

PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

Maintenance of the standing orders

Interim report

House of Representatives Standing Committee on Procedure

May 2018
CANBERRA

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Contents

Chair's foreword v

Membership of the Committee vii

Terms of Reference ix

List of Recommendations xi

The Report

1 Introduction.....1

 Scope of the inquiry 2

 Structure of the report 2

2 Issues identified and proposed amendments3

 Standing order 1 – Maximum speaking times 3

 Times for ‘Member next speaking’ 3

 Time limits for second reading speeches 5

 Responses to ministerial statements..... 5

 Standing order 8 – First meeting for new session following prorogation other than
 for a new Parliament 6

 Standing order 39 - Announcements concerning inquiries and presentation of
 reports (committee and delegation business) 7

 39(a) - Announcements concerning inquiries 7

 Standing order 41 - Private Members’ business..... 8

 41(c) - Private Members’ bills—second reading 8

 Standing orders 82-85 – Debate of urgent matters 9

Standing order 105 – Replies to written questions	11
Standing order 122 – Questions put on proposed amendments	13
Standing order 153 – Questions to be put.....	15
Return of bill with unresolved question.....	15
Standing order 197 – Return of matters to the House	17
Return of item by Minister	17
Clerk’s amendments	18
Standing order 2 – Definition of ‘document’	19
Standing order 80 – Closure of a Member speaking	19
Appendix A. Proposed amendments to the standing orders.....	21

Chair's foreword

Early in the life of a Parliament, the Procedure Committee has traditionally resolved to adopt terms of reference for an inquiry into the maintenance of the standing (and sessional) orders. This wide-ranging reference provides a formal mechanism for the Committee to consider various, often relatively minor, procedural issues arising from proceedings in the House which are brought to the Committee's attention. The Committee resolved to adopt such a reference early in the current Parliament to consider the current state of the standing orders, reflecting on the history and development of their application and interpretation.

Through its deliberations, the Committee identified a number of issues that warrant further consideration which the Committee intends to address in a later report. However, the Committee also identified a number of minor, consequential and technical issues and inconsistencies, some of which have been identified by previous Procedure Committees and not acted upon, and others which have evolved as a result of recent changes in practice or procedure. The Committee has therefore resolved to produce this short interim report, to highlight some of those minor issues and inconsistencies which the House may wish to consider remedying in the short term.

I thank the Committee for their reasoned consideration of the standing orders to date and look forward to delivering the Committee's final report later in this Parliament.

Mr Tony Pasin MP

Chair

Membership of the Committee

Chair

Mr Tony Pasi MP

Deputy Chair

Mr Milton Dick MP

Members

Ms Terri Butler MP

Mr Andrew Gee MP

Mr Ian Goodenough MP

Mr Steve Irons MP

Ms Joanne Ryan MP

Committee Secretariat

Secretary

Mr Justin Baker (*from 13 March 2018*)

Mr Jason Sherd (*to 9 March 2018*)

Inquiry Secretary

Mr Jeff Norris

Research Officer

Ms Katie Ellis (*to 1 September 2017*)

Ms Naomi Swann (*from 12 September 2017*)

Administrative Officers

Ms Penny Branson

Ms Jessica Jonceski

Terms of Reference

To inquire into and report on the operation of the standing and sessional orders.

List of Recommendations

Recommendation 1

- 2.17 The Committee recommends that standing order 1 be amended as outlined in Appendix A.

Recommendation 2

- 2.23 The Committee recommends that standing order 8(c) be amended to include an acknowledgement of country, as is provided for at the start of other sitting days:
- (c) The Speaker shall make an acknowledgement of country and read Prayers.

Recommendation 3

- 2.28 The Committee recommends that standing order 39(a) be amended to read 'The Chair and/or deputy Chair of a committee may make a statement...'.

Recommendation 4

- 2.33 The Committee recommends that standing order 41(c) be amended to read:
- (c) Subject to this standing order, the first and second reading shall proceed in accordance with *standing orders 141 and 142*. The Member who has presented the bill may speak to the second reading for no longer than 10 minutes at the time of presentation and 5 minutes, in continuation, on resumption of the debate (if required by mover). The Selection Committee may determine times for consideration of the remainder of the second reading debate.

Recommendation 5

- 2.46 The Committee recommends that standing orders 82-85 be amended as outlined in Appendix A.

Recommendation 6

- 2.56 The Committee recommends that standing order 105(a) be amended to read:

(a) A Minister's written reply to a question must be delivered to the Clerk. The Clerk shall provide a copy of the reply to the Member who asked the question, and the question and reply shall be published in Hansard.

The Committee further recommends that the Department of the House of Representatives prioritise the creation of an online repository of questions in writing and replies to them, to replace their publication in Hansard.

Recommendation 7

- 2.63 The Committee recommends that standing orders 122 and 123 be amended to read:

122 Questions put on proposed amendments

(a) The Speaker shall put a the question ~~reflecting the purpose of~~ on a proposed amendment -

~~(i) If the purpose is to omit certain words, the question shall be—~~

~~That the words proposed to be omitted stand part of the question.~~

~~(ii) If the purpose is to omit certain words in order to insert or add other words, the question shall be—~~

~~That the words proposed to be omitted stand part of the question.~~

~~If this question is resolved in the affirmative, the amendment is disposed of; if negatived, the Speaker shall put a further question—~~

~~That the words proposed be [inserted, or added].~~

~~(iii) If the purpose is to insert or add certain words, the question shall be—~~

~~That the words proposed be [inserted, or added].~~

~~(b) If no Member objects, instead of the questions in paragraph (a), the Speaker may put the question —~~

That the amendment be agreed to.

123 Restrictions on amendments to be moved

(a) A proposed amendment must not be inconsistent with a previous decision on the question.

(b) An amendment may not be moved to an earlier part of the question:

(i) after a later part has been amended, or

(ii) after an amendment to a later part has been proposed and the proposal has not, by leave, been withdrawn.

~~(c) When it is moved to omit words in the main question in order to insert or add others, no amendment to the words proposed to be inserted or added may be moved until the question ‘that the words proposed to be omitted stand part of the question’ has been determined.~~

~~(d) Only an amendment which adds other words may be moved to words which the House has resolved stand part of the question, or which have been inserted in, or added to, a question.~~

~~(e)~~(c) Each proposed amendment shall be disposed of before another amendment to the original question can be moved.

Recommendation 8

2.69 The Committee recommends that standing order 153(b) be amended to read:

(b) If a bill is reported with amendment or unresolved question, matters shall be dealt with in the following order:

(i) A separate question shall be proposed on each unresolved question ~~and each shall be open to amendment or debate.~~

(ii) A single question shall be proposed, if necessary —

That the amendments made by the Federation Chamber be agreed to.

The question must be decided without amendment or debate.

(iii) New amendments may only be moved as a consequence of the resolution by the House of any unresolved question.

(iv) The question shall be proposed —

That the bill [as amended] be agreed to.

The question must be decided without amendment or debate.

Recommendation 9

2.76 The Committee recommends that standing order 197 be amended to read:

197 Return of matters to the House

The Federation Chamber may return a matter to the House before its consideration is completed:

(a) A matter may be returned to the House on a motion moved without notice at any time by a ~~Minister~~ Member —

That further proceedings be conducted in the House.

The motion shall be put without amendment or debate. If the Federation Chamber agrees to, or is unable to resolve, this question, the bill or order of the day shall be returned to the House. Consideration in the House must continue from the point reached in the Federation Chamber and the House must resolve any issues that the Federation Chamber reports.

(b) The House may at any time require a matter to be returned for further consideration, on a motion moved without notice by a ~~Minister~~ Member. The matter must be set down for consideration at a later hour that day.

(c) An item of government business may be returned to the House by a programming declaration made in accordance with standing order 45.

Recommendation 10

2.80 The Committee recommends that the definition of ‘document’ in standing order 2 be corrected to match the definition in section 2B of the *Acts Interpretation Act 1901*.

Recommendation 11

2.83 The Committee recommends that standing order 80 be amended to read:

80 Closure of a Member speaking

If a Member is speaking, other than when ~~giving a notice of motion or~~
moving the terms of a motion, another Member may move—

That the Member be no longer heard.

The question must be put immediately and resolved without amendment or debate.

1. Introduction

- 1.1 At its first meeting of the 45th Parliament on 13 October 2016, the Procedure Committee resolved to adopt the wide ranging reference ‘the maintenance of the standing and sessional orders’. This reference is usually adopted each parliament and enables the Committee to identify and examine irregularities and problems in the sessional and standing orders which arise from time to time during a parliament and also to propose necessary adjustments and possible improvements. There are no sessional orders in place for the 45th Parliament.
- 1.2 As a result of issues identified during the 45th Parliament to date, the Committee resolved to prepare this interim report so that those issues might be addressed by the House in an expedient manner. The report recommends mostly technical amendments to ensure the continued effective operation of the standing orders.
- 1.3 These technical amendments may be made through a resolution of the House. Some have been identified as appropriate for Clerk’s amendments, as per the authority of the resolution of the House from 1 December 2004:

STANDING ORDERS AUTHORITY

That the Clerk be authorised to correct clerical errors or inconsistencies in wording in the standing orders, but not so as to cause a change to the meaning of any standing order.¹

- 1.4 The Committee intends to deliver a more substantive final report towards the end of this Parliament, addressing more complex issues in relation to the maintenance of the standing orders.

Scope of the inquiry

- 1.5 The inquiry reviews procedural issues identified in the late 44th Parliament and throughout the 45th Parliament to date. It also examines a number of minor, technical irregularities within the standing orders that have come to the Committee's attention.
- 1.6 The Committee did not consult widely for this inquiry but did receive briefings and investigate options for proposed amendments to improve the efficiency and effectiveness of the standing orders.

Structure of the report

- 1.7 Chapter 2 outlines the technical matters raised in the Committee's examination of the standing orders, identifying minor technical irregularities within the standing orders that can be addressed in the shorter term, as well as a number of potential Clerk's amendments to be made administratively.
- 1.8 Appendix A lists the draft proposed amendments in detail.

¹ Votes and Proceedings No. 6, 41st Parliament, 1 December 2004, 57.

2. Issues identified and proposed amendments

- 2.1 This chapter proposes minor amendments to the standing orders of a technical nature based on the Committee's consideration of the current standing orders, its observations of the practices of the current Parliament, and its consideration of recommendations of Procedure Committees of previous parliaments.
- 2.2 The standing orders identified and amendments suggested are in the order as they appear in the standing orders.
- 2.3 Two minor technical and consequential amendments are identified at the end of the chapter that will be recommended for administrative Clerk's amendments.

Standing order 1 – Maximum speaking times

- 2.4 Time limits for debates and speeches are set out in standing order 1.

Times for 'Member next speaking'

- 2.5 The speech time limits for a motion to suspend standing orders moved without notice are:
 - Whole debate 25 minutes
 - Mover 10 minutes

- Secunder (if any) 5 minutes
- Member next speaking 10 minutes
- Any other Member 5 minutes

- 2.6 Usually, after the mover and seconder speak, the call will be given to a Member from the other side, speaking against the motion. The intent behind the speech time limits for this debate (as with most debates) is that equal time is allocated to the mover and to the first Member to speak to the motion from the other side of the House. It is intended that the 'Member next speaking' in standing order 1 would be speaking against the motion.
- 2.7 On 13 June 2017, a Shadow Minister moved, without notice, to suspend standing orders to bring on a Government bill. After the seconder spoke for five minutes, no Member from the Government side sought the call so an Opposition Member was called to speak and was allocated ten minutes. A Government Member then rose, was given the call and spoke for approximately three minutes until the time allocated for the debate expired. In this case, the mover, seconder and the Member next speaking were all non-Government Members, speaking in support of the motion.¹
- 2.8 This incident highlighted the need for a minor amendment to the standing orders to clarify the intention that the first Member speaking from the other side should be given increased speaking time, not a Member from the same side as the mover.
- 2.9 This issue arises with regard to speaking times for motions to suspend standing orders moved without notice, motions to suspend standing orders moved on notice relating to the programming of government business, and dissent motions. The Committee recommends that standing order 1 be amended to clarify that for each of these debates, the Member next speaking *against the motion* be given increased time (in each case, 10 minutes).
- 2.10 The Committee understands that, in practice, it might be difficult on occasion to know immediately whether or not the Member next speaking is speaking for or against the motion (particularly if the Member next speaking is a non-aligned Member). There might also be instances where both sides of the House wish to speak in support of a motion, such as a motion to suspend standing orders relating to the programming of government business. While such practical implications should be considered further, the wording

¹ House of Representatives *Hansard*, 13 June 2017, pp. 6181-6187.

suggested in Attachment A could help guide any potential standing order amendment.

Time limits for second reading speeches

- 2.11 The Selection Committee, established under standing order 222, determines the program for committee and delegation business and private Members' business for each sitting Monday, and selects bills for referral to committees.
- 2.12 During the 43rd and 44th Parliaments, the Selection Committee could set speaking times for both government and private Members' bills. This power was never used for government bills and was removed at the start of the 45th Parliament. The committee retains the ability to set times for second reading speeches for private Members' bills. The relevant entries in standing order 1 were not consequentially updated. Standing order 1 should be amended to resolve this inconsistency.

Responses to ministerial statements

- 2.13 Standing order 63A currently allows that:

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

- 2.14 However, standing order 1 does not provide a time limit for statements by leave of the House, including responses to ministerial statements. Standing order 1 should be amended to clarify that following a ministerial statement, the Leader of the Opposition, or Member representing, may speak for an equal amount of time, in accordance with standing order 63A.

Committee comment

- 2.15 The identified issues relating to standing order 1 are consequential to changes or updates to other standing orders, which have not been adequately reflected in the table at standing order 1.
- 2.16 The Committee recommends that the table be updated (as per the outlined amendments in Appendix A) to ensure that the quick reference afforded by the table of maximum time limits is accurate.

Recommendation 1

- 2.17 The Committee recommends that standing order 1 be amended as outlined in Appendix A.**

Standing order 8 – First meeting for new session following prorogation other than for a new Parliament

- 2.18 An acknowledgement of country is a respectful public recognition of the traditional custodians of the land on which a proceeding takes place and is a way to demonstrate respect for Aboriginal and Torres Strait Islander protocols at the commencement of an event.
- 2.19 The standing orders were amended in September 2010 to provide for the Speaker to make an acknowledgement of country, just prior to the reading of prayers, at the start of each sitting day (standing order 38).
- 2.20 In introducing the change, the then Leader of the House (Mr Albanese) stated:

Finally, I highlight one of the reforms in this package that is not about the technical workings of the House but about ensuring the parliament is more respectful to the traditional owners of the land on which it meets. The election of the government in November 2007 and the subsequent opening of the 42nd Parliament in February 2008 for the first time in the history of the Commonwealth saw a traditional ‘Welcome to Country’ and smoking ceremony performed by Indigenous elders for the opening of the federal parliament.

The government apologised to the stolen generations. On 23 June 2010 the government introduced a historic reform with amendments to the standing orders to ensure the formalisation of the role and place of a traditional ‘Welcome to Country’ in the opening of a new parliament. We did that yesterday in the parliamentary forecourt.

If this package of reforms passes the House, tomorrow will bring another historic event. The day’s proceedings will commence with the Speaker making an acknowledgment of country. Standing order 38 will be amended to include that acknowledgement, which will occur prior to prayers.²

² House of Representatives *Hansard*, 29 September 2010, p. 132.

- 2.21 No corresponding change was made to the procedure set down for the first meeting of a second or subsequent session of parliament (standing order 8).
- 2.22 Whilst a second or subsequent session is now a rare occurrence, the prorogation of the first session of the 44th Parliament and the subsequent first meeting of the second session of the 44th Parliament on 18 April 2016 saw the Speaker make an acknowledgement of country, when technically the standing orders did not require it.

Recommendation 2

- 2.23 **The Committee recommends that standing order 8(c) be amended to include an acknowledgement of country, as is provided for at the start of other sitting days:**

(c) The Speaker shall make an acknowledgement of country and read Prayers.

Standing order 39 - Announcements concerning inquiries and presentation of reports (committee and delegation business)

39(a) - Announcements concerning inquiries

- 2.24 Standing order 39(a) currently allows that the Chair or deputy Chair of a committee may make a statement relating to an inquiry during the periods for committee and delegation business on Mondays. This opportunity can be used to update the House on the conduct or progress of an inquiry.
- 2.25 This standing order has been interpreted so as to include opportunities for both the Chair and deputy Chair to make statements in relation to an inquiry.³

³ Both Chair and deputy Chair have made statements on a committee inquiry, as determined by the Selection Committee, on (a) 24 June 2013: Mr Windsor and Mr Gibbons - Standing Committee on Regional Australia's inquiries; (b) 8 February 2016: Mr Christensen and Ms Claydon - Standing Committee on Social Policy and Legal Affairs inquiry into surrogacy; and (c) 29 February 2016: Mr Snowden and Dr Stone - Standing Committee on Indigenous Affairs inquiry into educational opportunities for Aboriginal and Torres Strait Islander students.

Committee comment

- 2.26 The Committee acknowledges that allowing both the Chair and deputy Chair to make a statement reflects the intention of the committee system, in allowing bipartisan consideration of policy matters.
- 2.27 It might assist with interpretation to amend the wording of standing order 39(a) to reflect House practice.

Recommendation 3

- 2.28 The Committee recommends that standing order 39(a) be amended to read ‘The Chair and/or deputy Chair of a committee may make a statement...’.

Standing order 41 - Private Members’ business**41(c) - Private Members’ bills—second reading**

- 2.29 Standing order 1 provides that for the second reading of a private Member’s bill, the mover may speak for 10 minutes at the time of presentation and 5 minutes ‘In continuation, on resumption of debate (if required by mover)’.
- 2.30 This procedure was introduced at the beginning of the 44th Parliament on recommendation of the Procedure Committee in the previous Parliament:
- The Committee agrees that, in the interests of efficiency, the procedure for presenting private Members’ bills should be brought into line with that for presenting Government bills. The Committee recommends that Members be allocated 10 minutes for a second reading speech instead of the current 10 minutes for a presentation statement. If required, a Member could speak in continuation for a further 5 minutes when the debate is resumed.⁴
- 2.31 Standing order 41(c) provides that the Member who has presented the bill ‘may speak to the second reading for no longer than 10 minutes at the time of presentation and 5 minutes on resumption of the debate’, with the Selection Committee determining any times for consideration of the remainder of the second reading debate.

⁴ House of Representatives Standing Committee on Procedure, *Maintenance of the standing and sessional orders*, June 2013, p. 7.

Committee comment

- 2.32 To ensure consistency between standing order 1 and standing order 41(c), standing order 41(c) should be amended to reflect that the five minutes extra speaking time for the mover, on resumption of debate, is in continuation, and only if required by the Member.

Recommendation 4

- 2.33 The Committee recommends that standing order 41(c) be amended to read:

(c) Subject to this standing order, the first and second reading shall proceed in accordance with *standing orders 141 and 142*. The Member who has presented the bill may speak to the second reading for no longer than 10 minutes at the time of presentation and 5 minutes, in continuation, on resumption of the debate (if required by mover). The Selection Committee may determine times for consideration of the remainder of the second reading debate.

Standing orders 82-85 – Debate of urgent matters

- 2.34 Standing orders 82-85 set out procedures to limit debate or to set a timetable for debate on a bill or motion declared 'urgent' by a Minister. These provisions have been referred to as the 'guillotine'. Ministers can use this procedure when they want a bill or motion to proceed as quickly as possible or to impose a specific shortened debate time.
- 2.35 Under these standing orders, a Minister may declare a motion or bill before the House to be 'urgent'. The question is then put immediately that the motion or bill be considered urgent. If the question is agreed to, a Minister may move a motion specifying times for debate on the motion or on any stage of the bill.
- 2.36 In practice, the 'guillotine' procedure has not been used since 2 November 2006. Instead, Leaders of the House in successive governments have moved to suspend standing orders to set a timetable for the debate of urgent matters (also known as debate management motions). This practice is more streamlined than the formal guillotine procedure. Debate management motions also provide greater flexibility, for example motions have included provision for a group of bills to be considered together and for a limit on the number of speakers.

- 2.37 The last suspension of standing orders to limit debate on a bill occurred on 19 October 2016, in relation to the Fair Work (Registered Organisations) Amendment Bill 2014.⁵
- 2.38 This process was instigated by the Leader of the House, pursuant to notice, moving that so much of the standing orders be suspended as would prevent the following from occurring:
- 1 resumption of debate on the second reading of the bill being called on and the first Opposition Member immediately called to speak;
 - 2 at the conclusion of the speech of the first Opposition Member on the second reading of the bill, the Prime Minister being called immediately to conclude the second reading debate and the question then being put immediately on the second reading of the bill, a Governor-General's message being reported and the question being put immediately on the third reading of the bill; and
 - 3 any variation to this arrangement to be made only by a motion moved by a Minister.⁶
- 2.39 The limitation of debate to a small number of Members and immediate conclusion of the second reading debate, Governor-General's message and third reading, is one example of the type of debate management motion used on a bill (or number of bills).
- 2.40 Technically, the motions to manage debate for the Marriage Amendment (Definition and Religious Freedoms) Bill 2017 on 5, 6 and 7 December 2017, which allowed for debate on a private Member's bill during the time allotted for government business, and to allow the House to conclude other business prior to adjourning for the year, were debate management motions. The Committee is not considering them in relation to this issue of the 'guillotine' and urgent bills.
- 2.41 In its 2016 report, the Procedure Committee suggested amending standing orders 82-85 (debate of urgent matters) and standing order 1 (maximum speaking times) to better align with current practice.⁷
- 2.42 That report identified proposed amendments to the relevant standing orders, but suggested that they required further consideration.

⁵ Votes and Proceedings No. 14, 45th Parliament, 19 October 2016, 252.

⁶ Votes and Proceedings No. 14, 45th Parliament, 19 October 2016, 252.

⁷ House of Representatives Standing Committee on Procedure, *Maintenance of the standing orders*, April 2016, pp. 26-27.

Committee comment

- 2.43 The Committee agrees with the view of its predecessor that redundant procedures in standing orders 82-85 should be updated to reflect the practice of successive parliaments.
- 2.44 The standing orders should reflect the way in which the House chooses to conduct its business. The Committee considers that the adoption of standing orders to govern debate management motions is preferable to the current practice whereby standing orders are suspended to manage urgent matters.
- 2.45 The Committee agrees that the amendments to standing orders 82 85, and a consequential amendment to standing order 1, proposed by the former Committee are appropriate and should be adopted.

Recommendation 5

- 2.46 The Committee recommends that standing orders 82-85 be amended as outlined in Appendix A.**

Standing order 105 – Replies to written questions

- 2.47 Standing order 105 requires questions in writing submitted by a Member under standing order 98, along with the Minister's written reply, to be published in Hansard. This has traditionally been to allow for a permanent public record of the question and answer to be available to anyone interested in accessing that information.
- 2.48 With the introduction of the ParlWork online platform⁸ during this Parliament, House questions in writing and Ministers' written replies are now publicly available through that medium and their replication in Hansard is a duplication of production.
- 2.49 Additionally, answers are not necessarily printed in Hansard immediately. Time may elapse between receipt of the answer and the next sitting day, and space restrictions may also delay publication of answers.

⁸ The ParlWork application presents parliamentary information sourced from various parliamentary applications including the Table Offices Production System (TOPS) and the Department of Parliamentary Service's (DPS) ParlInfo Search (PIS). Purposely built for Parliamentarians, the application provides access to chamber specific information in a consolidated view, accessible from any device, anywhere with a connection to the internet and a web browser. ParlWork is accessible at <https://parlwork.aph.gov.au>

- 2.50 In 2013 the Senate created an online database of Questions on Notice (as of 5 February 2013 onwards) after resolving to no longer require questions and answers to be recorded in the Senate's Hansard transcripts, and amending their standing orders accordingly. This amendment was made as a result of the Senate Standing Committee on Procedure's first report of 2012.⁹
- 2.51 The current availability of questions and answers through ParlWork is limited to the current Parliament, so in order for a similar change for House questions, the Department of the House of Representatives would need to create a similar permanent online source for questions and answers, so that they no longer need to be published in Hansard.

Committee comment

- 2.52 The Committee believes that the process that the Senate has been undertaking for the last five years, to publish questions and answers electronically, therefore freeing up space in Hansard and ensuring timely publication, has merit.
- 2.53 The introduction of the ParlWork platform would appear to herald the appropriate time for the House to also electronically publish and store the questions and answers.
- 2.54 The Committee therefore recommends that the Department of the House of Representatives prioritise the creation of an online repository to capture the online publication of questions and answers from this Parliament into the future.
- 2.55 The Committee also recommends that once a permanent repository is in place, standing order 105 be amended to remove the requirement to publish questions in writing and their answers in Hansard.

Recommendation 6

- 2.56 The Committee recommends that standing order 105(a) be amended to read:**

(a) A Minister's written reply to a question must be delivered to the Clerk. The Clerk shall provide a copy of the reply to the Member who asked the question, and the question and reply shall be published in Hansard.

⁹ Journals of the Senate No. 98, 27 June 2012, 2669.

The Committee further recommends that the Department of the House of Representatives prioritise the creation of an online repository of questions in writing and replies to them, to replace their publication in Hansard.

Standing order 122 – Questions put on proposed amendments

- 2.57 When a question on a proposed amendment is put, and no Member objects, the Chair puts the question in the form ‘That the amendment be agreed to’ (standing order 122(b)).
- 2.58 Standing order 122(a)(i-iii) provides alternative wording depending on whether the purpose of the amendment is to insert, omit or substitute words.
- 2.59 For example, if the purpose is to omit certain words in order to add other words, the question is ‘That the words proposed to be omitted stand part of the question’. Depending on the result of that question, a further question may be put ‘that the words proposed be inserted’.
- 2.60 In 2011, the former Committee suggested trialling the shortened form ‘That the amendment be agreed to’ for all amendments.¹⁰ Following that report, the Speaker advised the House that the traditional forms had caused some confusion and that he would use the simplified form for the remainder of that Parliament, unless any Member objected and required the traditional form to be used in a particular case.¹¹
- 2.61 In subsequent parliaments the use of the simplified form has become standard practice and the forms provided for by standing order 122(a)(i-iii) are no longer used. The last use of any of the forms of alternative wording was on 5 March 2014.¹²

Committee comment

- 2.62 The Committee believes that the traditional forms of putting the question on amendments could now be considered obsolete and standing orders 122 and

¹⁰ Standing Committee on Procedure, *Interim report: monitoring and review of procedural changes implemented in the 43rd Parliament*, April 2011, pp. 56-57.

¹¹ Votes and Proceedings No. 45, 2 June 2011, 614.

¹² House of Representatives *Hansard*, 5 March 2014, p. 1673.

123 (as consequential amendments) should be amended to align with current practice, deleting the traditional forms altogether.

Recommendation 7

2.63 The Committee recommends that standing orders 122 and 123 be amended to read:

122 Questions put on proposed amendments

(a) The Speaker shall put a the question reflecting the purpose of on a proposed amendment -

~~-(i) If the purpose is to omit certain words, the question shall be—~~

~~That the words proposed to be omitted stand part of the question.~~

~~-(ii) If the purpose is to omit certain words in order to insert or add other words, the question shall be—~~

~~That the words proposed to be omitted stand part of the question.~~

~~——— If this question is resolved in the affirmative, the amendment is disposed of: if negated, the Speaker shall put a further question—~~

~~That the words proposed be [inserted, or added].~~

~~-(iii) If the purpose is to insert or add certain words, the question shall be—~~

~~That the words proposed be [inserted, or added].~~

~~(b) If no Member objects, instead of the questions in paragraph (a), the Speaker may put the question—~~

That the amendment be agreed to.

123 Restrictions on amendments to be moved

(a) A proposed amendment must not be inconsistent with a previous decision on the question.

(b) An amendment may not be moved to an earlier part of the question:

- (i) after a later part has been amended, or
- (ii) after an amendment to a later part has been proposed and the proposal has not, by leave, been withdrawn.
- ~~(c) When it is moved to omit words in the main question in order to insert or add others, no amendment to the words proposed to be inserted or added may be moved until the question 'that the words proposed to be omitted stand part of the question' has been determined.~~
- ~~(d) Only an amendment which adds other words may be moved to words which the House has resolved stand part of the question, or which have been inserted in, or added to, a question.~~
- ~~(e)~~(c) Each proposed amendment shall be disposed of before another amendment to the original question can be moved.

Standing order 153 – Questions to be put

Return of bill with unresolved question

- 2.64 A bill being debated in the Federation Chamber can be returned to the House under standing order 197, either on a motion moved without notice by a Minister in the Federation Chamber or in the House, or by a programming declaration made in accordance with standing order 45.
- 2.65 During the consideration of a bill in the Federation Chamber, if a question is put (amendment be agreed to, bill be read a second time etc) and cannot be decided on the voices, the question is unresolved and reported to the House for resolution there (SO 188).
- 2.66 Standing order 195 provides that the Federation Chamber may continue proceedings on a bill regardless of unresolved questions unless agreement to an unresolved question is necessary to enable further questions to be considered. If progress cannot be made, the Federation Chamber shall return the bill to the House for further consideration.
- 2.67 If a bill is reported with amendment(s) or unresolved question standing order 153 requires that the matter *shall* be dealt with in the following order (emphasis added):
 - i. A separate question shall be proposed on each unresolved question and each shall be open to amendment or debate.

- ii. A single question shall be proposed, if necessary –

That the amendments made by the Federation Chamber be agreed to.

The question must be decided without amendment or debate.

- iii. New amendments may only be moved as a consequence of the resolution by the House of any unresolved question.
- iv. The question shall be proposed – *That the bill [as amended] be agreed to.* The question must be decided without amendment or debate.

Committee comment

- 2.68 In circumstances where a Minister has spoken again to close the second reading debate on a bill in the Federation Chamber, and the bill is reported to the House with an unresolved question, the current wording in standing order 153 provides an opportunity to reopen the second reading debate in the House. The Committee therefore recommends amending standing order 153 to remove the provision for unresolved questions to be open to amendment and debate once returned to the Chamber.

Recommendation 8

- 2.69 The Committee recommends that standing order 153(b) be amended to read:

(b) If a bill is reported with amendment or unresolved question, matters shall be dealt with in the following order:

(i) A separate question shall be proposed on each unresolved question ~~and each shall be open to amendment or debate.~~

(ii) A single question shall be proposed, if necessary—

That the amendments made by the Federation Chamber be agreed to.

The question must be decided without amendment or debate.

(iii) New amendments may only be moved as a consequence of the resolution by the House of any unresolved question.

(iv) The question shall be proposed –

That the bill [as amended] be agreed to.

The question must be decided without amendment or debate.

Standing order 197 – Return of matters to the House

Return of item by Minister

- 2.70 Prior to 2013, matters could be returned to the House from the Federation Chamber (formerly the Main Committee) by way of a motion moved without notice by any Member. At the commencement of the 44th Parliament, Standing Order 197 was amended so that such a motion could only be moved by a Minister.
- 2.71 The practical effect of the amendment is that a Minister must be present to propose the return of an item of business to the House, otherwise another Member must be granted leave to move the motion. This creates an additional and, in the Committee's view, unnecessary procedural step, particularly given that it is common for the Federation Chamber to conduct proceedings with no Minister present. By way of example, there have been eight occasions during the current Parliament where matters have been returned to the House, seven of which had no Minister present and so a Government Member was required to seek leave prior to moving the motion.
- 2.72 It appears to be unnecessary for a Minister to be required to move this motion and it may assist in the smooth flow of business between the Federation Chamber and the House if any Member could move to return items to the House.

Committee comment

- 2.73 The Committee believes that the provision in standing order 197 for any Member to move without notice at any time to return an item to the House should be reinstated.
- 2.74 It is possible that this amendment could open Federation Chamber business to diversionary or disruptive tactics, where Members return matters purely to delay proceedings or move business back to the House unnecessarily.

- 2.75 However, the Committee feels that the intentions of Members should be taken in the best light possible and support for the smooth operation of the Federation Chamber should be prioritised over the unlikely potential for tactical disruption.

Recommendation 9

- 2.76 The Committee recommends that standing order 197 be amended to read:

197 Return of matters to the House

The Federation Chamber may return a matter to the House before its consideration is completed:

- (a) A matter may be returned to the House on a motion moved without notice at any time by a ~~Minister~~ Member —**

That further proceedings be conducted in the House.

The motion shall be put without amendment or debate. If the Federation Chamber agrees to, or is unable to resolve, this question, the bill or order of the day shall be returned to the House. Consideration in the House must continue from the point reached in the Federation Chamber and the House must resolve any issues that the Federation Chamber reports.

- (b) The House may at any time require a matter to be returned for further consideration, on a motion moved without notice by a ~~Minister~~ Member. The matter must be set down for consideration at a later hour that day.**

- (c) An item of government business may be returned to the House by a programming declaration made in accordance with standing order 45.**

Clerk's amendments

- 2.77 The following two amendments are considered to be clerical errors or consequential inconsistencies in wording in the standing orders, and as such will be communicated to the Clerk of the House as suggestions for possible Clerk's amendments.

Standing order 2 – Definition of ‘document’

2.78 Currently the definition of a document in standing order 2 is an almost direct mirror of the definition in the *Acts Interpretation Act 1901*, being:

document means any record of information, and includes:

- (a) anything on which there is writing; and
- (b) anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them; and
- (c) anything from which sounds, images or writings can be reproduced with or without the aid of anything else; and
- (d) a map, plans, drawing or photograph.

2.79 However, the definition in section 2B of the *Acts Interpretation Act 1901* refers to ‘plan’ rather than ‘plans’ in paragraph (d). A small typographical correction as a Clerk’s amendment will align the standing orders with the legislation.

Recommendation 10

2.80 The Committee recommends that the definition of ‘document’ in standing order 2 be corrected to match the definition in section 2B of the *Acts Interpretation Act 1901*.

Standing order 80 – Closure of a Member speaking

2.81 A Member may move closure to another Member’s speech (That the Member be no longer heard) at any time, with a few exceptions. This order is interpreted as applying to the speech currently in progress and doesn’t prevent speaking again on the same question (such as in consideration in detail), where allowed for by the standing orders. Standing order 80 provides that any Member may move that a Member who is speaking, except a Member *giving a notice of motion* or moving the terms of a motion, be no longer heard. If the question is agreed to, the Member speaking must immediately resume his or her seat.

2.82 The reference to a Member giving a notice of motion is redundant and should be removed as a Clerk’s amendment, as provision for a Member to

give an oral notice of motion whilst speaking in the Chamber was removed from standing order 106 in 2008.¹³

Recommendation 11

2.83 The Committee recommends that standing order 80 be amended to read:

80 Closure of a Member speaking

If a Member is speaking, other than when ~~giving a notice of motion or~~ moving the terms of a motion, another Member may move—

That the Member be no longer heard.

The question must be put immediately and resolved without amendment or debate.

Mr Tony Pasin MP

Chair

¹³ Votes and Proceedings No. 10, 42nd Parliament, 12 March 2008, 146.

A. Proposed amendments to the standing orders

Standing order	Amended text – <u>new text</u> – deleted text		Reason for amendment
	Mover Seconder (if any) Member next <u>first</u> speaking <u>against the motion</u> Any other Member (standing order 47)	25 mins 10 mins 5 mins 10 mins 5 mins	
1	<i>Bills – Private Members’ – second reading</i> Mover At time of presentation In continuation, on resumption of debate (if required by mover) <u><i>Any other Member</i></u> (standing order 222)	10 mins 5 mins <u><i>15 mins or lesser time determined by the Selection Committee</i></u>	Clarification of time limits for second reading speeches set by the Selection Committee
1	<i>Bills – <u>All government</u> – second reading</i> Any other Member not specified above (standing order 222)	15 mins or lesser time determined	Clarification of time limits for second reading speeches no longer set by the Selection Committee

Standing order	Amended text – <u>new text</u> – deleted text	Reason for amendment
	<div> <div></div> <div>by the Selection Committee</div> </div>	
1	<p><i>Other statements—by leave of the House</i> <i>(e.g. ministerial statements and responses to them, committee reports)</i></p> <p>Member</p> <p><u><i>Leader of Opposition, or Member representing, responding to ministerial statement</i></u></p>	<p>Clarification of time afforded to responses to ministerial statements (standing order 63A)</p> <p>no limit</p> <p><u><i>equal time to ministerial statement</i></u></p>
1	<p><i>Urgent matters—allotment of time for debate</i></p> <p><u><i>Debate management motion</i></u></p> <p>Whole debate</p> <p>Each Member</p> <p><i>(standing order 84)</i></p>	<p>Change related to debate management motions</p> <p>20 mins</p> <p>5 mins</p>
2	<p><i>document</i> means a paper or any record of information, and includes:</p> <p>(i) anything on which there is writing;</p>	<p>Amendment to align the definition of document to the <i>Acts Interpretation Act 1901</i></p>

Standing order	Amended text – <u>new text</u> – deleted text	Reason for amendment
	<p>(ii) anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them;</p> <p>(iii) anything from which sounds, images or writings can be reproduced with or without the aid of anything else; or</p> <p>(iv) a map, plans, drawing or photograph.</p>	
8	<p>8 First meeting for new session following prorogation other than for a new Parliament</p> <p>On the first meeting of a second or subsequent session of Parliament, instead of the procedure set down in <i>standing order</i> 4, the procedure shall be as follows:</p> <p>(a) Members shall assemble in the House at the time appointed by the Governor-General in the Proclamation calling Parliament together.</p> <p>(b) The Clerk shall read the Proclamation to Members.</p> <p>(c) The Speaker shall <u>make an acknowledgement of country and</u> read Prayers.</p> <p>(d) Members shall wait for a message from the Governor-General stating the time when he or she will declare the causes for the calling together of Parliament.</p> <p>(e) Subsequent procedure shall follow <i>standing orders</i> 5–7.</p>	Clarification to align acknowledgement of country practice

Standing order	Amended text – <i>new text</i> – deleted text	Reason for amendment
39(a)	<p>39 Announcements concerning inquiries and presentation of reports</p> <p>(a) The Chair <i>and/or</i> deputy Chair of a committee may make a statement to inform the House of matters relating to an inquiry during the periods for committee and delegation business on Mondays (standing order 34). The Selection Committee shall recommend time limits for such statements.</p>	Amendment to align with practice to allow Chair and deputy Chair of a committee to make a statement
41(c)	<p>41 Private Members' business</p> <p>...</p> <p>(c) Subject to this standing order, the first and second reading shall proceed in accordance with <i>standing orders 141 and 142</i>. The Member who has presented the bill may speak to the second reading for no longer than 10 minutes at the time of presentation and 5 minutes, <i>in continuation</i>, on resumption of the debate (<i>if required by the mover</i>). The Selection Committee may determine times for consideration of the remainder of the second reading debate.</p>	Amendment to ensure consistency between standing orders 1 and 41(c)
80	<p>80 Closure of a Member speaking</p> <p>If a Member is speaking, other than when giving a notice of motion or moving the terms of a motion, another Member may move—</p>	Removal of redundant reference to oral notice of motion (removed from standing order 106 in 2008)

Standing order	Amended text – <u>new text</u> – deleted text	Reason for amendment
	<p><i>That the Member be no longer heard.</i></p> <p>The question must be put immediately and resolved without amendment or debate.</p>	
82	<p>Debate <u>management motions and</u> of urgent matters</p> <p>82 Urgent bill</p> <p>(a) A Minister may declare a bill, <u>or a number of related bills</u>, to be urgent at any time.</p> <p>(b) When a bill <u>or bills are</u> is declared urgent, the question— <i>That the bill(s) be considered urgent—</i> must be put immediately and resolved without amendment or debate.</p> <p>(c) — except when a Member is speaking, a motion specifying times for any stage of the bill. Any motion shall be subject to standing orders 84 (limited debate on allotment of time) and 85 (proceedings on urgent matter).</p> <p>(d) — The order for the consideration in detail stage may allocate times to particular clauses or parts of the bill.</p>	<p>Declaration may cover more than one bill (currently standing orders need to be suspended for this)</p> <p>Deleted provisions in (c) and (d) are included in proposed new wording at standing order 84(b)</p>
83	<p>83 Urgent motion</p> <p>(a) Once a motion has been moved, a Minister may declare the motion to be urgent.</p> <p>(b) When a motion is declared urgent, the question— <i>That</i></p>	

Standing order	Amended text – <i>new text</i> – deleted text	Reason for amendment
	<p><i>the motion be considered urgent</i> – must be put immediately and resolved without amendment or debate.</p> <p>(c) — If the question is agreed to, a Minister may immediately move a motion specifying times for the urgent motion. Any motion is subject to standing orders 84 (limited debate on allotment of time) and 85 (proceedings on urgent matter).</p>	Deleted provision in (c) included in proposed new wording at standing order 84(b)
84	<p>84 Limited debate on motion for allotment of time <i>Debate management motion</i></p> <p><u><i>(a) A debate management motion may be moved by a Minister</i></u></p> <p><u><i>(i) on notice;</i></u></p> <p><u><i>(ii) without notice, in respect of matters that the House has agreed be considered urgent pursuant to standing orders 82 or 83.</i></u></p> <p><u><i>(b) The motion may specify times for a motion or for any stage of a bill. For the consideration in detail stage of a bill the motion may allocate times to particular clauses or parts of the bill.</i></u></p> <p><u><i>(c) A debate management motion may cover more than one related items of business, may set out special procedures to be followed, and may provide for cognate debate.</i></u></p>	<p>New paragraph 84(a) — ‘allotment of time motion’ renamed ‘debate management motion and defined</p> <p>New paragraph 84(b) incorporates deleted elements from 82 and 83 above</p> <p>New paragraph 84(c) expands the scope of debate management motion to match current practice</p>

Standing order	Amended text – <i>new text</i> – deleted text	Reason for amendment
	<p>(d)(a) The maximum times for debate on a <i>debate management</i> motion for allotment of time are: whole debate 20 minutes; each Member 5 minutes.</p> <p>(e)(b) After 20 minutes, or if debate concludes earlier, the Speaker must immediately put the question on any amendment or motion already proposed from the Chair.</p>	Debate times remain same as for current allotment of time motion (shorter than suspension motions)
85	<p>85 Proceedings on urgent matter <i>subject to debate management motion</i></p> <p>(a) If a time has been set for the start of an urgent matter <i>which is subject to a debate management motion</i>, at the set time the business before the House or the Federation Chamber must be interrupted and all necessary steps taken so that the urgent matter can proceed.</p> <p>(b) At the end of the times allotted for particular proceedings the Speaker must conclude the proceedings:</p> <p>(i) First the Speaker shall immediately put any question already proposed from the Chair, and then put any other question required to dispose of the urgent matter.</p> <p>(ii) If the Government has circulated copies of amendments, new clauses and schedules, and modifications to a bill, at least two hours before the end of the allotted time, they shall be treated as if they have been moved.</p>	Changes to align name of motion with other changes

Standing order	Amended text – <u>new text</u> – deleted text	Reason for amendment
	(c) <i>Standing order 81, providing for the closure of a question, shall not apply to any proceedings for which time has been allotted <u>which are subject to a debate management motion</u>.</i>	
105	<p>105 Replies to written questions</p> <p>(a) A Minister's written reply to a question must be delivered to the Clerk. The Clerk shall provide a copy of the reply to the Member who asked the question, and the question and reply shall be published in Hansard.</p> <p>(b) If a reply has not been received 60 days after a question first appeared on the Notice Paper, the Member who asked the question may, at the conclusion of Question Time, ask the Speaker to write to the Minister concerned, seeking reasons for the delay in answering.</p>	Removal of requirement to publish questions and answers in Hansard
122	<p>122 Questions put on proposed amendments</p> <p>(a) The Speaker shall put a <u>the</u> question reflecting the purpose of <u>on</u> a proposed amendment –</p> <p style="padding-left: 40px;">(i) —— If the purpose is to omit certain words, the question shall be —</p> <p style="padding-left: 40px;">That the words proposed to be omitted stand part of the question.</p> <p style="padding-left: 40px;">(ii) —— If the purpose is to omit certain words in order to insert or add other words, the question shall be —</p>	Remove obsolete questions

Standing order	Amended text – <i>new text</i> – deleted text	Reason for amendment
	<p>That the words proposed to be omitted stand part of the question.</p> <p>————— If this question is resolved in the affirmative, the amendment is disposed of: if negatived, the Speaker shall put a further question —</p> <p>That the words proposed be [inserted, or added].</p> <p>————— (iii) — If the purpose is to insert or add certain words, the question shall be —</p> <p>That the words proposed be [inserted, or added].</p> <p>(b) — If no Member objects, instead of the questions in paragraph (a), the Speaker may put the question —</p> <p><i>That the amendment be agreed to.</i></p>	
123	<p>123 Restrictions on amendments to be moved</p> <p>(a) A proposed amendment must not be inconsistent with a previous decision on the question.</p> <p>(b) An amendment may not be moved to an earlier part of the question:</p> <p style="padding-left: 40px;">(i) after a later part has been amended, or</p> <p style="padding-left: 40px;">(ii) after an amendment to a later part has been proposed and the proposal has not, by leave, been withdrawn.</p> <p>(c) — When it is moved to omit words in the main question in</p>	Consequential amendment to address removal of obsolete questions from standing order 122

Standing order	Amended text – <i>new text</i> – deleted text	Reason for amendment
	<p>order to insert or add others, no amendment to the words proposed to be inserted or added may be moved until the question 'that the words proposed to be omitted stand part of the question' has been determined.</p> <p>(d) — Only an amendment which adds other words may be moved to words which the House has resolved stand part of the question, or which have been inserted in, or added to, a question.</p> <p>(c) (e) Each proposed amendment shall be disposed of before another amendment to the original question can be moved.</p>	
153	<p>153 Questions to be put</p> <p>(a) If a bill is reported from the Federation Chamber without amendment or unresolved questions the question shall be put immediately—</p> <p><i>That the bill be agreed to.</i></p> <p>The question must be decided without amendment or debate.</p> <p>(b) If a bill is reported with amendment or unresolved question, matters shall be dealt with in the following order:</p> <p>(i) A separate question shall be proposed on each unresolved question and each shall be open to amendment or debate.</p> <p>(ii) A single question shall be proposed, if</p>	Removal of ability to debate item returned from Federation Chamber with an unresolved question

Standing order	Amended text – <i>new text</i> – deleted text	Reason for amendment
	<p>necessary –</p> <p><i>That the amendments made by the Federation Chamber be agreed to.</i></p> <p>The question must be decided without amendment or debate.</p> <p>(iii) New amendments may only be moved as a consequence of the resolution by the House of any unresolved question.</p> <p>(iv) The question shall be proposed –</p> <p><i>That the bill [as amended] be agreed to.</i></p> <p>The question must be decided without amendment or debate.</p>	
197	<p>197 Return of matters to the House</p> <p>The Federation Chamber may return a matter to the House before its consideration is completed:</p> <p>(a) A matter may be returned to the House on a motion moved without notice at any time by a Minister <i>Member</i> –</p> <p><i>That further proceedings be conducted in the House.</i></p> <p>The motion shall be put without amendment or debate. If the Federation Chamber agrees to, or is unable to resolve, this question, the bill or order of the day shall be returned to the</p>	Replacement of Minister with Member for return of matters from Federation Chamber

Standing order	Amended text – <i>new text</i> – deleted text	Reason for amendment
	<p>House. Consideration in the House must continue from the point reached in the Federation Chamber and the House must resolve any issues that the Federation Chamber reports.</p> <p>(b) The House may at any time require a matter to be returned for further consideration, on a motion moved without notice by a Minister <i>Member</i>. The matter must be set down for consideration at a later hour that day.</p> <p>(c) An item of government business may be returned to the House by a programming declaration made in accordance with standing order 45.</p>	

Source: House of Representatives Standing Orders