

**THE PARLIAMENT OF THE  
COMMONWEALTH OF AUSTRALIA**

**HOUSE OF REPRESENTATIVES  
STANDING COMMITTEE ON PROCEDURE**

**35TH PARLIAMENT**

**SIXTH REPORT**

**THE STANDING ORDERS  
GOVERNING THE CONDUCT OF  
COMMITTEES OF THE HOUSE**

**NOVEMBER 1989**

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**THE PARLIAMENT OF THE  
COMMONWEALTH OF AUSTRALIA  
PARLIAMENTARY PAPER**

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**Terms of reference of the committee**

To inquire into and report on the practices and procedures of the House generally with a view to making recommendations for their improvement or change and for the development of new procedures.

**Members of the committee**

Chairman: Mr J G Mountford, MP

Deputy Chairman: Mr D M Cameron, MP

Members: Mr E C Cameron, MP

Mr R F Edwards, MP

Mr A H Lamb, MP

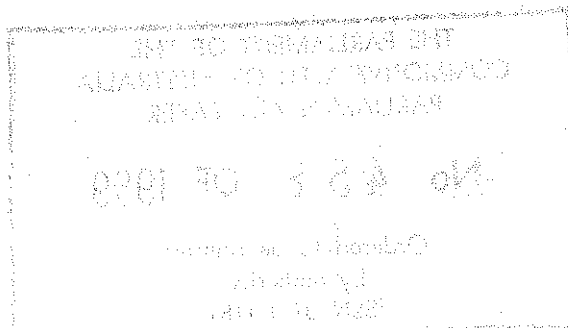
Mr E J Lindsay, RFD, MP

Mr P C Millar, MP

The Hon. G G D Scholes, MP

Secretary: Mr M J McRae (until 9.11.89)

Acting Secretary: Ms J A Flynn (from 10.11.89)



## THE REPORT

### INTRODUCTION

1. On 7 March 1989 the Standing Committee on Procedure resolved that it undertake a comprehensive review of the standing orders of the House of Representatives. This is the first such review since that tabled in August 1962.

2. The committee's primary goal in this review is to present to the House a set of standing orders which meet the needs of the House and reflect its current practices. In certain instances the committee has proposed changes to practice and these are outlined in the report. The standing orders the committee believes should be retained have been updated, obsolete provisions have been removed and the sessional orders that have operated successfully in recent Parliaments have been incorporated. A further goal of the committee is to develop a set of standing orders that are easier to use and more logically presented. In line with this goal the committee has re-ordered the standing orders and modernised their language. The proposed standing orders are at Appendix 1.

### THE INQUIRY

3. Written submissions to the inquiry were invited in advertisements in the national press on 29 April 1989 and later in Legislative Studies, the Journal of the Australasian Study of Parliament Group. A list of the submissions received is at Appendix 2.

4. At the commencement of its consideration of the standing orders the committee agreed that it consider the standing orders in discrete segments and decided to commence with those which govern the conduct of committees of the House. It is the changes proposed to these standing orders which are the subject of this report.

5. Early in the inquiry the committee had discussions with the Clerk of the House on strategies for the review and later held private discussion sessions with the chairmen and deputy chairmen of House and joint committees. The private discussion sessions covered a number of matters ranging from the role and function of committees to the fine detail of the standing orders. These discussions were invaluable to the committee in its later deliberations.

6. The Clerk of the House also provided the committee with a revised set of standing orders relating to committees together with a commentary that presented options for change. In its deliberations the committee drew extensively on this material as a basis for its review.

#### THE SCOPE OF THE REPORT

7. The committee's review to date has concentrated on those standing orders governing the mandate, powers and procedures of all House committees. The standing orders dealing with the Address-in-Reply Committee and the Committee of Reasons will be dealt with later at the appropriate stage of the review. The committee also proposes that there be an addition to the standing orders relating to joint committees.

8. In its deliberations the committee has also considered the role of committees in the House, especially the committees operating in the 35th Parliament and this will be dealt with below.

9. The committee has proposed a reorganisation and restructuring of the standing orders relating to committees. It is proposed that standing orders 25 to 29 and 323 to 368 be omitted and replaced by five major standing orders covering the standing committees to be appointed at the commencement of each Parliament, general committee provisions, witnesses and evidence, reports and select and joint committees. At this stage it is proposed to give these five standing orders the numbers 25 to 29, although this allocation will be subject to the committee's anticipated reorganisation of the standing orders at the conclusion of its review of all standing orders. Appendix 3 details the renumbering of the current standing orders.

#### THE CURRENT COMMITTEE SYSTEM

10. During the current Parliament the House of Representatives has completed a major reconstruction and expansion of its committee system. Eight new general purpose standing committees were appointed to inquire into and report on any matters referred by either the House or a Minister including any pre-legislative proposal, bill, motion, petition, vote or expenditure, other financial matter, report or paper. These committees, together with the Joint Committee on Foreign Affairs, Defence and Trade, give the House a comprehensive standing committee system covering every area of national policy. The committee system now in place has been described as the most ambitious attempt ever made by the House to change its approach to parliamentary oversight of the executive Government.

11. This development is a major step forward for the House, one this committee views as being very successful and which it is proposed be embodied in the standing orders.

12. In addition to these general purpose committees and the Joint Committee on Foreign Affairs, Defence and Trade there are other committees of the House. The Library and House Committees, together with six other committees - Members' Interests, Privileges, Procedure, Publications, Selection and Standing Orders (temporarily suspended) consider the various aspects of the 'domestic' operations of the House. There are five joint statutory committees - Australian Security Intelligence Organization, Broadcasting of Parliamentary Proceedings, National Crime Authority, Public Accounts and Public Works, and three further joint "standing" committees - Australian Capital Territory, Electoral Matters, and New Parliament House. As well as these joint committees there are currently two joint select committees - Migration Regulations and Tenure of Appointees to Commonwealth Tribunals.

13. This committee does not propose any major changes to the current committee structure at this stage. It sees the general purpose committees as still developing their roles, particularly in the forefront of policy initiatives, and will be watching progress with interest. Though it was proposed to the committee that an extra general purpose committee be established to cover foreign affairs, defence and trade the committee believes that the current joint committee should be retained. In this area the practical advantages of having a joint committee are obvious and it is therefore proposed that the status quo remain.

14. The committee does however propose changes of substance that would affect current practice and these are outlined below.

#### THE CHANGES PROPOSED

15. The changes of substance proposed by the committee are as follows:

- . A specific role be given to the Chairman of Committees to oversee the functions and operations of committees;
- . The House establish an Appropriations and Staffing Committee;
- . Annual reports of departments and statutory authorities stand referred automatically to appropriate general purpose committees for any review or inquiry the committees may wish to make;

- . A prohibition be placed on the disclosure in dissenting reports or protests of in camera evidence and evidence received in confidence unless the committee involved so authorises;
- . The Standing Orders Committee be abolished and replaced with the Procedure Committee;
- . Flexible provisions be adopted governing the size and composition of each committee, it being proposed that that this will be determined by the House;
- . Certain powers, such as the power to authorise the publication of evidence and the power to send for persons and documents, be extended to all committees;
- . The quorum provisions be revised so as to give the committees greater flexibility, particularly when taking or authorising the publication of evidence;
- . Revised provisions be adopted for the appointment of members to committees (including the right to challenge nominations); and
- . Revised procedures be adopted for the election of committee chairmen.

16. In addition it is proposed to delete certain provisions from the standing orders, these being:

- . Standing order 339 relating to secret committees. The committee agrees with the proposal that the standing order be omitted as it is outdated. No such committee has been established by either House since federation and where it is judged particular confidentiality provisions are required, this can be done by order of the House or by statute.
- . Standing orders 351 to 353 relating to conferences as a consequence of the proposed amendment to standing order 350 (proposed new standing order 26(13)).
- . Standing order 366 (witness withdraws if question objected to). Paragraph 9 of the proposed committee procedures for dealing with witnesses covers these circumstances for standing and select committees and to implement this standing order in the House or committee of the whole would be almost impossible.
- . Standing order 326 which prohibits a Member sitting on a committee if that Member is personally interested in the inquiry before the committee. The committee considered two major proposals dealing with personal and pecuniary interest but has reached the conclusion that, given the House's requirement that all Members must register their interests and those of their spouses and dependent children (of which they are aware), there is

no need for standing order 326 to be retained. The committee maintains that the needs of the House are met if there is a requirement that Members must register their interests and that the register of such interests is tabled and available for inspection. It should also be noted that registrable interests not only include pecuniary interests such as shareholdings, trusts, real estate, liabilities etc. but also "any other interest where a conflict of interest with a Member's public duties could foreseeably arise".

#### Access to records of earlier committees

17. Proposed standing order 27(18) sets down provisions whereby committees have access to the evidence and records of the relevant committees of previous Parliaments. It also provides that, should the House receive any request for access to committee evidence taken in camera or received on a confidential basis, it must seek the advice of that committee or, in the case of committees no longer in existence, it must seek the advice of the relevant committee of the current Parliament or the Privileges Committee before the House itself makes a decision on the matter and that, where possible, the relevant witness(es) be made aware of the request.

18. Should this standing order be adopted, the House will need to make consequential amendments to its resolution of 1984 concerning the release of unpublished committee evidence taken in camera or submitted on a confidential or restricted basis that has been in the custody of the House for at least 30 years (and the Senate will have to be consulted on the position regarding joint committees).

#### Witnesses before committees

19. In its deliberations the committee considered proposals relating to the rights of witnesses appearing before committees and the recommendations of its 4th report of the current Parliament - Committee procedures for dealing with witnesses. There are two matters the committee wishes to comment on.

20. The first is whether a witness should have the right to have and consult with legal representatives during a meeting. Paragraph 12 of the proposed procedures states that a witness may make application to be accompanied by counsel or an adviser and, if such an application is not granted, the witness must be notified of reasons for the decision. The committee has reconsidered the paragraph and has concluded that an automatic right to be accompanied by counsel or an adviser is not necessary. Should a witness before or during a hearing believe a situation exists in which he/she is at risk or needs assistance, that witness has the right to request the assistance of counsel and there are adequate procedures to deal with such requests.

21. The second matter relates to paragraph 7 of the proposed procedures, that dealing with the publication of in camera evidence. Having reconsidered the matter the committee has agreed that it propose that a provision be inserted in the paragraph stating that, where a witness has been advised of a committee's decision to publish his or her in camera evidence, the witness may be given the right to make a further submission to the committee on the matter.

#### RECOMMENDATIONS

22. It is therefore recommended that:

- (a) Standing orders 25 to 29 and 323 to 368 be omitted and new standing orders 25 to 29 as set out in Appendix 1 to this report be substituted;
- (b) The word "select" (wherever occurring) be deleted from standing orders 221, 222, 223, 224, 302 and 369; and
- (c) When considering the proposed committee procedures for dealing with witnesses the House consider the insertion in paragraph 7 of a provision enabling a witness to make a further submission to a committee in the event of that committee deciding to agree to publish evidence taken in camera or accepted on a confidential basis.

JOHN MOUNTFORD  
(Chairman)

Parliament House  
21 November 1989



APPENDIX 1

PROPOSED STANDING ORDERS, TOGETHER WITH  
COMMENTARY

CHAPTER IV

COMMITTEES

Standing committees

25. Standing committees shall be appointed at the commencement of each Parliament as follows:

General purpose standing committees

(1) (a) General purpose standing committees shall be appointed on:

- (i) Aboriginal Affairs;
- (ii) Community Affairs;
- (iii) Employment, Education and Training;
- (iv) Environment, Recreation and the Arts;
- (v) Finance and Public Administration;
- (vi) Industry, Science and Technology;
- (vii) Legal and Constitutional Affairs; and
- (viii) Transport, Communications and Infrastructure.

Proposed standing order 25 lists all standing committees of the House, together with their terms of reference.

The major provisions of sessional order 28B are included in standing order 25.

(b) each of which shall:

- (i) inquire into and report on any matters referred to it by either the House or a Minister including any pre-legislation proposal, bill, motion, petition, vote or expenditure, other financial matter, report or paper. Annual reports of government departments and authorities including statutory corporations tabled in the House stand referred to the relevant committee, unless otherwise ordered by the House. The House may provide that committees determine their own references; and
- (ii) consist of not less than 7, and not more than 15 members, to be determined by resolution of the House at the commencement of each Parliament. Each committee may be supplemented with up to 3 members for a particular inquiry.

#### House Committee

- (2) A House Committee shall be appointed to consider any matter relating to the provision of facilities in Parliament House referred to it by the House or Speaker and shall consist of the Speaker and 6 other Members.

#### Library Committee

- (3) A Library Committee shall be appointed to consider any matter relating to the provision of library services to Members and shall consist of the Speaker and 6 other Members.

Amendments proposed add provisions for:

- . annual reports to stand referred to general purpose committees for any review or inquiry the committees may see fit to make; and
- . the House to resolve that a committee be able to determine its own references.

The proposed amendment does not specify the exact size or composition of each committee, it being proposed that this will be determined by the House. The provision in the sessional orders that up to 3 members can be added to a committee for a particular inquiry has been retained.

Separate standing orders are proposed for the Library and House Committees. The provision for each committee "to act during recess" has been omitted as it would make provision for a subordinate body of the House to meet when the House itself could not meet.

### Committee of Members' Interests

(4) (a) A Committee of Members' Interests shall be appointed to:

(i) monitor arrangements made for the compilation, maintenance and accessibility of a Register of Members' Interests;

(ii) consider any proposals made by Members and others as to the form and content of the Register;

(iii) consider any specific complaints made in relation to the registering of interests;

(iv) consider what classes of persons (if any) other than Members ought to be required to register and/or declare their interests; and

(v) to make recommendations upon these and any other matters which are relevant.

(b) The committee shall have power to send for persons and documents but shall not exercise that power, nor undertake an investigation of the private interests of any person, unless approved by not less than 4 members of the committee other than the chairman.

The amendments proposed reflect the fact that the House has deleted the requirement for oral declarations of interest and has not adopted a code of conduct.

It is proposed to amend the provision so that persons other than Members are not necessarily required to declare their interests as well as register them.

(c) The committee shall prepare and table in the House as soon as practicable after 31 December each year, a report on its operations during that year.

(d) The committee shall consist of 7 Members.

**Procedure Committee**

(5) A Procedure Committee shall be appointed to inquire into and report on the practices and procedures of the House generally with a view to making recommendations for their improvement or change and for the development of new procedures; and shall consist of 8 members.

**Privileges Committee**

(6) A Privileges Committee shall be appointed to inquire into and report upon complaints of breach of privilege or contempt which may be referred to it by the House under standing order 95 or by the Speaker under standing order 97A; and shall consist of 11 members.

The power to report from time to time has been deleted from this provision because a general provision giving all committees the power to report from time to time has been proposed.

The proposed standing order replaces the current sessional order, the Procedure Committee replacing the Standing Orders Committee.

It is proposed that the standing order be amended to omit references to particular office holders and to insert the words "or contempt" after "breach of privilege".

## Publications Committee

(7) (a) A Publications Committee shall be appointed to:

(i) consider all documents presented to the House which have not been ordered to be printed by either House of the Parliament;

(ii) report from time to time as to what papers ought to be printed, and whether wholly or in part.

(iii) make an annual return to the House on the cost of the parliamentary papers series; and

(iv) when conferring and sitting with a similar committee of the Senate, the Committee shall have power to inquire into and report on the printing, publication and distribution of Parliamentary and Government Publications and on such matters as are referred to it by the relevant Minister.

(b) The committee shall consist of 5 Members.

The proposed standing order requires the committee, in addition to its current duties, to make an annual return to the House on the costs of the publication of the parliamentary papers series. The requirement that the committee consider petitions has been omitted.

The proposed reduction in membership will be subject to the Senate taking similar action.

### Appropriation and Staffing Committee

- (8) (a) An Appropriation and Staffing Committee shall be appointed to:
- (i) inquire into proposals for the annual estimates and the additional estimates for the House of Representatives, proposals to vary the staff organisational structure of the House of Representatives, and staffing and recruitment policies, and such matters as are referred to it by the House.
  - (ii) make an annual report to the House on the operations of the House's appropriations and staffing, and related matters.
- (b) The committee shall consist of the Speaker and 10 other members.

### Selection Committee

- (9) (a) A Selection Committee shall be appointed to arrange the timetable and order of business prior to 12.30 p.m. on each sitting Thursday pursuant to standing order 101.
- (b) Private Members' business which is to be accorded priority, the order of consideration and the times allotted for debate on each item shall be approved by a majority of the members present at a meeting of the committee and in accordance with general principles adopted by the House.

It is proposed that a House committee be created to inquire into and report to the House on the operations of the House's appropriations and staffing.

To overcome the need for the committee to determine an agenda for sitting Thursdays after a long adjournment paragraph (c) has been amended to enable determinations in these circumstances to be held over until the sittings resume.

- (c) The Committee may determine the order of precedence and times allotted for consideration of committee and delegation reports and private Members' business and shall report its determinations to the House in sufficient time for its decisions to appear on the Notice Paper of the first sitting day of each week or of the second sitting day after an adjournment which has exceeded one month.
- (d) Reports of the Committee made pursuant to paragraph (c) shall be deemed adopted when laid upon the Table and shall be printed in Hansard.
- (e) The Committee shall consist of 11 members of whom 6 members shall be Government Members.
- (f) For the purpose of private Members' business in this and any other standing order, a private Member is any Member of the House other than the Speaker or a Minister.
- (10) The Chairman of Committees shall oversee the functions and operations of House committees and as he or she deems it necessary may report to the House on matters relating to committee operations.

It is proposed that the current informal liaison between committees be formalised so that there is a mechanism in place for the oversight of the functions and operations of committees.

### General committee provisions

26. Except as otherwise ordered, the following general provisions will apply to all House committees:

#### Appointment of members

- (1) The membership of each committee shall be submitted by the appropriate Whip or Whips to the Speaker for announcement to the House; but it shall be in order for any Member, immediately following the announcement, to move that he or she be appointed to the committee in substitution for another Member.

This proposed standing order gives effect to the current practice for most committees whereby Whips nominate membership. A proviso has been added to give the opportunity to any Member to challenge the appointments to committees.

#### First meeting

- (2) Where a chairman has not been appointed, the Chairman of Committees or one of the Deputy Chairmen of Committees nominated by the Chairman of Committees shall convene and conduct the first meeting of a committee until the committee elects a chairman.

This proposed standing order clarifies procedures for the fixing of the first meeting by placing the responsibility on the Chairman of Committees or a nominated Deputy Chairman.



**Quorum**

(3) (a) A quorum of a committee or subcommittee shall be a majority of the members of the committee or subcommittee except that for the purposes of taking evidence and authorising the publication of evidence, 3 members shall constitute the quorum of a committee.

(b) If after the lapse of 15 minutes from the time appointed for a meeting of a committee or subcommittee or at any time during the proceedings of a committee or subcommittee there is not a quorum present the chairman, unless satisfied that there is likely to be a quorum within a reasonable time, may announce a time for the next meeting of the committee or subcommittee. Members present may retire and their names shall be entered in the minutes. The secretary shall notify all members of the time set down for the next meeting.

The quorum provisions for committees have been amended by:

- . omitting the provision in certain sessional orders that a number of Government Members shall form part or all of a quorum;
- . providing for a reduced quorum when taking or authorising the publication of evidence; and
- . allowing the chairman some flexibility when a quorum is not present.

The provisions also cover subcommittees.

It is proposed that "Clerk attending" be replaced by "secretary to".

**Appointment of Speaker and Chairman of Committees to a committee**

- (4) Except with his or her consent, the Speaker or the Chairman of Committees shall not be chosen to serve on a committee other than as specified in the standing orders.

**Election of chairman**

- (5) Every committee, before the commencement of business, shall elect one of its members to be chairman, who shall have a deliberative vote only.

**Election of deputy chairman**

- (6) A committee shall elect a deputy chairman who shall act as chairman of the committee at any time when the chairman is not present at a meeting of the committee, and at any time when the chairman and deputy chairman are not present at a meeting of the committee the members present shall elect another member to act as chairman at that meeting.

It is proposed that the standing order be amended to reflect current practice.

It is proposed that a committee chairman should have a deliberative vote rather than a casting vote.

This proposed standing order is new though it gives effect to provisions contained in the sessional orders and various resolutions of appointment.

## Subcommittees

- (7) (a) A committee shall have power to appoint subcommittees consisting of 3 or more of its members and to refer to any subcommittee any matter which the committee is empowered to examine.
- (b) A committee shall appoint the chairman of each subcommittee, who shall have a deliberative vote only and at any time when the chairman of a subcommittee is not present at a meeting of the subcommittee the members of the subcommittee present shall elect another member of that subcommittee to act as chairman at that meeting.
- (c) Members of the committee who are not members of a subcommittee may participate in the public proceedings of that subcommittee but shall not vote, move any motion or be counted for the purpose of a quorum.
- (d) Whenever a member of a subcommittee is not available to attend a meeting of the subcommittee, the chairman of the subcommittee may request a member of the committee who is not a member of the subcommittee to attend the meeting of the subcommittee, if a quorum cannot be obtained, and any member attending a meeting of a subcommittee pursuant to such a request is, for the purposes of the meeting, a member of the subcommittee and may vote, move motions, be counted for the purposes of a quorum and participate in any other way in the conduct of the meeting.

The current standing orders do not contain provisions for the formation of subcommittees. The sessional orders and resolutions of appointment have made provisions for aspects of their operation. The proposed standing orders cover their appointment, appointment of chairmen, participation of committee members, and ability to coopt other committee members.

As with committee chairmen and acting chairmen, it is proposed that subcommittee chairmen and acting chairmen have a deliberative vote only.

It is proposed that a subcommittee should, in effect, be able to coopt one other member of the committee to participate in its proceedings. This procedure, whilst being invoked very infrequently, would enable a subcommittee meeting to proceed despite a late notification of the inability of a subcommittee member to attend (presuming another committee member were available).

#### Power to send for persons and documents

- (8) Except as otherwise provided in specific standing orders, a committee or subcommittee shall have power to send for persons and documents.

This proposal extends this power to all committees, some of which do not currently have it. It is still a qualified power in the case of the Publications Committee and the Committee of Members' Interests.

The committee proposes that the meaning of "document" be as defined in the Acts Interpretation Act.

#### Adjournment and sittings of committees

- (9) A committee or subcommittee may adjourn from time to time, and from place to place, and may sit during any sittings or adjournment of the House.

It is proposed that all committees and subcommittees have the power to move from place to place. In practice this power will be constrained by budgetary considerations.

#### Admission of visitors

- (10) When a committee or subcommittee is examining a witness, visitors may be admitted, but may be excluded by order of the committee, or at the discretion of the chairman, and shall always be excluded when the committee is deliberating or taking evidence in camera.

It is proposed to replace the term "stranger" (not commonly used) with "visitor", to omit the provision that any member may request visitors to withdraw and to clarify the exclusion provision to include the taking of evidence in camera.

This committee takes the term "visitor" to apply to any person who is not a member of the committee, the committee staff or reporting staff, or a witness appearing before the committee at that time or his or her advisor.

#### Admission of other Members

- (11) Members of the House may be present when a committee or subcommittee is examining a witness; but shall withdraw if requested by the committee or subcommittee, and shall always withdraw when the committee or subcommittee is deliberating or taking evidence in camera.

This proposal and proposed standing order 26 (10) above complement the committee's proposed procedures to be followed by committees in their dealings with witnesses by ensuring all persons who are not committee members or staff withdraw before evidence is taken in camera.

**Records of proceedings**

(12) a) All proceedings of a committee or a subcommittee shall be recorded by the secretary to the committee or subcommittee. These records shall constitute the minutes of proceedings of the committee or subcommittee and shall be signed by the chairman after confirmation by the committee or subcommittee.

b) Any documents presented to the committee or subcommittee shall be signed by the secretary, and the time and date at the time of signature recorded.

The standing order has been amended to reflect current practice and to bring the wording into line with the standing order relating to the recording of proceedings in the House.

It is proposed that the time and date as well as the signature of the secretary should be recorded on documents presented to the committee or subcommittee.

**Conferring with Senate committees**

(13) A committee shall have power to confer with a similar committee of the Senate.

It is proposed that the power to confer with a similar committee of the Senate be extended to all committees and not be subject to leave of the House as is currently the case (standing order 350). This committee does not believe the power to confer, that is, the power to talk together or consult, includes the power for committees to sit as a joint committee with a similar committee of the Senate and is very wary of automatically extending that power to all committees. The Publications Committee does have that power and no doubt the Senate and House will grant the power to other committees should the need be felt. It is proposed that standing orders 351 - 353 be omitted and the word "select" be omitted from standing order 369.

**Witnesses and Evidence**

**Witnesses**

**Issue of summons to witness**

27. (1) Witnesses, not being Members, may be ordered to attend before the House, or a committee of the whole, by summons under the hand of the Clerk of the House acting pursuant to an order of the House, or before a committee, by summons under the hand of the secretary to the committee, acting pursuant to an order of the committee.

**Failure of witness to attend or give evidence**

(2) If a witness fails or refuses to attend or to give evidence, the House, on being acquainted therewith, shall deal with the matter.

It is proposed that current standing orders 335 and 354 be collapsed into the one standing order that sets out the conditions for the issuing of a summons to a witness before either the House, a committee of the whole or a committee. The standing order has been modified to reflect this committee's proposed procedures to be followed by committees in their dealings with witnesses. The word "select" has been omitted and "Clerk attending" replaced with "secretary to".

This proposed standing order is in the same terms as current standing order 355.

### Attendance of Member before the House or a committee

- (3) When the attendance of a Member is ordered by the House for examination by the House or a committee of the whole, that Member shall be summoned by the Speaker to attend in the Member's place.
- (4) If a committee desires the attendance of a Member as a witness, the chairman shall, in writing, request that Member to attend; but should the Member refuse to come, or to give evidence or information as a witness to the committee, the committee shall advise the House, and not again summon the Member to attend the committee.

### Charges against Members

- (5) (a) No committee, except the Privileges Committee and the Committee of Members' Interests, shall inquire into, or make findings in respect of, the conduct of any Member of the House, unless it is directed by the House to do so.
- (b) If any information comes before any committee or any allegation is made to a committee, except the Privileges Committee and the Committee of Members' Interests, charging any Member, the committee shall inform the Member concerned of the details of the charge and give the Member an opportunity to make any statement to

The language of standing order 356 has been modernised.

The language of standing order 357 has been modernised and the word "select" omitted.

This proposed standing order replaces standing order 358. It has been put to the committee that the rule reflects an important principle but that:

- . the Privileges Committee and Committee of Members' Interests should be excluded as, by their very nature, they may have to see charges against Members; and
- . Members should have the right to respond to criticism before the matter is presented to the House.

It is proposed to amend the standing order to take these anomalies into account and also to give a committee some discretion in whether it should report to the House a matter which it may consider to be trivial or baseless.

it bearing on the matter. Unless the Committee considers the matter is without substance, it shall report the matter to the House and shall not proceed further on that information or allegation without being directed by the House to do so.

**Attendance of Senators or officers of the Senate**

- (6) When the attendance of a Senator, or any officer of the Senate, is desired, to be examined by the House or any committee of the House, a message shall be sent to the Senate to request that the Senate give leave to the Senator or officer to attend for examination.

**Request by Senate for Member or officer to appear before the Senate or a Senate committee**

- (7) Should the Senate request by message the attendance of a Member of the House before the Senate or any of its committees, the House may forthwith authorize that Member to attend, if the Member thinks fit. The House, if similarly requested by the Senate, may, if the House thinks fit, also instruct its own officers to attend the Senate or any of its committees.

It is proposed to update the language of this standing order (current standing order 359) and the standing order following (current standing order 360).



**Witness in custody**

(8) When a witness is in the custody of the keeper of any prison, the keeper may be ordered to bring the witness in safe custody for examination, and from time to time as often as the witness's attendance is thought necessary; and the Speaker may issue a warrant accordingly.

**Witness entitled to protection**

(9) All witnesses giving evidence to the House, or any of its committees, are entitled to the protection of the House in respect of anything that may be stated by them in their evidence.

It is proposed to amend the language of this standing order (current standing order 362) to update it and reflect the terms used in the Parliamentary Privileges Act.

**Witness to be examined at Bar of House**

(10) A witness before the House or a committee of the whole shall be examined at the Bar unless the House or the committee otherwise orders.

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**Examination of witnesses**

- (11) When the witness appears before the House, that witness shall be examined by the Speaker, and any questions addressed by Members are taken to be put through the Speaker.
- (12) In committee of the whole, any Member may put questions directly to the witness.
- (13) The examination of a witness before a committee or subcommittee shall be conducted according to the mode of procedure agreed on by the committee or subcommittee.
- (14) A Member of the House shall be examined in that Member's place.
- (15) No officer of the House, or member of staff of the Department of the Parliamentary Reporting Staff employed to record evidence before the House or any committee, may give evidence elsewhere in respect of any proceedings or examination of any witness without the leave of the House.

It is proposed to amend current standing order 336 to reflect current practice and to make provision for the examination of witnesses by subcommittees.

(16) The Speaker shall have the right to require any witness to attend before the House or any committee or subcommittee for the purpose of giving evidence.

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**Payment to witnesses**

- (16) Payment at the discretion of the Speaker may be made to any witness appearing before a committee, on the recommendation of the committee.

This standing order proposes to amend standing order 349 to reflect current practice that it is the Speaker who authorises the employment of expert advisors etc. It is always open to witnesses, of course, to make claims for any reasonable expenses.

**Evidence****Alteration of documents received**

- (17) No document received by the secretary to a committee shall be withdrawn or altered without the approval of that committee.

It is proposed that this standing order be inserted to confirm the practice that submissions etc cannot be altered without approval of the committee.

**Access to previous records and evidence**

- (18) (a) Committees or subcommittees shall have power to consider and make use of the evidence and records of the relevant committees appointed during previous Parliaments but shall not have the right to publish any material that the previous committee directed not be published.

It is proposed to insert this standing order to give committees the right to access records of relevant committees in previous parliaments subject to certain safeguards.

- (b) The House, prior to granting access to any committee evidence taken in camera or received on a confidential basis, shall seek the advice of that committee or, in the case of committees no longer in existence it must seek the advice of the relevant committee of the current Parliament or the Privileges Committee and that, where possible, the relevant witness(es) shall be made aware of the request.

This provision is proposed to ensure that the greatest safeguard possible is in place when a request for access to committee evidence taken in camera or received on a confidential basis is sought.

**Disclosure of evidence**

(19) Subject to standing order 27(20), the evidence taken by any committee or subcommittee of the House and documents presented to and proceedings and reports of the committee or subcommittee, which have not been reported to the House, shall not, unless approval is given by the committee or subcommittee or authorised by the House, be disclosed or published by any Member of the committee or subcommittee, or by any other person.

(20) Standing order 27(19) shall not apply to:

- (a) proceedings of a committee or subcommittee held in public;
- (b) any press release or public statement made by the chairman of a committee or subcommittee relating to an inquiry;
- (c) submissions, exhibits or oral evidence received by a committee or subcommittee that have been authorised for publication by that committee or subcommittee; or
- (d) any submission which the committee or subcommittee may refer to any person for comment for the purpose of assisting the committee or subcommittee in its inquiries.

**Publication of evidence**

(21) A committee or subcommittee shall have power to authorise publication of any evidence given before it and any document presented to it.

It is proposed to amend current standing order 340 to introduce some flexibility into the provisions.

This proposed provision lists exemptions, which are self-explanatory, to standing order 27 (19).

It is proposed to give the power to authorise publication of evidence to all committees and subcommittees.

## Reports

### Preparation

28. (1) It shall be the duty of the chairman of every committee or subcommittee to prepare a draft report.

### Consideration of chairman's draft by committee

- (2) At a meeting convened for the purpose the chairman shall present the draft report of the committee or subcommittee which may be considered at once, provided copies have been circulated in advance to each member of the committee or subcommittee. The report shall be considered paragraph by paragraph, and appendixes shall be considered in order at the conclusion of the consideration of the report itself. A member objecting to any portion of the report shall vote against it or move an amendment at the time the particular paragraph is under consideration. If any member dissents from all or part of the draft report of a committee or wishes to attach a protest to a committee report, the member may add a protest or dissenting report to the main report, but a protest or a dissenting report shall not disclose evidence taken in camera or determined by the committee to be received in confidence unless authority to do so is given by the committee.

It is proposed to amend standing order 342 to take account of subcommittees.

It is proposed to amend current standing order 343 to reflect current practice (chairman do not usually read a report to a committee) and to take account of the addition of protests or dissents to reports. This committee views a protest as an addendum to a report where a committee member may object to the procedures or methodology of an inquiry without necessarily dissenting from the committee's recommendations. The committee reiterates its belief that a member must not be allowed to disclose evidence taken in camera or any evidence determined by the committee to be received in confidence in a dissent or protest without authorisation by the committee.

In line with the committee's proposed procedures to be followed by committees in their dealings with witnesses, should a committee authorise the use of in camera evidence in a protest or a dissenting report the relevant witness(es) should be advised in advance.

**Alternative draft reports**

- (3) Should any member submit a draft report, the chairman's draft shall take precedence unless the committee or subcommittee determines otherwise.

**Reconsideration of a paragraph of the report**

- (4) After the draft report has been considered, the whole or any paragraph may be reconsidered and amended.

**Signing of a report**

- (5) A report of a committee shall be signed by the chairman and any protest or dissenting report shall be signed by the member or members protesting or dissenting.

**Leave to report**

- (6) A committee shall have leave to report from time to time.

**Report and minutes presented**

- (7) The report of a committee, together with the minutes of proceedings, shall be presented to the House by a member of the committee provided he or she has the committee's authority to do so.

It is proposed to amend current standing order 344 to give the chairman's draft report precedence unless determined otherwise.

It is proposed to insert a provision requiring a member or members adding a protest or a dissent to a report to sign that protest or dissent.

It is proposed to replace standing order 341 with this provision as its requirements have been superseded in the sessional orders. This provision, if adopted, will also give select committees automatic rights to report from time to time unless the House orders otherwise.

It is proposed to drop the provision in standing order 347 permitting a report to be read as time does not permit this. It is proposed that any member of a committee (eg. the chairman of a subcommittee) may present a report provided he or she has been so authorised and though in most cases committees present their published evidence to the House, this has not been made compulsory as there may be cases where it is impractical.

### Consideration after presentation

- (8) Upon its presentation, a report may be ordered to be printed with or without the documents accompanying it, and its consideration may be set down for a subsequent sitting when a specific motion without notice in connection therewith may be moved.

### Government responses to committee reports

- (9) Within 120 days of the presentation of a report from a committee (or no less than the third sitting day following a recess or adjournment where the specified period has expired during that recess or adjournment) the appropriate Minister shall present a response in the House to any recommendations contained in the report which are addressed to the government.

- (10) During each period of sittings the Speaker shall table a return listing outstanding responses to committee reports.

It is proposed to retain standing order 348 in its current 'sessional order' form to reflect contemporary practice whereby Members may make statements on Thursday mornings. Leave of the House to make a statement would still be required when reports were presented other than in accordance with the provisions set down for Thursdays.

It is proposed to formalise the current practices whereby the Government presents to the House a response to recommendations contained in committee reports which are addressed to the Government and the Speaker tables regular returns listing outstanding responses.

Select and joint committees

Select committees

Appointment

29. (1) All select committees shall be appointed on motion, and shall consist of the mover, where the mover is neither a Minister nor an office holder, and other Members to be nominated.

Fixing of day for reporting

(2) On the appointment of a select committee, a day shall be fixed for the reporting of its proceedings to the House, by which day the report of the committee shall be brought up by the chairman, unless further time is moved for and granted; but the House may at any time prior to that day receive the report of the committee.

The terms of the standing order have been expanded to reflect current practice. Although motions to appoint select committees are almost always moved by Ministers, normally neither Ministers nor office holders serve on select committees.

Proposed standing order 28 (6) gives all committees the power to report from time to time. Current standing order 327 has been amended to take account of this and to modify its language.



## Joint committees

## Joint committees

- (3) In every message proposing to the Senate the appointment of a joint committee, the House shall state the number of Members it will appoint to serve on the committee.
- (4) Whenever either House agrees to a proposal from the other House for the appointment of a joint committee, the first meeting of the committee shall be held at such time and place as is named by the House in which the proposal did not originate.
- (5) The House may fix the quorum of its Members required to constitute a sitting of a joint committee. Subject to this a joint committee shall fix its own quorum.
- (6) On receipt of a message from the Senate agreeing to appoint the same number of Members of that House to serve on the proposed joint committee, the House will proceed to appoint the number of Members agreed upon to serve on the committee.
- (7) The proceedings of every joint committee shall be reported to the House by the Members it has appointed to serve on the committee.
- (8) The resolution of appointment of a joint committee shall specify whether that committee follow Senate or House procedures.

The committee does not propose any alterations of substance to the standing orders relating to joint committees (current standing orders 385 - 89) except to add the proviso that the resolution of appointment of a joint committee specify which procedures, 'House or Senate', that the particular joint committee must follow.

### Other chapters

The committee, as well as compiling a set of standing orders relating to the operation of committees, reviewed all standing orders which referred to committees (with the exceptions of the Address-in-Reply Committee and the Committee of Reasons) to ensure they were consistent with changes made to Chapter IV. These are listed below:

#### Chapter VIII Business

##### Committee and delegation reports

102. Reports of committees and papers may be presented at any time when other business is not before the House.

102A Following the presentation of petitions each sitting Thursday, committee and delegation reports may be presented and orders of the day called on for the resumption of the debate on motions moved in connection therewith in the order determined by the Selection Committee.

It is proposed to retain this provision (current standing order 102) as it does allow flexibility in the timing of presentation of reports of committees (and delegations) though, of course, Members would need to seek leave of the House should they wish to make statements.

No change is proposed to the provisions of this sessional order.

102B Upon presentation of a report of a committee or delegation pursuant to standing order 102A, the Member presenting the report and other Members, subject to any determination of the Selection Committee, may be accorded priority in making a statement to the House for a period not exceeding 10 minutes and a specific motion in connection therewith may be moved without notice by the Member presenting the report whereupon the debate on the question shall then be adjourned until a future day to be determined by the Selection Committee.

102C Following the presentation of reports pursuant to standing order 102A, the resumption of proceedings on motions relating to committee and delegation reports shall have precedence until 11 a.m. according to the order of priority and times allotted for debate determined by the Selection Committee, each Member speaking for a period not exceeding 10 minutes or any lesser period determined by the Selection Committee.

The resumption of the debate shall be made an order of the day for a future day under private Members' business whenever:

(a) consideration of any question has not concluded at the time appointed by the Selection Committee or at 11 a.m. when debate shall be interrupted; or

(b) consideration is concluded before the expiry of the time allocated or before 11 a.m. and the Selection Committee has determined that consideration of the matter should continue on a future day.

It is proposed to amend the current sessional order so as not to preclude Members other than members of the committee or delegation from making statements.

Though proposals were made to extend the time for consideration of committee and delegation reports to 11.30 a.m., this committee believes that the time allotted to private Members' business should not be reduced.

The clause dealing with the resumption of debate has been expanded to provide for occasions when consideration is concluded before the expiry time allocated or before 11 a.m.

Chapter IX Petitions

## Petitions deemed to have been received

130. Every petition presented shall be deemed to have been received by the House unless a motion, moved forthwith, that a particular petition be not received, be agreed to.

The only other questions entertained by the House on the presentation of a petition shall be 1. That a particular petition be printed; or 2. That a particular petition be referred to a committee.

Chapter XXIII Papers and documents

322. On any paper being presented to the House as provided in this chapter, a Minister or an Assistant Minister may move without notice all or any of the following motions: 1. That the paper be printed; 2. That the House take note of the paper; 3. That the paper be referred to a committee for inquiry and report:

Provided that if the motions are not moved by a Minister or an Assistant Minister at the time of the presentation of the paper, they may be moved, on notice, on a subsequent day.

The committee does not propose any alterations to the current provisions for referral of petitions to committees.

A provision has been inserted to enable a Minister or Assistant Minister to move without notice that a paper be referred to a committee.

APPENDIX 2

SUBMISSIONS

Submissions were received from the following:

Mr J. Saunderson, MP, Chairman, House of Representatives Standing Committee on Transport, Communications and Infrastructure

Mr G. Gear, MP, Chairman, House of Representatives Committee of Privileges

Mr P. Milton, MP, Chairman, House of Representatives Standing Committee on Environment, Recreation and the Arts

Dr R.E. Klugman, MP, Chairman, House of Representatives Committee of Members' Interests

Hon R.C. Katter, MP, Member for Kennedy

Mr J. Brumby, MP, Chairman, House of Representatives Standing Committee on Employment, Education and Training

Mr N. O'Keefe, MP, Chairman, House of Representatives Standing Committee on Community Affairs

Mr S. Martin, MP, Chairman, House of Representatives Standing Committee on Finance and Public Administration

Mr J. Spender, QC, MP, Member for North Sydney

Mr D. J. Morris  
6 Pen-y-bryn Place  
Launceston TAS 7250

Mr B. Goff  
16 Blackbutt St  
O'Connor ACT 2601

Mr R. Bailey  
17 Tingward St  
The Gap QLD 4061

Mr P. Shack, MP, Member for Tangney

Arthur Young, Chartered Accountants  
GPO Box 2646  
Sydney NSW 2001

Mr T. Fischer, MP, Member for Farrer

Hon J. S. Dawkins  
Minister for Employment, Education and Training

Mr G. Carney  
Law School  
University of Queensland  
St. Lucia QLD 4067

APPENDIX 3

PROPOSED STANDING ORDERS RELATING TO COMMITTEES

RENUMBERING OF CURRENT STANDING ORDERS

**NEW**

**OLD**

Standing committees

25(1)	28B Sessional
25(2)	27
25(3)	27
25(4)	28A
25(5)	28C Sessional
25(6)	26
25(7)	28
25(8)	New
25(9)	28D Sessional
25(10)	New

General committee provisions

26(1)	New
26(2)	New
26(3)(a)	29, 328
26(3)(b)	329
26(4)	325
26(5)	331
26(6)	28B Sessional
26(7)	28B Sessional
26(8)	28B Sessional, 334
26(9)	333
26(10)	337
26(11)	338
26(12)	332
26(13)	350

## Witnesses and evidence

27(1)	335, 354
27(2)	355
27(3)	356
27(4)	357
27(5)(a)	New
27(5)(b)	358
27(6)	359
27(7)	360
27(8)	361
27(9)	362
27(10)	363
27(11)	364
27(12)	365
27(13)	336
27(14)	367
27(15)	368
27(16)	349
27(17)	New
27(18)	28B Sessional
27(19)	340
27(20)	New
27(21)	28B Sessional

## Reports

28(1)	342
28(2)	343
28(3)	344
28(4)	345
28(5)	346
28(6)	341
28(7)	347 Sessional
28(8)	348 Sessional
28(9)	New
28(10)	New

## Select and joint committees

29(1)	323
29(2)	327
29(3)	385
29(4)	386
29(5)	387
29(6)	388
29(7)	389
29(8)	New