of a quorum,\* whereupon the bells are rung and the President counts the Senate. If a quorum is still not present after the ringing of the bells for 4 minutes, the President orders that the doors be locked and adjourns the Senate till the next day of sitting. The names of the senators present are entered in the Journals of the Senate. The same procedure is following in committee of the whole, except that the lack of a quorum after the ringing of the bells or in a division is reported by the chair to the President, and the bells are again rung. If a division in the Senate reveals the lack of a quorum, the President adjourns the Senate. A quorum must be present at the beginning of a sitting before the President takes the chair. A senator may not leave the chamber while the Senate is being counted or the bells rung for a quorum, or before a quorum is formed at the beginning of a sitting. The time taken to form a quorum is not deducted from a senator's speaking time or from the time allowed for a debate. [SO 51, 52, 147]

\* By saying to the chair, "I draw your attention to the state of the chamber."

## 21. Questions of order and rulings of the chair

A senator may rise to speak to a point of order, and the consideration of other business is suspended until the question of order is resolved. When such a matter is raised the senator speaking must resume the senator's seat, although the time taken for resolution of the point of order is not deducted from the senator's speaking time or from the time allowed for a debate. The chair may hear discussion on a point of order or may rule upon it at once. [SO 197]

An objection to a ruling of the Chair of Committees is immediately laid before the President. Any objection to the ruling of the President must be taken at once, by means of a motion that the ruling be dissented from. Such a motion is adjourned to the next sitting day, unless the Senate determines on motion without debate that the question requires immediate determination. [SO 145, 198]

## 22. Disorder

The President may report to the Senate (“name”) a senator as having committed an offence if the senator:

- persistently and wilfully obstructs the business of the Senate
- is guilty of disorderly conduct
- uses objectionable words, and refuses to withdraw such words
- persistently and wilfully refuses to conform to the standing orders, or any one or more of them
- persistently and wilfully disregards the authority of the chair.

A senator who has been reported as having committed an offence (“named”) is called upon to make any explanation or apology the senator may think fit, and afterwards a motion may be moved that the senator be suspended from the sitting of the Senate. The motion is put and determined without amendment, adjournment or debate. [SO 203] The duration of a senator’s suspension depends upon whether it is in respect of the first, second or subsequent offence within a calendar year. [SO 204] An offence in committee of the whole is reported to the Senate, and the same procedures may then be followed. [SO 144(7)]

In practice these procedures are seldom used.

## 23. Suspension of standing or other orders of the Senate

In cases of urgent necessity, a motion for the suspension of standing or other orders for a particular purpose may be moved without notice, but such a motion requires an absolute majority of senators voting in the affirmative to be carried, unless the proposed suspension is moved pursuant to contingent notice (see section 2). A contingent notice may be used only once at the occurrence of the contingency to which it refers. The chair has ruled that it is for the Senate by its vote on the motion to determine whether the case is of urgent necessity. A suspension motion moved during the consideration of a matter must be relevant to that matter. [SO 209, 210]

Motions for the suspension of standing orders take the following forms:

- *Suspension without notice (requires absolute majority)*

I move: That so much of the standing orders be suspended as would prevent ....

- *Pursuant to contingent notice (for example, to bring on a new item of business)*

Pursuant to contingent notice and at the request of the Leader of the .... (Senator X), I move: That so much of the standing orders be suspended as would prevent me moving a motion to provide for the consideration of a matter, namely, a motion to give precedence to a motion relating to ....

*(if agreed to, followed by ...)*

I move: That a motion relating to ..., may be moved immediately and have precedence over all other business today until determined.

*(if agreed to, followed by ...)*

I move: That ...[substantive motion]



# APPENDIX A

## General Times

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### Times of meetings of the Senate

|            |  |
|------------|--|
| Monday     | 12.30 pm to 6.30 pm, 7.30 pm to 10.30 pm |
| Tuesday†   | 12.30 pm to adjournment                  |
| Wednesday† | 9.30 am to 8 pm                          |
| Thursday   | 9.30 am to 8.40 pm                       |

† = Broadcast day

### Petitions close (see: Brief Guide\* No. 21—Petitions)

- 9.30 am on a day on which the Senate sits at 12.30 pm.
- 5 pm on the day prior to the Senate sitting at 9.30 am.

### Questions on notice close (see: Brief Guide\* No. 17—Questions)

At 5 pm on sitting days and 2 pm on the Wednesday before the next day of sitting in non-

## Senate Numbers

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|                          |                  |
|--------------------------|------------------|
| <b>Quorum</b>            | 19 (one-quarter) |
| <b>Absolute Majority</b> | 39               |

## Debating Opportunities and Time limits

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(see: Brief Guide\* No. 4—Rules of Debate)

### Bills (see: Brief Guide\* No. 9—Consideration of legislation)

|  |                                   |           |
|--|-----------------------------------|-----------|
| 1° of non-amendable bill .....         | 15 mins.....                      | SO 112(2) |
| 2° .....                               | 20 mins.....                      | SO 189(1) |
| In committee.....                      | 15 mins.....                      | SO 189(3) |
|  | (+ possible extension of 15 mins) |           |
| 3° .....                               | 20 mins.....                      | SO 189(1) |
| Selection of Bills Committee—          |                                   |           |
| adoption of report .....               | 5 mins.....                       | SO 24A(7) |
|  | (limit for debate: 30 mins)       |           |
| Reference of a bill to committee ..... | 5 mins.....                       | SO 115(6) |
|  | (limit for debate: 30 mins)       |           |

SO = standing orders

\* Brief Guides to Senate Procedure at [www.aph.gov.au/senate/pubs/guides/index.htm](http://www.aph.gov.au/senate/pubs/guides/index.htm)

## Debating Opportunities and Time Limits—continued

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sitting weeks.

**Committee reports and government responses** (see: Brief Guide\* No. 3—Opportunities for debating documents and reports)

Motions relating to report on Wednesday or Thursday 10 mins.....SO 62(4)

(limit for debate: 1 hr)

Resumption (*Thursday*) 10 mins.....SO 62(1)

(limit for debate: 1 hr)

### Debate

General..... 20 mins.....SO 189(1)

Extension of time (*possible*)..... 10 mins.....SO 189(1)

In committee..... 15 mins.....SO 189(3)

In reply..... 20 mins.....SO 189(2)

### Documents (General)

Motions moved by leave..... 10 mins.....SO 169(2)

(limit for debate: 30 mins per motion, 1 hr for all motions)

**Government documents—consideration** (see: Brief Guide\* No. 3—Opportunities for debating documents and reports)

Motion to take note (*Tuesday and Wednesday*) ..... 5 mins.....SO 61(3)

(limit for debate: 30 mins)

Resumption (*Thursday*)..... 5 mins.....SO 61(3)

(limit for debate: 1 hr)

**Matters of Public Importance/Urgency** (see: Brief Guide\* No. 10—Matters of public importance and Urgency)

All speakers..... 10 mins.....SO 75(7)

(limit for debate: 1 hr, or 90 mins if no motions are moved after question time to take note of answers)

**Discussion of matters of public interest** ..... 15 mins.....SO 57(2)

**Questions** (see: Brief Guide\* No. 17—Questions)

Without notice

Asking question ..... 1 min.....SO 72(3)

Answering question ..... 4 mins.....SO 72(3)

Supplementary question ..... 1 min.....SO 72(3)

Answering supplementary ..... 1 min.....SO 72(3)

Debate on motions relating to answers ..... 5 mins.....SO 72(4)

(limit for debate: 30 mins)

**Suspension of standing orders** (see: Brief Guide\* No. 5—Suspension of standing orders)

5 mins..... SO 209(4)

(limit for debate: 30 mins)

### Debate for the election of the

**President of the Senate**..... 15 mins.....SO 6(2)

**Adjournment of the Senate** ..... 10 mins.....SO 54(5)

SO = standing orders

\* Brief Guides to Senate Procedure at [www.aph.gov.au/senate/pubs/guides/index.htm](http://www.aph.gov.au/senate/pubs/guides/index.htm)

# APPENDIX B

## Routine of business in the Senate as set out in standing order 57 and related orders (as at 14 May 2003)

| Monday          |   | Tuesday  |   | Wednesday |   | Thursday |   |
|-----------------|---|----------|---|-----------|---|----------|---|
| 12.30 pm        | Prayers<br>Government business only   | 12.30 pm | Prayers<br>Government documents<br>(Presented pursuant to order)<br>Government business only  | 9.30 am   | Prayers<br>Government documents<br>(Presented pursuant to order)<br>Government business only  | 9.30 am  | Prayers<br>Petitions<br>Notices of motion   |
| 2 pm            | Questions<br>Motions to take note of a n s w e r s<br>(Time limit: 30 mins)<br>Petitions<br>Notices of motion<br>Placing of business<br>Discovery of formal business  | 2 pm     | Questions<br>Motions to take note of a n s w e r s<br>(Time limit: 30 mins)<br>Petitions<br>Notices of motion<br>Placing of business<br>Discovery of formal business  | 12.45 pm  | Discussion of matters of public interest (SO 57(2))<br>Questions<br>Motions to take note of a n s w e r s<br>(Time limit: 30 mins)<br>Petitions<br>Notices of motion<br>Placing of business<br>Discovery of formal business   | 12.45 pm | Discovery of formal business<br>Tabling and consideration of committee reports (SO 62(4)—Time limit: 1 hr)<br>Committee memberships<br>Messages from House of Representatives<br>Order of business  |
| 6.30 to 7.30 pm | MPI or urgency motion<br>(Time limit: 1 hr, or if no motions to take note, 90 mins)<br>Ministerial statements<br>Tabling of documents<br>Committee memberships<br>Messages from House of Representatives<br>Order of business | 6.50 pm  | MPI or urgency motion<br>(SO 75—Time limit: 1 hr, or if no motions to take note, 90 mins)<br>Ministerial statements<br>Tabling of documents<br>Committee memberships<br>Messages from House of Representatives<br>Order of business | 6.50 pm   | MPI or urgency motion<br>(SO 75—Time limit: 1 hr, or if no motions to take note, 90 mins)<br>Tabling and consideration of committee reports (SO 62(4)—Time limit: 1 hr)<br>Ministerial statements<br>Tabling of documents<br>Committee memberships<br>Messages from House of Representatives<br>Order of business | 2 pm     | Questions<br>Motions to take note of a n s w e r s<br>(Time limit: 30 mins)<br>MPI or urgency motion<br>(Time limit: 1 hr, or if no motions to take note, 90 mins)<br>Ministerial statements<br>Government responses to parliamentary committee reports<br>Tabling of documents |
| 7.30 pm         | Sitting suspended—(DINNER BREAK)<br>Order of business continued   | 7.20 pm  | Consideration of government documents tabled earlier in the day (SO 61—Time limit: 30 mins)<br>Adjournment proposed (No time limit)   | 7.20 pm   | Consideration of government documents tabled earlier in the day (SO 61—Time limit: 30 mins)<br>Adjournment proposed (Time limit: 40 mins)   | 8 pm     | Adjournment proposed (Time limit: 40 mins)  |
| 9.50 pm         | Adjournment proposed (Time limit: 40 mins)  |          |   |           |   |          |   |

