



## **Review of Standing Orders**

Report of the Standing Orders Committee

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Forty-ninth Parliament  
(Dr The Rt Hon Lockwood Smith,  
Chairperson)  
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*Presented to the House of Representatives*



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# Review of Standing Orders

## Part 1

### Summary of recommendations

The Standing Orders Committee makes the following recommendations.

#### Recommendations to the House

We recommend to the House that the amendments to the Standing Orders set out in Part 2 of this report be adopted, with effect from the day after the dissolution or expiration of the present Parliament.

We recommend to the House that, when legislation to replace the Civil List Act 1979 is to come into force, a sessional order be adopted requiring the Clerk of the House to record and publish members' attendance at parliamentary business and approved absences.

We recommend to the House that, when the Legislation Bill is enacted and is to come into force, a sessional order be adopted setting out a streamlined procedure for the consideration of revision bills that—

- provides for no debate on first reading, subject select committee consideration, a debate at second reading, a committee of the whole House stage if required, and third reading forthwith without debate
- includes an instruction setting out the manner in which subject select committees will consider revision bills, and
- permits a revision bill as a type of omnibus bill.

We recommend to the House that, when the Legislation Bill is enacted and is to come into force, a sessional order be adopted to modify the application of Standing Orders 3(1) and 309 to 314 to reflect the provisions of the bill.

We recommend to the House that it refer to a select committee an inquiry into Parliament's legislative response to a national emergency, particularly in terms of how it enables ongoing response and recovery, but that such an inquiry be referred following a reasonable period to enable the progress of the recovery from the Canterbury earthquakes.

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**Recommendations to the Government**

We recommend to the Government that the legislation to replace the Civil List Act 1979 include a provision to apply salary deductions to members who are suspended from the service of the House.

We recommend to the Government that legislation be introduced to amend the Legislature Act 1908 to provide that—

- the live broadcast of Parliament’s proceedings, including select committee hearings, is protected by absolute privilege
- delayed broadcasts or re-broadcasts of Parliament’s proceedings, including select committee hearings, that are made by order or under the authority of the House of Representatives are protected by absolute privilege
- a fair and accurate report of proceedings in the House, or summary using extracts of proceedings in the House, by any person is protected by qualified privilege
- the broadcast and other publication of extracts of Parliament’s proceedings, including select committee hearings, that are not made by order or under the authority of the House of Representatives are protected by qualified privilege, in a manner consistent with the provisions of the Defamation Act 1992
- a member of Parliament, or any other person participating directly in or reporting on parliamentary proceedings, who makes an oral or written statement that affirms or adopts what he or she or another person has said in the House or its committees, will not be liable to criminal or civil proceedings.

We recommend to the Government that Cabinet guidelines be amended to require that analysis of Bill of Rights and other constitutional matters be included and given prominence in regulatory impact statements supporting the introduction of bills, and to require Bill of Rights reporting on substantive Supplementary Order Papers.

We recommend to the Government that future Proclamations summoning Parliament appoint the place of meeting as “in the parliamentary precincts in the City of Wellington”, rather than specifying Parliament House.

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## Introduction

One of the functions of the Standing Orders Committee is to conduct a review of the Standing Orders, procedures, and practices of the House.<sup>1</sup> The committee typically conducts one such review in each parliamentary term. In Part 1 of this report, we discuss the issues that have arisen in the review for the 49th Parliament, clarify a number of matters of practice and procedure, and explain our recommended amendments to the Standing Orders. Part 2 sets out these recommended amendments, which are to come into force before the House meets in the 50th Parliament.

A regular review of the rules and practices of the House is essential to ensure the House and its committees continue to operate effectively, and Parliament remains relevant. The Standing Orders Committee recognises that the Standing Orders are akin to constitutional rules, and seeks to arrive at an overall package of proposals that enjoys the overwhelming support of members around the House, even if full unanimity cannot always be reached. This process involves “give and take” across parties, to ensure that changes do not confer unfair advantage.

We would like to record our appreciation of the thought-provoking submissions we received from the public and from members.

### Summary of recommended amendments

Our more significant recommendations for amendment to the Standing Orders include the following:

- promoting compliance with the proper form of the oath or affirmation when members are sworn in
- provision for the Government to obtain extra hours of House time to progress its programme without the need for urgency, by moving for extended sittings of the House, as follows:
  - Tuesday or Wednesday sittings could be extended to include 9 am to 1 pm next day
  - no more than one sitting extended per week
  - notice of an extended sitting would need to be given the previous week
  - business to be progressed only for the stage shown on the Order Paper
- provision for the Business Committee to allow an extended sitting on a Thursday evening and Friday morning, arrange more than one extended sitting in a week, and authorise select committees to meet while a sitting is in progress

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<sup>1</sup> Standing Order 7(a).

- requirement for a Minister, in moving urgency, to state the circumstances that warrant the claim for urgency
- revision of the rules for raising matters subject to judicial decision
- explicit power for the Business Committee to determine that bills are cognate bills to be taken together for the purpose of debate, to facilitate the passage of bills with broad agreement, such as Treaty of Waitangi claims settlement bills
- provision for the form of the committee of whole House stage for a bill to be determined by the Business Committee before or after the bill is introduced
- explicit provision for the chairperson in a committee of the whole House to select and group amendments for consideration
- requirement for the Government to give notice of the Committee stage of a bill in a previous week, where practicable
- incentives for amendments to be circulated in good time before the Committee stage, but without preventing constructive amendments tabled during debate
- making instructions to select committees debatable if they shorten the time for a committee to consider a bill to four months or less
- provision to allow members to promote and gain support for their proposed Members' bills before they win the ballot
- updating pre-introductory procedures for private bills and local bills.

### **Overall themes**

We have sought to arrive at a package of proposals that are in the interests of Parliament as an institution. Our recommended amendments to the Standing Orders focus on improving the effectiveness of the House in its various functions. In particular, we have sought to balance the following purposes:

- increasing the availability of House time to enable the Government to implement its legislative programme with less frequent resort to urgency
- improving scrutiny of legislative proposals, with time for informed and open policy deliberation
- quality of legislation, with maximum opportunities for consideration of bills and amendments, and observance of fundamental rights and freedoms
- making more effective use of sitting hours, while providing opportunities for members to debate matters that are important to them
- providing incentives for the Government and non-government parties to negotiate more actively in the Business Committee to plan the House's business
- openness, transparency, and accessibility, and public participation in parliamentary processes.

As an example of the balancing of different needs, the proposal for extended sittings of the House would more than compensate the Government for the potential loss of House time arising from our proposal that instructions to select committees be debatable.

### **Encouraging constructive Business Committee negotiations**

Proposals for developing the House's procedures have tended to centre on ways to truncate procedures or increase the available sitting hours. However, a further matter for consideration is the way the House's business is managed and timetabled.

An overall theme of our proposals is the promotion of constructive engagement through the Business Committee regarding how business will be dealt with by the House. Ultimately, the purpose is to make the use of the House's time more effective, in terms of the scrutiny and passage of legislation, and the provision of opportunities for members to debate matters that are important to them. While the Government's ability to direct the House's consideration of business for which it has majority support would remain largely intact if our recommendations were implemented, there would be greater incentives for the Government to negotiate in the Business Committee. This in turn might promote consultation with party spokespeople as a means of assuring Business Committee members that support for a course of action is in the interests of their respective parties.

Our recommendations would give the Business Committee even greater flexibility to make arrangements, and we would encourage all members with an interest in promoting business or proposing matters for debate to be imaginative in their negotiations. For example, the determination by the Business Committee of extra sitting hours for Government business, over and above the hours the Government could obtain through a motion for an extended sitting, might also include some time for a lengthened second reading debate on a bill that is of interest to Opposition parties, or for consideration of a significant select committee report. The ability to determine the shape of the Committee stage debate prior to a bill's introduction could bring about early consultation with party spokespeople as to the structure of legislation.

Such consultation would be likely to benefit all parties, particularly those that would not otherwise be consulted in the Government's normal maintenance of its support arrangements.

Smaller parties could be concerned that we are recommending additional powers for the Business Committee that could potentially be used to their disadvantage by the two larger parties. This possibility could arise if smaller parties had insufficient membership to prevent the reaching of "near unanimity" by the members representing the larger parties on the Business Committee. The likelihood of this outcome would depend largely on the make-up of the Parliament following a general election, but it would be unusual for near-unanimity to be reached in the face of objection by a number of smaller parties. The measures we have recommended in this report are intended to promote cooperation and constructive negotiation.

# 1 General provisions and office-holders

## **Official report—publication of *Hansard***

### **More immediately available record of debates**

Developments in information and communications technology have created opportunities regarding both the form and the timing of the publication of *Hansard*. At present, members receive transcripts of their speeches and have 12 hours in which to check and return them to the *Hansard* staff. Corrections suggested by members that are accepted are included in the Advance Copy published to the Parliament website. The Clerk of the House has informed us that, to provide a more immediate public record of debates, it is intended that uncorrected transcripts will be published within three hours of speeches being delivered in the House. The Advance Copy of *Hansard* will then initially be published to the Parliament website within one and a half days. This will be done after members' corrections have been considered, the speeches have been edited, and the complete debate proof-read. We support the publishing of uncorrected transcripts of speeches, with corrections incorporated in the Advance Copy.

### **Discontinuation of printed weekly *Hansard***

Work is being done in the Office of the Clerk towards a publicly available, fully searchable web service, which will provide access to text and video records of debates. As part of these developments, the Clerk has informed us that the print version of the weekly *Hansard* (Pink) is to be discontinued. This version is currently printed some 15 to 20 working days after the same material is published to the Parliament website. Its only point of difference is that it is indexed. Once the website version of *Hansard* becomes fully searchable, this will not be a major advantage. Furthermore, use of the printed weekly *Hansard* is now greatly reduced, and its discontinuation will allow faster processing of the printed bound volume. These changes will take effect from the beginning of the 50th Parliament.

### **More verbatim approach**

During the production of the official report, the content of debates is edited to make the report more readable, recognising the conventional difference between the spoken and the written word. At present, then, *Hansard* is not a verbatim report. With the convergence of audio, video, and print publishing, and a more searchable service, we agree that a more verbatim approach is required.

## **Swearing-in of members**

### **Failure to take oath or make affirmation**

When being sworn in, a number of members have sought to preface or alter the words of the oath or affirmation of allegiance. The Speaker or the Clerk in administering the oath or affirmation can permit no form of words other than those set out under the Oaths and Declarations Act 1957. In general, this misreading of the oath or affirmation is deliberate

and constitutes a political statement on the part of the member concerned. This is disrespectful of the House and the values expressed in the oath or affirmation.

Such behaviour also amounts to a wilful breach of the law at the very moment of entering a high public office. The purpose of the oath is to make a solemn promise of allegiance to the Head of State of New Zealand. Any other wording used in the oath-taking ceremony alters the nature of the solemn promise made. It does not fulfil the requirement of the Oaths and Declarations Act 1957, and therefore fails to meet the requirement of section 11 of the Constitution Act 1986 for members to take the oath or affirmation before being permitted to sit or vote in the House. Members can make statements about their beliefs and other complementary allegiances at other times, for example during debate, in the media, or in public policy discussions, but not when being sworn in.

### **Promoting compliance with legal form of oath or affirmation**

Given the increasing number of instances in recent years of members abusing this procedure, we considered how to promote compliance with the Oaths and Declarations Act 1957. Following a by-election this year, a member again used the occasion of his swearing-in to make a political statement, despite a prior warning from the Speaker not to do so. The Speaker ordered the member to withdraw from the House, and to present himself to be sworn in on a later sitting day when he was prepared to take the oath or affirmation required by law.

The Speaker took this step in exercise of his power to order members to withdraw on account of disorderly behaviour. However, the Clerk has limited discretion as to matters of order when administering the oath or affirmation. We therefore wish to make it explicit in the Standing Orders that members must strictly observe the form of the oath or affirmation required by law, and that those who fail to do so must withdraw immediately from the House. Our proposed amendment to Standing Order 13 also reflects the words of section 11 of the Constitution Act 1986, by reiterating that members cannot sit or vote in the House, or its committees, until they are properly sworn in.

Most of us consider that, in the course of the 50th Parliament, the wording of the oath and affirmation set out under the Oaths and Declarations Act 1957 should be subject to a review. The New Zealand National Party and ACT New Zealand members disagree with this proposal.

### **Amendment 1**

Add a new paragraph to Standing Order 13, providing that a member taking the oath or making the affirmation must do so using only the words required by law, ordering that a member who fails to take the oath or make the affirmation in that manner must withdraw immediately from the House, and reflecting section 11 of the Constitution Act 1986.

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## **Election of Speaker**

### **Nomination**

Candidates for the office of Speaker must rise and nominate themselves when called by the Clerk. This practice is quite recent; before 1996, candidates were nominated by other members, and each nomination was also required to be seconded. We wish to recommend reviving this tradition, in recognition of the dignity of the office of Speaker.

### **Absence of candidate for Speaker**

Standing Order 16(1) provides for the nomination of a member who is absent, which raises the question of what would happen if an absent member should be elected. Until 1996 all nominees were required to be present, and we have considered whether to recommend a return to this position. However, we wish to allow for situations where candidates are prevented from attending for reasons beyond their control. If an absent member were elected, it would be incumbent on the House to find an interim solution, possibly by arranging for a senior member to preside in the interim and even attend the Governor-General to claim the privileges of the House. In this event, the member would continue to act as a presiding officer until the Speaker-elect was present or a Deputy Speaker was appointed.

These changes in the procedure for the election of the Speaker would consequently require alterations to the practice for the election of select committee chairpersons.

## **Amendment 2**

Provide in Standing Order 16 for a candidate for the office of Speaker to be nominated by another member, and for each nomination to be seconded.

Amend Standing Order 16 by inserting a new paragraph (1A), providing that a member who is absent may be nominated only if that member's absence is on account of extraordinary circumstances beyond his or her control.

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## **Temporary Speaker**

Occasionally, it is necessary for the Speaker to ask a member to take the Chair as temporary Speaker under Standing Order 33, including times when the House has resolved itself into Committee. We suggest that two members be nominated on an informal basis, one from each side of the House, to be ready to serve as temporary Speaker on such occasions. This would allow the Deputy Speaker to train and liaise with these members as necessary.

## **Recognition of parties**

Under Standing Order 34(1), a party is recognised automatically for parliamentary purposes if a member or members are elected in its interest at a general election or by-election. This provision should be clarified so that a party would be recognised only if it was registered by the Electoral Commission under Part 4 of the Electoral Act 1993.

Paragraph (2) sets out criteria for the recognition of parliamentary party membership of members who cease to be members of the party for which they were originally elected.

This should also provide for members who were Independent before forming or joining a party.

### **Amendment 3**

Amend Standing Order 34 so that a party is recognised for parliamentary purposes only if it is registered by the Electoral Commission under Part 4 of the Electoral Act 1993.

Provide in Standing Order 34(2) for members who were Independent prior to forming or joining a party.

## **Definitions**

### **Definition of “document”**

Members have raised points of order about whether, in ruling on the admissibility of a document for tabling, the Speaker should accept documents in electronic form.<sup>2</sup> This issue was also raised in a submission.

While information and communications technology has changed dramatically, the essential character of the House of Representatives has not. It remains a forum for debate and exchanges between members of Parliament. The tabling of documents by leave is primarily in support of such debate. The procedure is not intended as a means to make political points, add additional material to the parliamentary record, or publicly release or promote information.

There are many and varied definitions of the term “document”, both in statute and in usage, depending on the context. Definitions in some statutes are expressed in very broad terms to ensure that different ways of expressing intent or information are captured. In the context of Standing Order 368, with its specific purpose of informing debate in the House, the broader definitions of the term “document” that are found in statute are not necessarily applicable.

A document for the purpose of interpreting Standing Order 368 is a piece of text or text and graphics. This is more usually printed on paper, but could also be conveyed in electronic form. While this does not entirely rule out the tabling of CDs, DVDs, or other means of conveying electronic files containing documents, it would not generally extend to audio, video, or multi-media presentations. Each case must be considered on its merits.

### **Definition of “preliminary clauses”**

It was suggested that the definition of **preliminary clauses** in Standing Order 3(1) should include a separate expiry clause. The effect of this would be for expiry provisions to be drafted as one of the earlier clauses of a bill and debated in a committee of the whole House along with the title and other preliminary clauses. We do not wish to expand the list of preliminary clauses further.

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<sup>2</sup> NZPD, 2010, Vol. 666, p. 13489.

## 2 Sittings of the House

### Extended sittings

#### Pressure on legislative programme

For some years it has been observed that the limited time available for the House to conduct its business places pressure on the Government's legislative programme. To a certain extent, this tension provides a safeguard against unfettered legislative activity during each three-year period before a Government must seek a new electoral mandate. However, it is clear that the balance is not right at present. The previous Clerk of the House made this point at length in his submission to the Standing Orders Committee in 2003. The Legislation Advisory Committee made an extensive submission in 2006, drawing attention to the effect of the scarcity of legislative time on "governments' ability and inclination to progress technical, administrative or uncontroversial Bills through the legislative process". We received a number of thoughtful submissions relating to the legislative process. Submitters particularly drew attention to the use of urgency by successive governments to supplement the amount of House time available for them to implement their policies in legislation.

#### Effectiveness of the House

For the House to be effective, its time should be focused on matters that are of political importance, or which demand effective scrutiny from a parliamentary perspective. To an extent, the latter consideration is structurally recognised through the allocation of specified times for questioning Ministers and debating the Government's programme, financial proposals, and performance. On the other hand, difficulties arise when members must resort to procedural tactics to delay or extend the House's consideration of matters, or the Government feels compelled to seek urgency in order to make progress. These responses are legitimate and will always be a part of the parliamentary environment, but they can have an adverse effect on the quality of debate and legislative outcomes, and the progression of legislative initiatives to improve the statute book. The reputation of Parliament as an effective institution is not enhanced by such outcomes.

The submission of the Urgency Project<sup>3</sup> analysed the use of urgency to obtain extra legislative time; it set out a number of principles against which the constitutionality and democratic legitimacy of urgency ought to be measured, and expressed a view that the use of urgency to meet the shortfall in hours is undesirable.

As the Urgency Project's submission acknowledged, the House has adopted a number of techniques to streamline its legislative and other procedures in recent years, and to a degree this has compensated for reductions in the normal sitting hours each week. The Urgency Project's submission drew a logical conclusion that, rather than further formal means of

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<sup>3</sup> The Urgency Project is a major empirically-based research project conducted under the auspices of the New Zealand Centre for Public Law and the Rule of Law Committee of the New Zealand Law Society.

speeding up the House's procedures, an increase in the available sitting hours may be necessary.

We also considered a proposal indicated by the Government through a notice of motion lodged on 9 December 2009. This notice of motion proposed a sessional order to provide for motions to extend Wednesday sittings into Thursday mornings for the purpose of considering Government orders of the day.

### **Provision for extended sittings**

We recommend the establishment of a procedure to give the Government the benefit of extended sitting hours, but we propose a number of safeguards to ensure that extended hours do not become routine manifestations of urgency by another name. This recommendation is part of our overall package of measures to promote constructive engagement between parties as to the arrangement of the House's business. Finding more effective ways to use the House's time should be the first step.

Our recommended provisions for extended sittings therefore include the following constraints:

- Formal notice of the intention to move for extended hours would have to be given at the Business Committee in the week before each proposed extended sitting, and subsequently in the House (this notice could be published on the Parliament website along with other Business Committee determinations—see below).
- Only one sitting could be extended in any single week (on Wednesday or Thursday morning), unless the Business Committee agreed otherwise.
- The Business Committee could agree to more than one extended sitting in a week, and could determine the extension of a sitting into Thursday evening and Friday morning.
- Only bills available for debate on the Order Paper could be taken during an extended sitting, and only for the stage set out on the Order Paper, unless the Business Committee agreed to an additional stage or stages.
- Select committees could not meet during extended sittings unless authorised to do so by the House or the Business Committee.

The proposal for extended sittings is part of a wider package allowing the Business Committee to arrange the House's time flexibly and effectively, in terms of both legislative scrutiny and the ability of members to debate matters of significance to them. Extended sittings would provide extra time for the Government to progress its programme without resort to urgency. By agreement in the Business Committee, further additional hours could be made available, and this could facilitate the consideration of non-controversial business, the negotiation of time for debates on committee reports, or even extended second reading debates on bills of high public interest.

### **Select committee meetings during extended sittings**

The Government's notice of motion lodged on 9 December 2009 would have permitted select committees to meet during an extended sitting of the House on a Thursday morning (paragraph (4)). Members have indicated that difficulties arise when the House and select

committee meetings run concurrently. Small parties would find this especially problematic if it were to occur regularly. From 1996 to 1998, the normal hours of the House included sittings on Thursday mornings, but the Standing Orders Committee found that this “caused significant problems on Thursday mornings when members may need to be both in the House and at a committee meeting”, and a sessional order established the current weekly sitting pattern.<sup>4</sup>

Routine meetings of select committees would be precluded during extended sitting hours, so the Government must consider whether the disruption to the consideration of Government business by select committees is justified by its need for additional House time. This should prevent the taking of extended hours as a matter of routine, and would provide a further incentive for the Government to work constructively in the Business Committee to arrange the House’s consideration of matters. The Business Committee would have the power to permit select committees to meet during sittings of the House.

The Green Party is concerned that this power to authorise select committees to meet during extended sittings would place pressure on smaller parties to participate in House and committee business simultaneously, if their objections did not prevent the reaching of “near-unanimity” in the Business Committee. This could be a valid concern if a constructive approach is not taken in the Business Committee. However, the proposal for extended sittings is part of a package of recommendations regarding the consideration of business. They include requiring notice of Committee stages of bills, and incentives for the Government to circulate amendments in good time, which will help all parties prioritise their efforts to prepare speeches and amendments. An associated proposal is to make instructions to select committees debatable. This would provide a procedural disincentive to the frequent moving of instructions, many of which permit select committees to meet during sittings of the House. Under these proposals, smaller parties might well find that there were in fact fewer occasions on which their members were called to select committee meetings during House sittings.

The moving of extended hours would require formal notice in the previous week, giving select committees sufficient advance notice to adjust their meeting programmes accordingly (which is not always the case when urgency is taken).

The alternative is that urgency continue to be used as at present, without the balances and safeguards proposed for extended sittings.

#### **Amendment 4**

Provide for extended sittings as follows (new Standing Order 53A):

- A Minister may move that sitting days be extended into Wednesday or Thursday mornings.
- Notice must be given at a meeting of the Business Committee in the week before a proposed extended sitting.

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<sup>4</sup> *Sitting hours of the House and the time limits on speeches and debates in the House*, Interim report of the Standing Orders Committee, I.18A, December 1998, p. 3.

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- An extended Tuesday or Wednesday sitting is suspended at 10 pm and resumes at 9 am the following day.
  - Only one sitting can be extended in any single week on motion by a Minister, unless the Business Committee determines otherwise.
  - Only bills available for debate on the Order Paper may be taken, and only for the stage set out on the Order Paper, unless the Business Committee determines otherwise.
  - Select committees cannot meet during extended sittings unless authorised by the Business Committee.
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## Urgency

### Limitation of urgency to “urgent” business

Extended sitting hours would provide the Government with the means to progress its business in the way that urgency is commonly used. A corollary of this is that urgency should then be confined to situations that genuinely require an urgent approach. This is not to say that urgency would never be used to make progress. Beyond the situations when bills require urgent consideration for legal reasons, urgency could ultimately be justified to make progress if the Government’s legislative programme has been unreasonably delayed in the House despite constructive attempts to negotiate arrangements in the Business Committee. There might also be an expectation that, immediately after an election, a Government might seek to implement its key campaign pledges quickly.

Formal limitations on the use of urgency were proposed in submissions, generally requiring the Speaker’s involvement in determining whether urgency is justified for particular business, reflecting the way the Speaker’s agreement is required for extraordinary urgency. A significant difficulty is that this approach would draw the Speaker into determinations about matters that could be highly controversial or politically sensitive, and would have a direct bearing on the Government’s legislative progress. This carries the undesirable risk of politicising the office of Speaker.

### Information about circumstances warranting urgency

Rather than formally limiting the use of urgency, our preference is to strengthen the Government’s political accountability for its proposals to accord urgency to business. We recommend that, on moving an urgency motion, a Minister be required to explain to the House with some particularity the circumstances that warrant the claim for urgency. This would not require a Minister to provide information where it was not in the public interest to do so. But such cases are exceptional. We expect that specific information about the business to be accorded urgency, and the reasons why it is urgent, will be given if it can be given consistently with the public interest. The public interest would be for the Minister to judge.

## Amendment 5

Amend Standing Order 54(3) so that, on moving a motion to accord urgency to certain business, a Minister must inform the House with some particularity of the circumstances that warrant the claim for urgency.

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### **Introduction of bill under urgency**

A submission raised the matter of the public availability of bills introduced under urgency. Currently, the three-sitting-day rule provides a disincentive for the Government to introduce a bill before it has been accorded urgency. We recommend that Standing Order 277 be amended to provide for an urgency motion to override the three-sitting-day requirement. This would allow the Government to introduce a bill but still subsequently move a motion according it urgency before it would otherwise be available for consideration. While this might appear to reduce the requirement for bills to be published before their first reading, in practice the converse is likely—bills dealt with under urgency may be made available sooner to members and the public.

### **Amendment 6**

Provide in Standing Order 277 that urgency may be accorded to the first reading of a bill despite the bill not being available to be set down for first reading.

### **By-passing select committee consideration**

A number of submissions objected strongly to the by-passing of select committee consideration under urgency, and suggested that this be prevented or made a separate decision of the House or the Speaker. This matter is a point of significant public concern.

The wording of Standing Order 280(1) exempts a bill from select committee consideration if urgency has been accorded to any stage after its first reading. The according of urgency to a later stage of a bill allows the House—but does not require it—to transact that stage on the same sitting day. It does not in principle oblige the House to override the general rule for a bill to be referred to a select committee. The select committee process should be by-passed only in exceptional circumstances, and the Government is accountable for its decisions to follow this course.

The Green Party proposed a procedure for the consideration of a bill introduced into the House under urgency. The proposal was for a select committee to consider the bill at its next meeting and hold extraordinary meetings as may be required for it to report back within three to five sitting days. It was suggested that the limited select committee stage could be applied to bills considered under urgency, while retaining the possibility of completely by-passing select committees under extraordinary urgency.

Our first preference is for the select committee process not to be circumvented through the use of urgency. However, a limited select committee process is better than none at all, as was demonstrated earlier this year in the case of the Canterbury Earthquake Recovery Bill. It is preferable to leave such arrangements for negotiation in the Business Committee in each case, rather than providing for them in the Standing Orders. The Business Committee already has some powers that may assist in this regard, as would some of the additional powers now proposed.<sup>5</sup> The provision in the Standing Orders of a limited select

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<sup>5</sup> For example, Standing Order 185(3), which gives the Business Committee the power to approve the consideration by a select committee of a bill that has not been referred; and our recommendation for the Business Committee to have the power to approve select committee meetings during sittings of the House.

committee stage could encourage the use of that mechanism in preference to a fuller committee process.

Most of us do not support a distinction between urgency and extraordinary urgency for the purpose of determining whether the select committee stage for a bill may be by-passed. This distinction could increase the prospect of resort to extraordinary urgency.

### **Effect of extraordinary urgency**

The House does not often accord extraordinary urgency to business. When this occurred recently there was some question about whether the dinner break on the day extraordinary urgency is accorded should be shortened so that the House resumes at 7 pm. In the event, it was determined that the dinner break should follow its usual pattern (6 pm to 7.30 pm) on a day that extraordinary urgency is taken. We confirm that this is the correct approach, and that, when extraordinary urgency is accorded, extended sitting hours take effect only from the time that the House otherwise would have adjourned on that sitting day.

## **Attendance of members**

### **Duty to attend parliamentary business**

A member's first duty is to the House. It is important that members attend the House and are seen to do so. Section 20 of the Civil List Act 1979 provides a penalty (salary deductions of \$10 per sitting day) where members are persistently absent without proper cause. The Civil List Act 1979 is currently under review, and any new Act is likely to increase significantly the penalty for absence from the House.

In principle, we consider that the penalty upon members for failure to attend parliamentary business should be effective. The requirement on members to attend the House is important to maintaining respect for the institution of Parliament. The House would be brought into disrepute if members were seen to be able to simply abandon their duty to it without penalty.

### **Record of attendance**

A significant penalty would require clear rules concerning attendance to ensure members are certain about the requirement to attend and how it will apply to them. Attendance is a matter for the House and any rules around it should be included in the Standing Orders, rather than being imposed by legislation, to ensure that the administration of the rules does not become subject to questioning by an outside body.

Members' attendance has been recorded in the past, with the Serjeant-at-Arms keeping a daily record of members' attendance in the House. However, since 1985, the Speaker has delegated the power to grant leave of absence to party whips and now each party maintains its own records. The exception is parties consisting of one member or independent members, who must apply to the Speaker for permission to be absent. In 1999, the Standing Orders Committee considered that the record of attendance should either be made effective or abandoned altogether. It recommended that the Standing Order requiring attendance be revoked, because making it effective would unnecessarily increase parliamentary bureaucracy.

In our view, a record of members' attendance at parliamentary business should be reinstated. We recommend that, when legislation to replace the Civil List Act 1979 is to come into force, the House adopt a sessional order requiring the Clerk of the House to record and publish members' attendance and approved absences. This record would need to take account of the full extent of members' legislative and scrutiny roles and the other activities for which the House recognises members' attendance and for which leave is granted. These include select committee attendance, official parliamentary travel funded by the Office of the Clerk, attendance at other official business approved by the Business Committee, and absence approved by the Speaker or party whips for illness or other family cause of a personal nature, or to enable attendance to other public business (whether overseas or in New Zealand).

Members would need to be able to access the record of attendance and be provided with the opportunity to check its accuracy in respect of their own attendance. In the wider interests of openness and transparency, the record should ultimately be published on the Parliament website.

### **Recommendation to the House**

We recommend to the House that, when legislation to replace the Civil List Act 1979 is to come into force, a sessional order be adopted requiring the Clerk of the House to record and publish members' attendance at parliamentary business and approved absences.

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#### **Suspended members**

A salary penalty should be imposed on members who are suspended from the service of the House. A suspended member may not enter the Chamber, vote, serve on a committee, or lodge questions or notices of motion. Members' salaries are provided for in statute and any change to them must be similarly established. A provision could be included in the bill to replace the Civil List Act 1979 to provide for deductions from the salary of members who are suspended from the service of the House. Such deductions should apply in respect of the period for which a member is suspended, that is,—

- on the first occasion, for 24 hours
- on the second occasion during the same Parliament, for seven days
- on the third, or any subsequent, occasion during the same Parliament, for 28 days.

The regime for deductions from the salaries of suspended members should recognise that suspension from the service of the House allows members to continue to carry out some of their functions as members, such as constituency work and party work.

### **Recommendation to the Government**

We recommend to the Government that the legislation to replace the Civil List Act 1979 include a provision to apply salary deductions to members who are suspended from the service of the House.

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## Strangers

### Reasons for order that strangers withdraw

The House has the power to control access to its sittings and may exclude strangers as it sees fit.<sup>6</sup> There is provision for any member of the House to move, without notice, that strangers be ordered to withdraw—the motion is decided immediately without amendment or debate. If agreed, the effect of such an order includes the withdrawal of all strangers from the galleries, the Press Gallery, and *Hansard* reporters and attendants other than the Clerk, and the cessation of broadcasting.<sup>7</sup>

We received a submission proposing that Standing Order 39 be amended to require the disclosure of reasons for an order for strangers to withdraw. The use of the procedure to order strangers to withdraw is very rare, and has not occurred in New Zealand since the Second World War. On the last such occasion, in 1943, strangers were ordered to withdraw for reasons of national security, and this was made clear at the time (certain members of the Press Gallery were permitted to remain).<sup>8</sup>

A motion for strangers to be ordered to withdraw would be highly unusual except in cases of war or emergency. However, there is a strong expectation that proceedings should be transparent and accessible to the public. For this reason, we recommend that Standing Order 39 be modified to require the member moving the motion to inform the House of the circumstances that warrant the order.

### Amendment 7

Amend Standing Order 39 to provide that a member, in moving an order that strangers withdraw, informs the House of the circumstances that warrant the order.

### Terminology

We received a suggestion that the term “strangers” be updated to refer to “members of the public”. The term “strangers” has a particular meaning in the parliamentary context, which is broader than that of “members of the public” (since an order that strangers withdraw also extends to members of the Press Gallery and official reporters and attendants). We are not ready to retire the term “strangers” from the parliamentary lexicon.

### Portable electronic devices

Many members now carry electronic devices that could be used to record or transmit proceedings following an order for strangers to withdraw. This use would not be precluded by the current wording of Standing Order 40, which needs to be updated.

### Amendment 8

Amend Standing Order 40(d) so that it applies to anyone who might record, transmit, or broadcast proceedings from a portable device, and not just to the official broadcast.

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<sup>6</sup> McGee, David, *Parliamentary Practice in New Zealand*, 3rd Ed., Wellington, Dunmore 2005, p. 635.

<sup>7</sup> Standing Order 40.

<sup>8</sup> *NZPD*, 1943, Vol. 262, p. 517.

## **Prayers**

A number of submissions raised issues relating to the prayer that opens each sitting of the House. In one submission, an alternative prayer was suggested for use on particular occasions. Several submissions argued that the practice of opening sittings with prayers has no place in a secular State and should end.

The Green Party proposed that the Speaker convene a panel of recognised authorities to advise on ways in which the prayer could be broadened, arguing that this would conform with Article 18 of the International Covenant on Civil and Political Rights, to reflect the multi-cultural society that New Zealand has become.

The current wording for the parliamentary prayer was adopted in 1962, though it is similar to the form of words used before that time. The wording of the prayer is not regarded as strictly binding on the Speaker, but there is a strong expectation that the Speaker would consult members before making a permanent change.

## **Business of the House**

### **Postponement of first readings of Members' bills**

Earlier in this term of Parliament, a pattern developed whereby members, having had bills drawn in the ballot, then postponed the first readings of those bills repeatedly while they built support among members and the public. This has resulted in a lack of business for the House to consider on Members' days, particularly early in a term when fewer Members' bills are likely to have reached an advanced stage. There has been little interest in debating other Members' orders of the day (select committee reports), probably because members do not prepare speeches for debates that under normal circumstances would be unlikely to proceed.

To counter this pattern, on 17 February 2010 the House adopted a sessional order to discourage the repeated postponement of Members' bills set down for first reading. The sessional order required that an order of the day for the first reading of a Member's bill that is postponed for a second or subsequent time be placed at the bottom of the queue of bills when it is made available for debate. The sessional order also increased from four to six the number of orders of the day for the first readings of Members' bills that may be before the House at any one time.

This sessional order reduced the prospect of insufficient business on Members' days, but has not eliminated it. Members' bills have continued to be postponed repeatedly. Elsewhere in this report, we recommend that members have more opportunity to promote their bills before they are introduced. At the same time, we recommend the revocation of the ability of members to postpone the first readings of Members' bills simply by informing the Clerk. The Business Committee would instead have the power to postpone these orders of the day when it thinks fit. Members would still be able to move without notice that an order of the day be postponed.

### **Amendment 9**

Amend Standing Order 71 to preclude the postponement of a Member's bill set down for first reading by the member in charge, and empower the Business Committee to postpone or discharge orders of the day.

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**Arrangement of Members' orders of the day**

On a few occasions the Business Committee has actively arranged Members' orders of the day so as to increase the probability of a select committee report being reached. We wish to encourage this practice, and urge select committees to write to the Business Committee, recommending for debate any reports that they consider to be important. An amendment to Standing Order 71 would provide for a report that was selected in this way to remain on the Order Paper until it was considered by the House. An associated amendment is recommended to Standing Order 69, so that a report selected by the Business Committee but not reached would retain the place it reached on the Order Paper for the next Members' day, with newly introduced or postponed Members' bills queued behind it. This would make it more certain that reports would be considered within a reasonable time, which would in turn encourage members to prepare to debate them.

Aside from making better use of time available on Members' days, the prospect of reports on inquiries and other matters being debated in the House would enhance the prominence of important items of select committee business.

**Amendment 10**

Provide in Standing Order 69 that a select committee report selected for debate by the Business Committee remains on the Order Paper until it is considered by the House, and, if it is not taken, retains the place it reaches on a Members' day, with newly introduced Members' bills queued behind it.

**Business Committee determinations**

Following each Business Committee meeting, any determinations made by the committee take effect when they are notified in writing to all members of Parliament.<sup>9</sup> In practical terms, this notification is effected by email to all members. Determinations are published on the Order Paper as applicable, and subsequently printed in the *Parliamentary Bulletin*. We note that the Clerk of the House intends also to publish Business Committee determinations to the Parliament website as soon as practicable after they are confirmed by the members present at the committee. We support this proposal, and suggest that it also include the publication of formal notice given to the Business Committee under the Standing Orders. Such notice could include the intention to move extended sitting hours or to take the Committee stage of a bill.

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<sup>9</sup> Standing Order 77.

## 3 General procedures

### Maintenance of order

#### Code of conduct

The Māori Party expressed concern about the behaviour of members in the Chamber, and reiterated its previous proposal for a code of conduct, or Kawa Pāremata, to be instituted. The Green Party, Māori Party, United Future and ACT New Zealand signed a voluntary code of conduct in 2007, and a code has also been proposed a number of times by H V Ross Robertson, Assistant Speaker.

Parliaments in some other countries have adopted codes or guidelines to help members make judgments about conflicts of interest. The previous Standing Orders Committee noted in 2008 that the registration of members' pecuniary interests is the backbone of almost all parliamentary codes of conduct. The New Zealand Parliament already has an effective regime for the disclosure of members' interests.<sup>10</sup> The committee also noted that other matters commonly found in overseas codes which are already dealt with in New Zealand are electoral financing, and requests from citizens for a right to respond to comments made about them in the House.<sup>11</sup> Behaviour such as accepting inducements may be treated as a contempt or prosecuted as a criminal offence.

As regards conduct in the Chamber, the Standing Orders Committee discussed this in its 2003 report as follows:

We do not condone the trade in personal insults across the floor of the House, and we acknowledge that at times members, through their behaviour, do themselves no favours in the eyes of the public. However, it is not unparliamentary to be adversarial. The House is the primary forum for the rigorous contest of policy positions and political ideals, and for holding the Government to account. We will not curb the free speech of members or the robustness of debate inherent in this environment.<sup>12</sup>

We share these views, as expressed in previous reports of the Standing Orders Committee, and most of us consider that a code of conduct for members is unnecessary.

#### Points of order

A minor change in wording is recommended for Standing Order 84(3): the word "succinctly" would be substituted for the word "tersely". The word "tersely" conveys an unnecessary sense of brusqueness in a modern context.

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<sup>10</sup> *Review of Standing Orders*, Report of the Standing Orders Committee, I.18B, 2008, p. 12.

<sup>11</sup> *Ibid.*, p.13.

<sup>12</sup> *Review of Standing Orders*, Report of the Standing Orders Committee, I.18B, 2003, p. 23.

## Amendment 11

Amend Standing Order 84(3) by omitting “tersely” and substituting “succinctly”.

### Matters subject to judicial decision

#### Report of Privileges Committee

The current *sub judice* rule, as expressed in Standing Orders 111 and 112, focuses on avoiding prejudice to the trial of matters before the courts, and still largely reflects the *sub judice* rule of the House of Commons in 1963, adopted by the New Zealand House of Representatives in 1968. However, on 28 May 2009 the Privileges Committee presented a report that recommended a revision of the rule.<sup>13</sup> The committee proposed that the *sub judice* rule clearly recognise the following two distinct strands:

- issues concerning prejudice to a matter awaiting or under adjudication in any New Zealand court, including one awaiting sentencing; and
- the principle of comity between Parliament and the courts.

A notice of motion was lodged on 30 June 2009 to implement the committee’s recommendations, but the House has not adopted this motion as a sessional order.

#### New rule for matters subject to judicial decision

We have considered the Privileges Committee’s recommendations, and wish to see them incorporated in the Standing Orders. In particular, we have discussed how to balance the different public interests arising from the ability of members to raise matters that are *sub judice* or subject to suppression orders. The *sub judice* rule has always operated subject to the right of the House to legislate and the exercise of Speaker’s discretion. Conversely, the privilege of free speech in the House has also been subject to limitation in relation to matters before the court.

We recommend that Standing Order 111 be recast along the lines suggested by the Privileges Committee, to articulate the two strands of the rule distinguished above for raising matters subject to judicial decision. However, rather than establishing a process for application to the Speaker for a waiver of the rule, we recommend that members wishing to raise matters subject to court proceedings be required to inform the Speaker by way of notice in writing, rather than on the floor of the House. In practice, the Speaker would be likely to discuss the exercise of his or her discretion with the member, and the need to balance the required considerations.

#### Breach of rule

If a member were then to raise a matter, contrary to the advice of the Speaker, the Speaker would be in an informed position to deal with the matter immediately in the House. It would also be appropriate for the Speaker to consider whether to report to the House that the member’s conduct should stand referred to the Privileges Committee, without requiring

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<sup>13</sup> Privileges Committee, *Question of privilege relating to the exercise of the privilege of freedom of speech by members in the context of court orders*, I.17A, May 2009.

the raising of a matter of privilege by another member. This approach is possible under Standing Orders 397 and 398.

Recognising the breach of a court order as an example of a contempt (in Standing Order 401) reflects how seriously such conduct is regarded by members. Discussion of matters before the court could also potentially be regarded as a contempt, but this would depend on the circumstances.

### **Privy Council proceedings**

The Privileges Committee recommended that Standing Order 111 refer to its application in respect of matters awaiting or under adjudication in any appeal to the Privy Council in existing proceedings, provided by law. We have omitted this reference. Such appeals are likely to arise too rarely to justify ongoing provision for them in the Standing Orders, and they could be regarded by the Speaker as a matter before a New Zealand court for this purpose.

## **Amendment 12**

Omit Standing Order 111, and substitute a new version of this Standing Order based on recommendations of the Privileges Committee in its report, *Question of privilege relating to the exercise of the privilege of freedom of speech by members in the context of court orders* (I.17A, 2009), but with a requirement for members to inform the Speaker by giving written notice before raising a matter subject to judicial decision, and without reference to matters before the Privy Council in existing proceedings.

Consequentially amend Standing Orders 3 and 212 along the lines recommended by the Privileges Committee.

Recognise the breach of a court order as an example of a contempt in Standing Order 401.

## **Protection of parliamentary proceedings**

### **Broadcasting of proceedings**

In its report referred to above, the Privileges Committee recommended to the Government that it introduce legislation to amend the Legislature Act 1908 to provide for the protection of the broadcasting and reporting of parliamentary proceedings.<sup>14</sup> The issues raised by the committee remain valid, in that gaps still exist in the legal framework for the protection of the publication and broadcasting of proceedings. It is unsatisfactory that the broadcasting of proceedings under the direct authority of the House may leave the Clerk of the House open to legal action, and that fair and accurate reports of proceedings also are not protected, except for limited measures in the Defamation Act 1992 and the Legislature Amendment Act 1992. We therefore wish to reiterate the Privileges Committee's recommendations.

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<sup>14</sup> *Ibid.*, pp. 23–28, Recommendations 8, 9, 11, and 12.

## Recommendation to the Government

We recommend to the Government that legislation be introduced to amend the Legislature Act 1908 to provide that—

- the live broadcast of Parliament’s proceedings, including select committee hearings, is protected by absolute privilege
- delayed broadcasts or re-broadcasts of Parliament’s proceedings, including select committee hearings, that are made by order or under the authority of the House of Representatives are protected by absolute privilege
- a fair and accurate report of proceedings in the House, or summary using extracts of proceedings in the House, by any person is protected by qualified privilege
- the broadcast and other publication of extracts of Parliament’s proceedings, including select committee hearings, that are not made by order or under the authority of the House of Representatives are protected by qualified privilege, in a manner consistent with the provisions of the Defamation Act 1992.

In anticipation of such legislation, we recommend that the House clarify that official broadcasts and re-broadcasts of its proceedings are made under the authority of the House. This would serve to implement a recommendation made by the Privileges Committee.<sup>15</sup> Without the legislative amendments recommended above, this provision in the Standing Orders would not by itself provide legal protection.<sup>16</sup> However, we consider it is important for the House to state explicitly that it authorises the broadcast and re-broadcast of its proceedings, as the availability of parliamentary proceedings is essential in the public interest.

## Amendment 13

Amend Standing Order 44 to clarify that official broadcasts and re-broadcasts of parliamentary proceedings are made under the authority of the House.

### Effective repetition

The Privileges Committee also reiterated the criticisms made by a previous Privileges Committee in 2005 of the Privy Council decision in the *Jennings* case regarding “effective repetition”. The committee noted that the legal finding in that case “raised issues of the courts assessing and adjudging parliamentary proceedings, the potential for a chilling effect on free speech in the House and in public debate, and the possibility of the effect spreading beyond defamation”. It was recommended to the Government that legislation be introduced to amend the Legislature Act 1908 to address this matter. The Privileges Committee, in its 2009 report, stated its disappointment that no such legislative amendment had emerged.<sup>17</sup>

We wish to repeat this recommendation once more.

<sup>15</sup> *Ibid.*, pp. 21–22, Recommendation 10.

<sup>16</sup> As established in *Stockdale v Hansard* (1839) 9 AD & E1.

<sup>17</sup> Privileges Committee, *op. cit.*, pp. 21–22, Recommendation 7, with reference to Privileges Committee, Report on *Question of privilege referred on 21 July 1998 concerning the action Buchanan v Jennings*, I.17G, May 2005.

## **Recommendation to the Government**

We recommend to the Government that the Legislature Act 1908 be amended to provide that a member of Parliament, or any other person participating directly in or reporting on parliamentary proceedings, who makes an oral or written statement that affirms or adopts what he or she or another person has said in the House or its committees, will not be liable to criminal or civil proceedings.

### **Rules of debate**

#### **Form of reference to members**

References in debate in the second person have been the subject of many rulings from the Chair during the current term of Parliament. Use of the word “you” should be avoided in debate, as all speeches are addressed to the Speaker. However, application of this rule is at the sole discretion of the Speaker, and members should not disrupt speeches by raising points of order about the use of the second person.

#### **Reading of speeches**

We also wish to reiterate that, where possible, members should not read speeches. The reading of speeches was precluded until 1996,<sup>18</sup> and we wish to reassert this rule as a convention, rather than through an explicit amendment to the Standing Orders to this effect. The House is a forum for debate, and proceedings are enlivened when members participate and engage with each other, perhaps with the use of speaking notes to aid the memory. However, no member, other than the Speaker, may interrupt a member who is speaking to suggest a breach of this convention, and the Speaker may allow speeches to be read in some circumstances. Such circumstances may relate to the technical nature of the material under discussion, or the relative experience of the member concerned. There will, however, be occasions when it is not inappropriate for speeches to be read.

### **Putting the question**

#### **Call for party vote**

A number of times, members have expected the presiding officer to ask that a party vote be held, even when one has not been called for. This is despite the wording of Standing Order 136, that “any member present may then call for a further vote to be held”, and the rule that the Speaker’s declaration of the result on the voices is final unless a member challenges it immediately.<sup>19</sup> Members should understand that a voice vote against the majority does not of itself mean a party vote will be held. A member who wishes to have a party vote held must call for one.

#### **Restriction on casting of proxy votes during party voting**

The Māori Party expressed a view that rules for casting proxy votes are unfair to minor parties with more than one member. We discussed the prospect of raising the limit for proxy votes above 25 percent of a party’s parliamentary membership, which is the current provision. However, we have decided that the 25 percent limit should remain, as there is a

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<sup>18</sup> Standing Order 157 (1992).

<sup>19</sup> *NZPD*, 1987, Vol. 481, pp. 9620–1 (Speaker Wall).

strong expectation that members of Parliament will be in the precincts when the House is in session.

Standing Order 139(5) requires any party with more than three members to have a member in the House at the time of a vote in order to have any of that party's votes cast. This means that if a party of four or more members has no member present in the Chamber, no votes (proxy or otherwise) may be cast on the party's behalf even if its members are attending to business within the parliamentary precincts. We accept that it is difficult for smaller parties to maintain a presence in the House at all times. We recommend that parties be excused from this obligation if they have five or fewer members. A consequential amendment would also be required to Standing Order 151(3).

#### **Amendment 14**

Amend Standing Orders 139(5) and 151(3) to provide that proxy votes may be cast on behalf of parties not present in the Chamber if those parties comprise five or fewer members (instead of three or fewer).

### **Responses to statements in the House**

#### **Presentation of response**

Standing Order 158(1) provides that a response that the Speaker determines should be incorporated in the parliamentary record is presented to the House for publication by order of the House. This means that when a response is presented, its publication requires a motion by a Minister. This is anomalous as no other parliamentary paper requires such a motion. The wording of Standing Order 158(1) does not recognise the changes to the procedure adopted in 2008, whereby the House's authority to publish a paper is conferred automatically when the Speaker or a Minister presents a paper and indicates that it is intended to be published as a parliamentary paper, under Standing Orders 362 and 363.

#### **Amendment 15**

Amend Standing Order 158(1) so that it no longer refers to a response being presented to the House "for publication by order of the House", and instead provides that a response presented under this Standing Order is published under the authority of the House.

### **Instructions to committee of whole House**

#### **Tabling of instructions**

Standing Order 172 permits the moving of instructions to a committee of the whole House. Notice is not required, and in some instances members have moved instructions with no warning at all. This can be problematic in terms of providing sufficient opportunity for the Speaker to consider whether any amendments to which an instruction relates are in order, particularly given that instructions to refer amendments are debatable.

#### **Amendment 16**

Amend Standing Order 172 to require that an instruction relating to a Supplementary Order Paper or amendment may not be moved unless the Supplementary Order Paper has

been printed and circulated to members, or the amendment has been delivered to the Clerk at the Table.

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## 4 Select committees

### Subject select committees

We received suggestions for the alteration of the subject areas set out in Standing Order 184. The Green Party proposed that subject areas be reshuffled to constitute an Economic, Finance and Environment Committee. The Human Rights Commission requested the establishment of a dedicated Human Rights Committee to scrutinise selected legislation and examine vetting reports prepared in compliance with section 7 of the New Zealand Bill of Rights Act 1990.

Most of us do not support the rearrangement of the environment portfolio as proposed. It would have implications for subject area linkages with ministerial portfolios, and the balance of workloads. The Finance and Expenditure Committee is already notable for its workload, as is the Local Government and Environment Committee.<sup>20</sup> This suggests that the proposed rearrangement of their portfolios will not serve to balance workloads across select committees.

The establishment of a dedicated Human Rights Committee is also not supported, as consideration of Bill of Rights matters is the responsibility of all subject select committees in respect of the business they consider. The current size and membership of committees does not easily permit the establishment of a new permanent select committee.

### Membership

#### Non-voting members

A question has occasionally arisen in select committees about who is entitled to give or withhold leave. Clearly, all permanent members of a committee are entitled to participate in such a decision, and so are members replacing permanent members. However, there is doubt over the involvement of non-voting members of committees in decisions taken by leave. They may not vote on any question put to a committee, and their presence at a committee meeting does not count towards a quorum.<sup>21</sup> However, a non-voting member is treated the same way as any other member in situations where leave of the committee is required.<sup>22</sup> This interpretation follows strictly the definition in Standing Orders that leave is “permission to do something granted without a dissentient voice”.

It seems incongruous to permit non-voting members to participate in decisions taken by leave, and we recommend that Standing Order 182 be amended accordingly. A consequential amendment would also be required to Standing Order 201(2).

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<sup>20</sup> The two committees were among the busiest for the two years to 31 December 2010 in terms of their hours of meeting.

<sup>21</sup> Standing Orders 182(1) and 205(2), respectively.

<sup>22</sup> McGee, David, *Parliamentary Practice in New Zealand*, 3rd Ed., Wellington, Dunmore, 2005, p. 246.

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**Amendment 17**

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Amend Standing Order 182(1) to clarify that non-voting members do not have the right to participate in decisions taken by leave in select committees, and amend Standing Order 201(2) so that agreement from a non-voting member is not required for the waiver of the requirement for a written notice of meeting.

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**Reports****Minority views**

Submissions from the Green Party and the Human Rights Commission proposed that select committees be required to include minority views in their reports. It was argued that the right of dissent in a democratic parliament overrides the need for committee control, and that the refusal of a minority report reflects excessive control. One proposal was that a select committee be allowed to reject sections of a minority report only if they are inaccurate or inflammatory in content.

A requirement to include differing views would deprive select committees of the right to control the form and content of their reports, and could result in fragmentation of reports. The ideal is for a committee's report to reflect the views of members in such a way that differing views do not have to be appended separately. On some occasions when the majority has refused to accept a minority view, for example deeming it to be objectionable or too lengthy, this has resulted in negotiations to reach a compromise. The Speaker has ruled that a majority cannot rewrite a minority's view without consent.

On the few occasions that minority views have been excluded, this has typically been justified on the grounds that the views included inaccuracies, in the opinion of the majority of members. The chairperson is in no better position to judge the accuracy of content than any other member. A prohibition on inflammatory content would (in the parliamentary context) require political rather than procedural judgment, and such political considerations are appropriately resolved by the committee rather than adjudicated by the chairperson, who rules on matters of procedure.

In many aspects of parliamentary practice, the proper functioning of the House and its committees is dictated by convention and not prescribed in the Standing Orders. We wish to strengthen the convention that differing views should be fairly reflected in reports. There is a strong presumption that this will occur. Members who are in the minority have a legitimate expectation that all reasonable steps will be taken to ensure that this convention is followed, even though Standing Order 241 gives some discretion to committees. This discretion should be exercised only as a last resort when text supplied by a minority is significantly misleading or intemperately expressed, and reasonable efforts to find a compromise have been unsuccessful. Where possible, members should give some advance warning that they are likely to enter differing views, so that their perspectives can be incorporated.

**Consideration of reports**

Select committee reports are occasionally reached on days when Members' orders of the day take precedence. When this occurs, the debate commences when the chairperson of the select committee moves a motion to take note of the report. Another member may

move the motion only if the chairperson is absent.<sup>23</sup> This means that if the chairperson is present, no other member may move the motion.<sup>24</sup>

The current wording of Standing Order 247(1) effectively provides a means for the chairperson of a select committee to prevent another member of the committee from moving a motion in respect of a report. This cannot be justified. Any committee member should be able to move a motion when the order of the day for consideration of a report is reached. This is the current situation for reports of the Privileges Committee.<sup>25</sup> If a number of committee members were to seek the call, the Speaker would give preference to the chairperson.

### **Amendment 18**

Amend Standing Order 247(1) so that any committee member may move a motion when the order of the day for consideration of a report is reached.

### **Government response to recommendations**

The Government is required to respond formally, within 90 days of the report having been presented, to any recommendation addressed to it by a select committee, under Standing Order 248. When the 90 days expire on a non-working day, the response may be presented on the next working day.<sup>26</sup> A Minister pointed out that the application of the 90-day rule is problematic in respect of periods that include statutory leave requirements, and while the House is adjourned. We agree, and recommend that the time allowed for a Government response be expressed in terms of working days. This would invoke the definition of **working day** set out in Standing Order 3(1), which excludes weekends, holidays, and the period between Christmas Day and 15 January in the following year.

The Government can make more than one response to the same report. In these circumstances the Government may present what is effectively an interim response and follow it up with a detailed response when it has considered the issue thoroughly.<sup>27</sup> However the time-limit is expressed, the Government should retain the ability to present an interim response where necessary.

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<sup>23</sup> Standing Order 247(1).

<sup>24</sup> *NZPD*, Vol. 662, p. 10384. Tisch (Deputy Speaker). 21 Apr 2010.

<sup>25</sup> Standing Order 247(2).

<sup>26</sup> Interpretation Act 1999.

<sup>27</sup> McGee, *op. cit.*, p. 303.

**Amendment 19**

Amend Standing Order 248 to omit the 90-day requirement for Government responses, and substitute it with a requirement to respond within “60 working days”.

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## 5 Legislative procedures

### Omnibus bills

The Parliamentary Counsel Office proposed that the rules around the introduction of omnibus bills be reworded, asserting that the requirements in Standing Orders 256 to 259 do not achieve their purpose clearly and without unwanted side-effects. Concern was expressed that the inclusion of a validation in a single-subject bill may be ruled out as making the bill relate to more than one subject-area.

The Standing Orders Committee has considered the omnibus bill rule on a number of occasions. In 2008 it decided against changes to broaden the definition. The rule continues to meet its purpose, that is, preventing unacceptable truncation of the legislative process and reduced scrutiny of important stand-alone Acts. A large number of omnibus bills are introduced consistent with the rule, which demonstrates that it is working well. Where there is general agreement that substantive amendments to a number of Acts should proceed as a package, the Business Committee already has the power to approve their introduction in a single bill (if they do not otherwise comply with the Standing Orders). Another approach, which we discuss next, would be for the Business Committee to determine that the passing of those amendments in separate bills be facilitated through their treatment as cognate bills.

### Cognate bills

#### Determination as cognate bills before or after introduction

The Business Committee arguably already has the power to set related orders of the day down for consideration together. It would be useful to encourage this practice as one of the measures to make more effective use of the House's time. We therefore recommend that the Business Committee have explicit power to determine that bills may be regarded as "cognate bills", to be debated together (at the option of the Minister or member in charge) at their first, second, and third readings.

An extension of this proposal is to provide for bills to be considered for potential treatment as cognate bills before they are introduced. This would offer an alternative to the introduction of omnibus bills, making proposals to amend different parts of the statute book at the same time more transparent.

#### Treaty of Waitangi claims settlement bills

The Minister for Treaty of Waitangi Negotiations noted the increasing volume of Treaty of Waitangi claims settlement bills resulting from negotiations with claimant groups, with many such bills expected to be introduced in the next year. The Minister proposed a new type of omnibus bill to deal with multiple Treaty of Waitangi claims settlements that are not interrelated. The intention would be for combined settlement bills to be divided at the committee of the whole House stage to allow separate third readings. During the hearing of evidence on his submission, the Minister agreed that the procedure for cognate bills would be particularly suited to progressing multiple Treaty of Waitangi claims settlement

bills, without the need for a separate type of omnibus bill. The consideration of such bills could also be facilitated by the flexibility for the Business Committee to arrange extended sittings, as discussed above.

## **Amendment 20**

Provide for the Business Committee to determine that bills may be regarded as “cognate bills”, to be debated together (at the option of the Minister or member in charge) at their first, second, and third readings, and permit such determinations to be made before or after bills have been introduced.

## **New Zealand Bill of Rights**

### **Proposals for strengthening Bill of Rights reporting**

In its present form, Standing Order 261 provides that the Attorney-General must indicate to the House any provision in a bill that is inconsistent with the New Zealand Bill of Rights Act 1990 on the introduction of a Government bill, or as soon as practicable after the introduction of any other bill.

Several submissions proposed that Bill of Rights reporting should be strengthened, and should be done at other stages of the legislative process. In particular, it was suggested that scrutiny for Bill of Rights implications should be conducted in respect of amendments made on the recommendation of select committees or during the committee of the whole House stage. The Human Rights Commission observed that requiring the Attorney-General to present a report on human rights consistency for every bill introduced to Parliament (including those that appear consistent) would go some way to ensuring legislation is human rights compliant. At present the Attorney-General reports to Parliament only if the discrimination in question cannot be justified as a reasonable limit on the particular right or freedom under consideration. The commission argued that this process would be strengthened if the Attorney-General were required to present a report that legislation is *prima facie* discriminatory, thus allowing a more informed debate about whether a breach can in fact be justified.

The Attorney-General’s obligation to report to the House is a safeguard designed to alert members to legislation that may give rise to inconsistency with the New Zealand Bill of Rights Act 1990, and to enable them to debate the proposal on that basis. Ultimately, it is for the House itself to determine: firstly, whether it believes that a bill is inconsistent with the provisions of the Act (on which it may reach a different conclusion from the Attorney-General) and secondly, where it considers that there is an inconsistency, whether it nevertheless wishes to pass the bill.<sup>28</sup>

When it reported on the 2003 review of Standing Orders, the Standing Orders Committee did not support a proposal by the then Clerk of the House to extend Bill of Rights vetting to include amendments to bills. The committee stated its view as follows:<sup>29</sup>

A requirement for a bill to be re-certified as it progresses through the House may cause delays in the legislative process and would carry a considerable compliance cost

<sup>28</sup> McGee, *op. cit.*, p. 327.

<sup>29</sup> *Review of Standing Orders*, Report of the Standing Orders Committee, I.18B, 2003, p. 51.

in terms of the need for increased legal advice to enable the Attorney-General to identify the Bill of Rights implications of amendments.

### **Better practice for Bill of Rights analysis**

While there may sometimes be issues regarding the timing and cost of providing Bill of Rights scrutiny advice, some improvements may be possible at relatively low cost and without requiring bills to be formally re-certified during their passage. In particular, select committees should consider Bill of Rights issues as an aspect of normal good committee practice. For example, each select committee should follow up reports presented by the Attorney-General under section 7 of the New Zealand Bill of Rights Act 1990 by hearing evidence or receiving a briefing in advice from the Attorney-General or his or her officials. Even when a section 7 report is not presented, vetting reports are published to the Ministry of Justice website. Committees could suggest in their advertisements that submitters may wish to comment in their submissions on this Bill of Rights analysis. Members of select committees who have been apprised of noteworthy potential Bill of Rights matters in advice and hearings should then be better equipped to consider the Bill of Rights implications of their own recommended amendments.

Cabinet guidelines require officials to report on Bill of Rights and other constitutional matters in the documentation supporting proposals for bills,<sup>30</sup> although this analysis is not always reflected in explanatory notes or regulatory impact statements when bills are introduced. We consider that this material should be included and given prominence in regulatory impact statements to assist submitters and committees in their consideration of these issues in bills. The Government should also amend Cabinet guidelines to require Bill of Rights reporting on substantive Supplementary Order Papers.

## **Recommendation to the Government**

We recommend to the Government that Cabinet guidelines be amended to require that analysis of Bill of Rights and other constitutional matters be included and given prominence in regulatory impact statements supporting the introduction of bills, and to require Bill of Rights reporting on substantive Supplementary Order Papers.

## **Revision bill procedures**

### **Streamlined legislative process**

The Legislation Bill currently before the House sets out a process for the preparation of revision bills for the purpose of re-enacting laws, in an up-to-date and accessible form, without changing their substance. A three-yearly revision programme is to be produced for each new Parliament and the Attorney-General must present it to the House as soon as practicable after it is approved by the Government.<sup>31</sup> The Chief Parliamentary Counsel is required to prepare revision bills in accordance with the programme.

The Law Commission suggested a streamlined procedure for the enactment of revision bills to be set out in legislation. The commission considered that the narrow nature of the

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<sup>30</sup> *Guide to Cabinet and Cabinet Committee Processes*, <http://cabguide.cabinetoffice.govt.nz/>.

<sup>31</sup> Legislation Bill, clause 30.

question before Parliament in regard to revision bills, namely whether the proposed revision bill correctly states the existing law, justifies a procedure that ensures revision bills do not unduly occupy Government legislative time in the House. However, this must be balanced by regard for proper process and certainty.

The Law Commission proposed a statutory process for the House to follow when considering a revision bill, with a disallowance-type procedure that ordinarily would provide no opportunity to debate the bill in the House during its passage. However, as introduced, the Legislation Bill did not prescribe the House's procedure for revision bills, a position that the Regulations Review Committee endorsed when it examined the bill.

The Clerk of the House, in consultation with the Parliamentary Counsel Office, has proposed a procedure for revision bills, as follows:

- Introduced as for other Government bills, but only when the Attorney-General presents the relevant certification to the House, and set down for first reading as for any other Government bill, but without debate.
- Referred to a select committee for consideration immediately following the first reading. The Minister in charge of the bill could be required to include in the bill's explanatory note a nomination of the committee to consider the bill. This would give members notice should they consider another committee is more suitable.
- Reported back to the House and set down for second reading on the third sitting day following.
- If the second reading does not occur within three sitting days of a revision bill being available for second reading, the Business Committee could be required to give it precedence in the next sitting week.
- Debated at the second reading and any select committee amendments adopted.
- Considered in the committee of the whole House only if the Minister in charge requires an amendment to be considered, or a member gives 24 hours' notice of an amendment to be considered.
- Set down for third reading forthwith, without debate.

Such a procedure gives certainty to the passage of a revision bill. It allows for amendments recommended by a select committee to be properly adopted, and provides a safety net should further amendments appear necessary. However, in such circumstances the committee of the whole House would be required to consider only the amendments and not all the provisions of the bill, thus avoiding any unnecessary delay in the committee of the whole House. Requiring the Business Committee to give precedence to the second reading of a revision bill, if it has not occurred within three sitting days, would ensure that these bills do not languish on the Order Paper.

The Green Party has some concern that, in providing a streamlined process for revision bills, Parliament is loosening its control of the legislative process. While it is proper and useful for officials to undertake the revision and consolidation process, the final sign-off on revising legislation should remain the responsibility of the elected representatives. We agree with these sentiments, and for this reason are strongly of the view that the House should

retain ultimate responsibility for determining its own procedures for revision bills, rather than having those procedures prescribed in legislation.

### **Select committee consideration**

The Law Commission suggested that a specialist committee be established with the function of considering revision bills. We do not support that suggestion, and consider that subject select committees should consider revision bills that fall within their respective subject areas. In considering a revision bill, a subject select committee would be required to report on—

- whether the revision bill accurately and clearly captures the substance of the existing law, and whether it has been prepared in accordance with the revision power established in the Legislation Bill
- where the revision bill contains amendments to the existing law to clarify its intent, that it is satisfied that such amendments should not be separately enacted
- whether to recommend that the revision bill should be passed with or without amendments.

### **Amendments to revision bills**

While the House is not prevented from amending a revision bill in any way, amendments proposed will need to be relevant to the bill. A revision bill is one that restates the existing law and may clarify its intent. Its scope is limited to that purpose. Amendments that are relevant to that purpose would be admissible, but amendments that go beyond that purpose, for instance, that significantly change the effect of the law, may be outside the scope of a revision bill. Such an amendment would require an instruction from the House. This would effectively limit the nature of amendments that committees could make and militate against the temptation to bring in new policy considerations.

### **Revision bills as omnibus bills**

Consideration may also need to be given to whether revision bills, where they amend more than one Act, should be a type of omnibus bill allowed under Standing Order 258(1). Later in this report, we recommend that the Business Committee have the power to direct the division of a bill without requiring a committee stage where one might not otherwise be necessary. This procedure would be suitable for revision bills.

## **Recommendation to the House**

When the Legislation Bill is enacted and is to come into force, adopt a sessional order setting out a streamlined procedure for the consideration of revision bills that—

- provides for no debate on first reading, subject select committee consideration, a debate at second reading, a committee of the whole House stage if required, and third reading forthwith without debate
- includes an instruction setting out the manner in which subject select committees will consider revision bills, and
- permits a revision bill as a type of omnibus bill.

## **Introduction of Members' bills**

### **Issues raised**

Members are taking advantage of new technologies and increased use of the internet for social and political networking to promote their proposals—this has given rise to the repeated postponement of Members' bills that are awaiting their first reading, and occasionally the House has run out of business on Members' days. As noted earlier in this report, sessional orders have been adopted to address this issue, but with limited success.

### **Promotion of proposed Members' bills**

We propose to allow members to garner public and political support for their legislative proposals before they are introduced to the House. This will be achieved by providing that a notice of intention for a Member's bill, which we suggest should now be known as a "notice of proposal", remains lodged until the member withdraws it or the bill is introduced (though the notice would lapse at the end of a term of Parliament). As at present, the notice would not be accepted unless the Clerk is provided with a fair copy of the bill—in practice, this involves the supply of both a hard copy and a corresponding electronic version. This electronic version would be posted to the Parliament website when the notice of proposal is lodged, enabling members to link to the proposed bill on the website for the purpose of promoting the idea and garnering public support or generating debate about it.

### **Support of members for proposed bill**

As part of this proposal, it is intended that a facility will be established for members to indicate support for the introduction of a proposed bill. While such indications of support will not have any outcome in procedural terms, the ability to demonstrate the support of members should promote consultation as part of developing serious legislative initiatives by members who are not Ministers.

## **Amendment 21**

Provide for fair copies of proposed Members' bills to be posted on the Parliament website when notices of proposal are received in respect of them.

## **Amendment 22**

Provide for members to indicate support for the introduction of a proposed Member's bill.

## **Select committee consideration of bills**

### **Instructions to select committees—truncation of time to consider bills**

Standing Order 281 provides for instructions to select committees to be moved without debate. This provision is often used to shorten significantly the time available for select committees to consider bills. The truncation of the select committee process can have serious implications for legislative quality and confidence in the legislative process. As we heard in submissions, it also affects the public perception of Parliament, especially when submitters are required to prepare submissions in a short time and hearings are compressed.

A shortened deadline for select committee consideration of bills may be justified occasionally, but such instructions have become common. Governments use the procedural mechanisms available to them to progress their legislative programme, and in doing so weigh up political factors and costs in procedural terms, along with the public interest. Since instructions to select committees are not subject to debate, there is no meaningful procedural deterrent to governments' moving to truncate the select committee process—sometimes severely.

### **Instructions to be debatable**

We recommend that this situation be mitigated by providing for instructions to select committees to be debatable, except when their sole effect is to reduce the time for reporting on a bill to between four and six months. Reducing the number of bills that are subject to shorter deadlines for select committee consideration will be an effective way of enhancing legislative scrutiny and thus improving the quality of legislation in New Zealand. This recommendation is made in exchange for other proposals that will be of significant benefit to the Government's ability to progress its legislative programme, such as the provision for extended sittings.

While instructions shortening the report-back date for bills to between four and six months will not be debatable, we wish to emphasise that select committees should have six months or more to consider most bills. There is no intention for the default period for select committee consideration of bills to be shortened, and the Government should exercise due restraint when considering the truncation of the select committee process.

The new procedure for the referral of bills to select committees would be as follows:

1. The question is put without debate on the committee to consider the bill, as nominated in the speech of the member in charge; if another member nominates a different committee, then the question on that nomination is put only if the House does not agree to that proposed by the member in charge.
2. The member in charge may then move an instruction to the select committee, with this motion subject to amendment and debate.

### **Narrow focus of debate on instruction**

To limit the debate on an instruction, new Standing Order 281A reflects the existing provision in Standing Order 172(3) for limiting debate on instructions to the committee of the whole House. Debate on instructions to select committees would be restricted to the subject-matter of the motion, and could not extend to the principles, objects, or provisions of the bill to which the motion related. Relevancy should be strictly enforced by the Speaker during the debate on an instruction to a select committee.

### **Business Committee to fix time for report**

In tandem with this proposal, we recommend that the Business Committee be given the power to fix the time for report on a bill, and to determine that a select committee may meet while the House is sitting or on a Friday in a week in which there has been a sitting of the House. In practice, we envisage that a member in charge who wished to propose a shortened time for a select committee to consider a bill would first approach the Business

Committee before the first reading of the bill to have the report-back date fixed in advance. If no agreement could be reached on a report-back date, and if the time proposed for the committee to report is four months or less, the member could then ask the Business Committee to arrange the debate on the instruction to the select committee with a set number and length of speeches. If there were still no agreement, the member would have the option of moving the instruction following the first reading, the ensuing debate having a narrow focus and being subject to a closure motion.

### **Amendment 23**

Provide for instructions to select committees to be debatable, unless they relate only to the time for reporting on a bill and provide for the time for reporting on the bill to be between four and six months; and stipulate that the debate on an instruction must be confined to the subject-matter of the motion.

Permit the Business Committee to fix the time for report on a bill under Standing Order 286(1), and to determine that select committees may meet at times otherwise prevented under the Standing Orders.

#### **Time for submissions on bills**

We received a submission from the Human Rights Commission, which considered the timeframes permitted for public consultation in other jurisdictions, particularly the United Kingdom. The commission suggested that 12 weeks should be the minimum period for consultation on bills before select committees.

It is difficult to make meaningful comparisons between the select committee submissions process in New Zealand and public consultation arrangements in other countries. This is because the parliamentary committee system in this country is unusual in involving the receipt and hearing of public submissions on nearly all bills, with the consequent recommendation of amendments. While a generous period for public submissions to be prepared would be ideal, this needs to be balanced against a reasonable expectation for the amount of legislative activity that may be achieved within the three-year electoral cycle. A 12-week period for submissions would result in select committees taking significantly longer than the standard six months for considering bills. The Standing Orders Committee has previously noted that “It is for select committees to determine whether more than six weeks should be provided for submissions on large or complex bills”.<sup>32</sup> We wish to reiterate this suggestion.

#### **Timetable for drafting and consideration**

The Parliamentary Counsel Office has expressed concern about an increasing tendency for select committees considering bills to reduce the time allowed between consideration of the departmental report, consideration of proposed amendments, finalisation of the commentary, and deliberation.<sup>33</sup> In the view of the Parliamentary Counsel Office, when

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<sup>32</sup> *Review of Standing Orders*, Standing Orders Committee, I.18B, 2008, p. 29.

<sup>33</sup> Deliberation is the final step in a select committee’s consideration of a bill, when the committee formally adopts its recommended amendments and commentary for report to the House.

insufficient time is allowed for these processes, “the likelihood of legal error, inaccuracy, or a failure to properly implement the committee’s decisions increases dramatically”.

We recognise the concern raised by the Parliamentary Counsel Office about the implications for the quality of legislation of allowing insufficient time for the drafting of amendments and commentaries. We urge select committees examining bills to programme sufficient time for the drafting and consideration of amendments, and for the subsequent drafting and consideration of commentaries.

### **Consideration of reports of Parliamentary Counsel**

The Parliamentary Counsel Office also recommended that a select committee examining a local bill, a private bill, or a Member’s bill be required to have regard to any report by Parliamentary Counsel on the bill, if such a report is made available to the committee by the Attorney-General. The Parliamentary Counsel Office has a statutory function to report on the form and effect of local bills and potentially on Members’ bills and private bills.<sup>34</sup> Reports by Parliamentary Counsel may include advice on whether a bill affects the Crown’s rights, and information about how the bill relates to other legislation.

This matter does not require the amendment of the Standing Orders. It would be appropriate for the Attorney-General to provide relevant reports on bills to the committees considering them, either by correspondence or by attending in person. The committee concerned in each case could then request a briefing on the report or seek further advice as it required. We recommend that select committees considering bills follow this course whenever reports from the Parliamentary Counsel Office are drawn to their attention.

### **Amendment of omnibus bill by select committee**

Much of the detailed work on legislation is best achieved in select committees, and we believe that select committees should have the same ability to consider amendments as a committee of the whole House. Currently one difference exists and that is contained in Standing Order 299, which allows only the committee of the whole House to consider (by leave) a substantive amendment to an Act not already amended by an omnibus bill. If this power to consider such amendments were extended to select committees, both committee stages would effectively provide the same procedural capacity to modify legislation. This would be achieved through the revocation of Standing Order 299, which is discussed further below.<sup>35</sup>

### **Limited select committee consideration of Supplementary Order Papers**

One point of concern for submitters was the prospect of significant new matters being incorporated into bills by way of a Supplementary Order Paper at the Committee stage, without the benefit of select committee consideration. This criticism is made particularly in respect of amendments that have Bill of Rights implications.

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<sup>34</sup> Statutes Drafting and Compilation Act 1920, s.4(1)(c) and (d). Reports on Members’ bills may be made on direction from the Attorney-General. The Legislation Bill currently before the House continues this function of the Parliamentary Counsel Office, and extends it to examination of, and reporting on, private bills.

<sup>35</sup> See p. 44.

We reiterate that it is currently possible under the Standing Orders for a procedure to be used for limited select committee consideration of significant Supplementary Order Papers that a Minister intends to move at the Committee stage. The Business Committee can use Standing Order 185(3) to give permission for a committee to consider a Supplementary Order Paper relating to a bill that is not currently before the committee.

## **Committee stage**

### **Issues arising from Committee stage**

Over time many criticisms have been levelled at the committee of the whole House stage of New Zealand's legislative process. Concerns have been raised that bills are structured to minimise the number of debatable questions during their Committee stage, rather than to reflect a logical grouping and arrangement of provisions. Major policy changes can be made to bills with little warning, and without sufficient scrutiny of amendments for Bill of Rights repercussions. Opposition amendments can be posed without any opportunity for Ministers or officials to consider their merits or implications, and last minute amendments can be made as a result of negotiations or procedural tactics.

One particular proposal to address some of these issues is the introduction of a 24-hour notice requirement for all amendments (not only those with fiscal implications). In making this suggestion, the Parliamentary Counsel Office suggested exemptions from the 24-hour rule when the Committee stage of a bill has not been set down on the Order Paper, or when the purpose of amendments is "only to improve the form or drafting of, or to correct obvious gaps or errors in, the bill ... or amendments".

### **Broader scope of Committee stage**

The part-by-part debate in the committee of the whole House stage now allows members who may not have had the opportunity to speak at the second reading to participate in the debate and for alternative propositions to be raised in a public forum for the record. It is also the time when Ministers propose any amendments that may be required as a result of the House's adoption of amendments recommended by a select committee. Under MMP, the committee of the whole House stage has taken on added significance as the point in the legislative process at which the full proportionality of the House is brought to bear on the text of bills.

Consideration part by part is now the norm and lends itself to broad discussion of the provisions of bills. Part 1 usually includes a purpose provision that allows the bill's background and policy to be debated fairly widely. The final debate of the Committee stage on the preliminary clauses allows for summing up. These practices suggest changes in the way in which the committee of the whole House deals with amendments. There is a shifting focus towards debating the major issues, and consideration of alternative propositions, rather than dealing with amendments clause by clause, which may require spending considerable time voting on many individual, minor amendments.

### **Arrangement of Committee stage by Business Committee**

Our focus in this review has been to promote constructive negotiations in the Business Committee about the arrangement of the House's business, and this approach could have real benefits for the Committee stage and its legislative outcomes. We recommend the

enhancement of the Business Committee's ability to determine how a committee of the whole House will consider a bill. Committee stages could be organised on an issues basis, or through the grouping of parts, or through separate debates on in-principle decisions and on amendments to implement them. Determination of such matters prior to introduction could allow bills to be structured in multiple parts without affecting the time that will be spent debating them. The exercise of this ability to alter the part-by-part default for debate in respect of specific bills prior to their introduction would improve the structure of legislation, and could also promote consultation with party spokespeople about the way debates will be handled.

A determination about the Committee stage of a bill made before its introduction might need to be varied in light of select committee consideration. We therefore recommend that provision be made for variation of a determination later in the bill's passage. Having reported on a bill, a select committee might write to the Business Committee, recommending a different approach to the Committee stage debate. Postponement of consideration of provisions by the member in charge must also be provided for.

### **Notice of Committee stage**

To facilitate preparation for the Committee stage, we recommend that the Government be required to advise the Business Committee which bills are intended by the Government to be taken for their Committee stage in the next week in which the House will sit. This notice should be given "where practicable". While failure to give notice would not prevent the Government from taking a bill's Committee stage, there would be less opportunity for members to submit their amendments as coherent alternative propositions, and thus there would be less likelihood that the Government would benefit from time-savings that should result from our other proposals for the Committee stage.

### **Grouping amendments**

The member in charge of a bill currently has the right to have his or her amendments taken as one question. Giving the chairperson the power to group amendments proposed by another member in this way would extend this practice, and place the decision with the chairperson rather than the member proposing the amendments. It should work to maximise the time spent in debate, as opposed to voting. This approach should further promote the development by members of coherent alternative propositions.

### **Selection of amendments**

Selection of amendments should be necessary only where there are numerous amendments to a single provision. The chairperson would, in selecting the amendments on which questions are to be put, give precedence to amendments of the member in charge of the bill, and those that are published on a Supplementary Order Paper. This would effectively discourage the late lodging of amendments, unless there were a compelling reason for them. Existing rulings on amendments that are substantially the same as an amendment agreed to or defeated already protect against taking the time of the committee of the whole House on numerous very similar amendments.<sup>36</sup>

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<sup>36</sup> NZPD, 2010, Vol. 660, p. 9265, Smith.

**Notice of amendments**

A system of formal notice for amendments, with exemptions, may inhibit constructive engagement to propose amendments addressing issues raised by non-Government parties, and also could cause difficulties with the acceptance of late amendments to correct drafting errors. Exemptions from the 24-hour rule would require judgments from the chairperson about the purpose or intention of amendments, and could provide fruitful grounds for points of order.

Rather than trying to limit members' ability to lodge amendments, we wish to encourage the practice of circulating amendments as early as possible. We recommend that provision be made for the chairperson to group amendments when putting questions, or to select amendments on which questions are to be put where there are multiple amendments at the same place in the bill. Members will be encouraged to submit cohesive alternative propositions that can be considered as a whole. If the Government's own amendments are circulated in good time, then other members will have the opportunity to develop their amendments in light of the Government's proposals, and so it would be appropriate to group the amendments of other members. Conversely, the late release of the Government's Supplementary Order Papers would not be conducive to the grouping of amendments of members from non-Government parties. In this way, good legislative practice by the Government would be more likely to result in the reward of time-savings in the House.

Grouping and selection could work with a degree of flexibility to ensure that bills introduced and passed under urgency could be given proper scrutiny. There will be times when the committee of the whole House is required to address detailed amendments as well as more general alternative propositions. Frequently, the price of passing a bill under urgency will be an extended committee of the whole House stage, for this will be the only real opportunity for detailed scrutiny.

**Schedule of members' amendments**

Publishing a schedule of members' amendments (as grouped and selected by the chairperson) would ensure members are clear about the amendments to be debated and the questions on which there may be votes. It should also encourage members to lodge their amendments in good time and have them printed and published on a Supplementary Order Paper. A published schedule of amendments should also assist the chairing of the debate by making the chairperson and members aware of who has proposed amendments, particularly those that propose alternatives to the bill's provisions, and might reasonably be seeking the call.

**Amendment 24**

Insert a new Standing Order 291A, providing enhanced powers for the Business Committee to arrange the Committee stage of a bill, either before or after the bill is introduced, with powers to vary such a determination later in a bill's passage through the House.

Include a provision requiring the Government, where practicable, to indicate which bills will have their Committee stages in the next sitting week and for these to be noted on the Order Paper.

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## **Amendment 25**

Provide in Standing Order 297 for the chairperson of the committee of the whole House to have the power to group amendments, and to select amendments on which questions are to be put, where there are amendments at the same place in the bill that are substantially the same in effect.

### **Amendment of omnibus bill by committee of whole House**

When discussing how to align the powers of select committees and committees of the whole House, we were advised that the only substantive difference in these powers is the ability for leave to be given during the Committee stage under Standing Order 299. This provision prevents the consideration of a substantive amendment to an Act not amended by a bill as originally introduced, except by leave of a committee of the whole House. A select committee has no such power, even by leave.

During this Parliament, there has been one instance when leave has been given under Standing Order 299, and the House has also suspended this rule by motion on notice.<sup>37</sup> It is our view that the rule set out in Standing Order 299 is no longer necessary. Committees should have the power to consider substantive amendments to Acts not previously amended by bills, provided certain conditions are met. These conditions are as follows:

- the bill must still relate to one subject area only, unless Standing Order 256 has been waived by the House or otherwise modified in its application under the Standing Orders
- a substantive amendment to another Act can be considered only if the bill before the committee is already an omnibus bill
- the amendment must be relevant to the subject-matter of the bill, consistent with the principles and objects of the bill, and otherwise conform to the Standing Orders and practices of the House.

These conditions are imposed by Standing Orders other than Standing Order 299, and we thus recommend that Standing Order 299 be revoked.

## **Amendment 26**

Revoke Standing Order 299.

### **Dividing bills without Committee stage**

Standing Order 300 relates to the dividing of a bill in the committee of the whole House. On some occasions, bills that are technical in nature and which otherwise could be considered for the omission of a Committee stage must still be committed for the purpose of being divided. We recommend that the Business Committee have the power to determine that a bill be divided, without a committee of the whole House stage being held. Revision bills and omnibus Treaty of Waitangi claims settlement bills are two such examples where a Committee stage may not be required, except for the necessity to divide

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<sup>37</sup> Journals, 49th Parliament, p. 651, 16 March 2010; p. 1237, 22 June 2011.

the bill. The Business Committee would have the power to determine that the Clerk divide the bill into a number of separate bills, and set the divided bills down on the Order Paper for third reading. Consequential amendments would be needed in respect of Standing Order 263, in relation to the reprinting of bills, and Standing Order 303, regarding bills set down for third reading together.

### **Amendment 27**

Provide in Standing Order 300 for the Business Committee to determine that a bill be divided without requiring a Committee stage, with consequential amendments to Standing Orders 263 and 303.

## **Delegated legislation**

### **Functions of Regulations Review Committee**

The functions of the Regulations Review Committee, which are described in Standing Order 309, are predicated on the definition of “regulation” set out in Standing Order 3. This definition refers to the Regulations (Disallowance) Act 1989, which would be repealed following the enactment of the Legislation Bill. The proposed new term “disallowable instrument” would define the instruments that would be subject to scrutiny by the Regulations Review Committee and disallowance or amendment by the House. The Regulations Review Committee provided a draft of suggested amendments to Standing Orders 3(1), 309 and 310 to reflect the relevant provisions of the Legislation Bill, and noted that consequential amendments would also be required to Standing Orders 311 to 314.

The Regulations Review Committee explained how, in relation to the committee’s functions of examining delegated legislation and considering complaints,<sup>38</sup> its jurisdiction could sensibly be limited to considering disallowable instruments. This is because these functions are relevant to the statutory remedy of disallowance. The disallowable instruments subject to examination by the committee would be those required to be presented to the House under the provision currently in clause 40 of the Legislation Bill. On the other hand, the committee asked that its functions of scrutinising bills and inquiring into matters relating to regulations<sup>39</sup> not be limited to “disallowable instruments”, but also permit consideration of matters relating to regulations that are not disallowable instruments. This approach would provide the committee with a wide jurisdiction to consider issues arising from delegated legislation under these functions.

We generally support the amendments suggested by the Regulations Review Committee, and recommend that the House provide accordingly through a sessional order, when the Legislation Bill has been enacted and comes into force.

### **Recommendation to the House**

We recommend to the House that, when the Legislation Bill is enacted and comes into force, a sessional order be adopted to modify the application of Standing Orders 3(1) and 309 to 314 to reflect the provisions of the bill.

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<sup>38</sup> Under Standing Orders 309(1) and (5), and 311.

<sup>39</sup> Standing Order 309(3) and (4).

**Clarification of applicability of negative resolution procedure**

The “negative resolution procedure” set out in Standing Order 314 provides for a notice of a motion that the House exercise a statutory power to disallow, disapply, or otherwise not approve of a regulation or other instrument, to be referred to a select committee for consideration and report to the House. Clause 59 of the Biosecurity Law Reform Bill, which is currently before the House, provides for the House to revoke a declaration of a biosecurity emergency. There is some question about whether the current wording of the negative resolution procedure covers notices of motion to “revoke” instruments, and we recommend that this be clarified.

**Amendment 28**

Amend Standing Order 314(1) by inserting, after the word “disapply,”, the word “revoke,”.

**Drawing attention to a regulation—“proportionality principle”**

Hon Rodney Hide, Minister for Regulatory Reform, submitted that a “proportionality principle”, requiring makers of delegated legislation to take into account the costs of proposed rules relative to the benefits, could usefully apply to the making of all delegated legislation that has the potential to impose costs. Mr Hide asked us to consider including a proportionality principle in Standing Order 310, so that the Regulations Review Committee could draw the House’s attention to a regulation on the ground that it imposed the burden of a duty or restriction that was not proportionate to its expected benefits.

If such a ground were to be incorporated in the Standing Orders, the terminology used would need to avoid confusion with the concept of proportionality as it applies in a parliamentary context—that is, the basis for distribution among parties of seats on select committees, the allocation of questions for oral answer, and the calling of members to speak in the House.

The Regulatory Standards Bill currently before the House imposes requirements for the making of legislation, including primary and delegated legislation. The Regulations Review Committee observed that the bill and the proposal in respect of Standing Order 310 raise complex legal and policy issues. We consider that these issues should be discussed in the context of the House’s consideration of the Regulatory Standards Bill, and make no recommendation on this matter.

## 6 Financial procedures

### Annual taxing provision

#### Decision not to debate annual taxing provision separately

Standing Order 333 recognises the importance of the annual taxing provision, through which rates of income tax are confirmed for each tax year. It provides that such a provision is separately debatable in a committee of the whole House, unless the committee, by leave, decides otherwise.

The annual taxing provision is of such significance that it is unwarranted for the committee to have the power to avert its separate consideration in this way. We recommend that the provision for the committee to “decide otherwise” be omitted. This would mean that the separate debate on an annual taxing provision could be dispensed with only by way of an instruction from the House to the committee.

#### **Amendment 29**

Amend Standing Order 333(1) to omit the words “, unless the committee, by leave, decides otherwise”.

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#### Definition of annual taxing provision

The annual taxing provision is defined in Standing Order 333(2) as “a clause or provision, or group of clauses or provisions, that sets or confirms rates of income tax”. This could be interpreted as including any provision that amends the Income Tax Act 2007 to adjust rates of income tax, even if the adjustment is not applied to a particular tax year. The procedure for the debate on the annual taxing provision is intended for provisions that confirm the rates of tax in respect of a particular tax year or other period.

#### **Amendment 30**

Amend the definition of annual taxing provision to capture only provisions that set or confirm rates of income tax “in respect of a specified tax year or other period”.

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## 7 Non-legislative procedures

### Debate on Prime Minister's statement

#### Presentation of statement

In 2008, the Standing Orders Committee recommended that the procedure for the Prime Minister's statement be revised so that the statement is presented as a parliamentary paper before the House sits for the first time each year. This allowed the Prime Minister to commence the debate by moving a motion relating to the statement, rather than reading the full text of the statement to the House.

This amended procedure has now been employed twice, and raised some question about the release of the statement between its presentation and the commencement of the debate by the Prime Minister. We recommend that the procedure be simplified so that the Prime Minister presents the statement in the House immediately prior to moving the motion in relation to it.

#### Amendment 31

Amend Standing Orders 345 and 346 to provide for the Prime Minister to present the statement in the House prior to moving the motion to start the debate.

### Misrepresentation during question time

Standing Order 106 allows a member to speak again in debate to correct a member who has misrepresented him or her. This rule relates only to debate. There is no such rule for question time. Furthermore, a point of order cannot be used to correct a misrepresentation. Where a Minister has been misrepresented in a question, the Minister may deal with the misrepresentation in the answer, but a member misrepresented in an answer has no real remedy in the House, except to seek leave to make a personal explanation, in which circumstance the member is in the hands of the House.

Members have on a number of occasions, raised matters of privilege alleging the contempt of deliberately misleading the House in these circumstances. These rarely meet the high test for determining a question of privilege. However, on occasion, the absence of any effective check has allowed members to get away with a certain recklessness with the truth. This is not conducive to good order in the House.

We recommend that a procedure be introduced to allow a member misrepresented during question time to make a response in the House, if the matter is not subsequently corrected in the House. A member who has been misrepresented could still seek leave to make a personal explanation, or, under this new procedure, could apply in writing to the Speaker for the right to make a response in the House. The Speaker could also treat a matter of privilege as an application to exercise such a right. Where no question of privilege was involved, but the matter raised was one involving misrepresentation of a member during questions for oral answer, the Speaker could consider whether the member raising the

matter had been misrepresented in a material way. The Speaker would also consider whether the misrepresentation could adversely affect the member or damage the member's reputation.

In such circumstances, the Speaker could give the member responsible for the misrepresentation an opportunity to withdraw it by way of a personal explanation in the House. If the member did not do so, the Speaker could allow the member who was misrepresented to make a response in the House, immediately following question time.

### **Amendment 32**

Insert a new Standing Order 349A covering misrepresentation during questions for oral answer.

## **Petitions**

### **Proposed requirement for select committees to hear evidence**

The Green Party proposed that when a petition has been referred to a select committee, the committee should hear from the petitioner unless the petition is not in order. This proposal was made out of a concern that the present rules allow committees to accept or reject petitions without being required to adduce any reason to do so.

While this proposal reflects the importance of petitions as a means for members of the public to raise issues and grievances directly with Parliament, it would give rise to a number of practical considerations. Firstly, it could have a significant effect on the ability of committees to programme their business and manage their workload. Secondly, if the proposal were implemented, it could revive the practice of promoting many petitions on the same topic of public interest, rather than obtaining as many signatures as possible for a single petition.

### **Signature threshold**

It has been further suggested that a threshold of 1,000 signatures be set, above which the committee is obliged to receive a submission and hear the petitioner. While this would mitigate against an over-proliferation of petitions, a numerical threshold for signatures would create other problems. Questions would arise as to whether only valid signatures would be counted, and, if so, how their validity would be judged and checked, and by whom. At present, the number of signatures is assured by the member presenting the petition, but a check of the validity of signatures is unnecessary, as no procedural difference is accorded on the basis of the number of signatories. The House and its committees may gauge the relative support for a petition's request on the basis of the number of signatures stated, but do not require the signatures to be validated for this purpose.

A converse effect of the proposal for a threshold of signatures would be the disadvantage caused for petitioners who raise significant matters but enjoy the support of fewer than the required number of signatories. Many legitimate grievances have been brought to the House's attention by individuals, and a risk would arise that such petitions would not be treated on their merits.

**Prompt action on petitions**

Select committees should retain the capacity to control their programmes and decide whether to hear evidence. We support the practice of hearing evidence on petitions that raise substantive issues. A select committee, on receiving a petition, should act promptly to seek evidence from the petitioner or advice from relevant agencies, or, if the committee does not intend to take any action, report to the House accordingly.

**Papers and publications****Publication of papers under authority of the House**

The current wording of Standing Orders 362 and 363 could be interpreted as giving Ministers the judgment as to whether papers should be published under the authority of the House. It is inappropriate for the Executive to have this decision-making power in respect of parliamentary papers, now that the authority of the House is conferred automatically. The current wording also means that the status of a paper potentially could be reviewed every year (or on every occasion the paper is presented), which raises the risk of inconsistency over time. A preferable process would be one that promotes consistency in the nature of papers that are published as part of the permanent record of the House.

**Amendment 33**

Revise Standing Orders 362 and 363 so that the authority of the House to publish papers no longer derives from indications made by Ministers when papers are presented.

**Questions to Ministers and members****Lodging of oral questions**

Sometimes the lodging of questions to members other than Ministers has been used as a procedural tactic to delay the House's consideration of a matter. On one such occasion, a point of order was raised, suggesting that questions to members are included in the limit of twelve oral questions that may be accepted each day under Standing Order 372(2). If this were the case, it would effectively preclude the asking of questions to members, as it is very rare for fewer than twelve questions to Ministers to be lodged. A requirement for an Opposition party to relinquish a question to a Minister in order to ask a question to a member would be undesirable, as it would diminish the House's scrutiny of the Executive. An alternative approach of limiting the number of questions to members or the time available for them to be asked would be arbitrary and could result in a tactical approach to avoiding such questions.

The capacity to ask questions to members remains a useful means for members to enquire about business that is not in the charge of the Government, especially the progress of business in select committees. The lodging of many questions to members as a procedural tactic could be regarded as an abuse. It would be unfortunate if an isolated incident resulted in the scaling back of a long-standing procedure, but that is the risk that arises when members explore the limits of parliamentary tactical behaviour. A limit on the exercise of the procedure for questions to members could be seriously considered if the procedure were over-used as a mechanism to delay the House's business. Such a limit would be regrettable.

**Amendment 34**

Amend Standing Order 372(2) so that it reads "Twelve questions to Ministers may be accepted for oral answer each day".

## **International treaty procedures**

### **Call for strengthened procedures**

The Green Party drew attention to its recommendation to the 2003 review pertaining to international treaty procedures.<sup>40</sup> In its earlier submission, the party asked for the Standing Orders on international treaties to be strengthened. It expressed support for the initial proposals made by the Clerk of the House to the Standing Orders Committee in 1996, which recommended a requirement for the House to approve a treaty before it is ratified.

### **Previous developments**

When the Standing Orders Committee previously considered the parliamentary scrutiny of international treaties, in 2003, it noted that the Foreign Affairs, Defence and Trade Committee had recently evaluated the process in the context of its consideration of the International Treaties Bill (a Member's bill in the name of Keith Locke). The Standing Orders Committee also described various initiatives that were then current:<sup>41</sup>

- the Government had commenced the publication of a 6-monthly list of treaties under negotiation,<sup>42</sup> and the Standing Orders Committee suggested that this be circulated to all subject select committees, with an invitation to receive briefings on treaties of interest
- the Foreign Affairs, Defence and Trade Committee had indicated its satisfaction with a list of 9 criteria that the Minister of Foreign Affairs would use to determine which bilateral treaties would be presented to the House
- the Ministry of Foreign Affairs and Trade was reviewing the structure and content of national interest analyses in light of the outcome of the House's consideration of the International Treaties Bill and other developments relating to the international treaty-making process.

Following consultation with the Foreign Affairs, Defence and Trade Committee, we have not considered further developments to the procedures for parliamentary scrutiny of international treaties at this time.

## **Procedure for statutory appointments**

### **Suggestion of select committee involvement**

After considering the Electoral (Administration) Amendment Bill, the Justice and Electoral Committee suggested the development of a procedure for the appointment of members to statutory bodies by resolution of the House. Part of the justification for developing such a procedure was the enhancement of the independence of Crown entities.

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<sup>40</sup> Review of Standing Orders, 2003, submission 18—Green Party.

<sup>41</sup> *Review of Standing Orders*, Report of the Standing Orders Committee, I.18B, 2003, pp. 76–79.

<sup>42</sup> The latest list was compiled in July 2011 and is available on the website of the Ministry of Foreign Affairs and Trade: <http://www.mfat.govt.nz/Treaties-and-International-Law/03-Treaty-making-process/1-International-Treaties-List/index.php>.

We do not think it is desirable for select committees to be formally involved in statutory appointment processes, other than in respect of Officers of Parliament. Select committees are not well-equipped to act as recruitment panels. We are not interested in establishing a public hearings process for the appointment of persons to statutory bodies, as this could politicise these appointments, and could deter capable candidates.

## 8 Appendices to the Standing Orders

### Appendix B—Pecuniary and Other Specified Interests

#### Follow-up on previous review

We were pleased to receive a submission from Dame Margaret Bazley, Registrar of Pecuniary and Other Specified Interests of Members of Parliament, following up on our review of the Standing Orders relating to pecuniary interests. In our report on that review, in December 2010, we recommended substantial amendments to the Standing Orders relating to pecuniary interests. These amendments were adopted as a sessional order, with effect from 1 January 2011. This meant that the annual round of returns made by members as at 31 January 2011 was conducted under the amended rules for the Register of Pecuniary and Other Specified Interests of Members of Parliament.

Dame Margaret reported that the receipt of annual returns this year went reasonably well, despite some significant complications caused by the major earthquake in Canterbury. In her view, most of our recommended amendments achieved their purpose. However, there were a few points that Dame Margaret suggested for clarification.

#### Trusts and organisations seeking Government funding

As a result of a recommendation from our review last year, every member is required to declare the name of any trust of which the member is a trustee, even if the member is not also a beneficiary of that trust. This is set out under clause 4(1)(d). This has had the effect of requiring some members to declare twice the same involvement in a trust seeking Government funding.

#### Amendment 35

Amend clause 4(1)(d) of Appendix B so that the declaration of a trusteeship is required only once to satisfy requirements in subclauses (1)(d) and (1)(e).

#### Property owned by superannuation scheme

Members are required to declare the name of any superannuation scheme in which they have an interest, but have never been required to declare any property owned by the scheme. It would be unreasonable to expect an individual member of a scheme administered by a large investment company to have information about the location of any specific properties owned by the scheme. Members are, however, required to declare their interest in property that is owned by a trust of which the member is a beneficiary. This amendment was designed to give more certainty to members than the previous wording, which had referred to whether a member had a “beneficial interest” in the property.

Dame Margaret was concerned that the changed wording of clause 4(1)(f) could inadvertently include such property. The difficulty of identifying property held by a superannuation scheme would make such a declaration unduly burdensome for members without providing any additional information that would be in the public interest. An

amendment to exclude property held by superannuation schemes would clarify the requirements.

### **Amendment 36**

Amend clause 4(1)(f) of Appendix B so that a member need not disclose the location of each parcel of real property held by a superannuation scheme declared by the member.

#### **Declaration of interest rate for debts**

Under clause 4(3) of Appendix B, as amended by the sessional order, a member is required to declare if the rate of interest payable in relation to a debt is less than the normal market interest rate that applied at the time the debt was incurred or, if the terms of the debt are amended, at the time of that amendment. Members must note if the interest rate is lower than the normal market interest rate that applied at the time the debt was incurred or renegotiated, that is, indicating whether they had negotiated a debt at a favourable interest rate. The actual interest rate is no longer required to be disclosed.

The amendment was intended to provide more meaningful information about whether members had borrowed or lent money at a favourable rate, as well as making it less complicated for members to comply with. In practice, some members advised that they were unable to ascertain whether an interest rate negotiated in the past was at a favourable rate. Dame Margaret suggested that the requirement be reworded to focus on loans with individuals and organisations other than banks and building societies. Most debts owed by members are mortgages with traditional lending institutions. It is unlikely that individual members will negotiate a significantly favourable rate with a major lending institution that could create a potential for there to be a conflict of interest.

### **Amendment 37**

Amend clause 4(3) of Appendix B to focus on loans to and from individuals or entities other than the established trading banks and building societies.

#### **Declaration of travel funded by other parliaments**

Members are not required to disclose overseas travel or accommodation costs funded by “any State government or international parliamentary organisation, if the primary purpose of the travel was in connection with an official parliamentary visit” (clause 7(2)(e)). Costs funded by governments are specifically excluded, but funding from other parliaments is not. Parliaments do occasionally meet accommodation costs for bilateral visits from members. Where these are part of an official parliamentary visit, there is no reason for them to be declared.

### **Amendment 38**

Amend clause 7(2)(e) of Appendix B so that members need not declare funding from another parliament in respect of an official parliamentary visit.

## **Discounts**

Members are required to disclose each gift received that has an estimated market value of more than \$500, and the name of the donor. This year, Dame Margaret was asked for advice as to whether a discount is considered a gift that should be declared. Her advice was that the member had paid an agreed price for the item purchased, that is, the item was not a gift to the member. We endorse the Registrar's view that a discount would not normally be considered a gift that has to be declared. However, if a member felt that accepting the discount could create a perception of obligation or influence, then the member could choose to declare it.

## **Appendix C—Preliminary procedures for private bills and local bills**

### **Updating of procedures**

The preliminary procedures for private bills and local bills contain important safeguards to ensure that persons with an interest in a proposed bill are aware of what is intended through the legislation and can have their say. To some extent, these procedures are in need of revision, particularly to take account of new ways to notify the public. A number of suggestions were made in the submission of David Cochrane, a practitioner with experience of these procedures.

### **Requirement for bills to be lodged in District Court**

The current provisions of Appendix C require promoters of private bills and local bills to notify interested parties of their intention to promote a bill. As part of this notification, the bill must be deposited in a District Court for 15 working days (clause 7), but it is reportedly very rare for any members of the public to use the District Court to access copies of bills. There is now a general expectation that documents for public inspection will be available via the Internet. We recommend that the requirement to lodge a copy of a bill in the District Court be omitted, and that public notices instead provide details of the promoter's office and website to be included as points of access. The requirement for a notice to be affixed to a noticeboard accessible to the public free of charge where there is no local newspaper (clause 3(2)(b)) also seems out of date.

We suggest that the notice of intention to introduce a private bill or a local bill be included on the Parliament website with a link to the promoter's website and details of the address of the promoter's office for access to copies of the proposed bill.

### **Notification and deposit of bills affecting interests in land**

The procedures for notification of land or an interest in land that is the subject of a local bill or private bill could be simplified. Clause 4 requires persons with a direct interest in the subject-matter of the bill to be notified, and is an important safeguard, given that promoters are often seeking a departure from the general law. The reference to a "direct" interest is taken to imply a legal interest in property dealt with under the bill, rather than any more general interest. Owners, mortgagees, lessees and occupiers of land or buildings being transferred must be notified, but those with more remote or indefinite interests are not required to be notified.

A person who holds a registered or unregistered interest in land is likely to be captured by the provisions of clause 4 as having a “direct interest with the subject matter or in the exercise of any power proposed to be given by the bill”. Given that such persons are required to be notified, the requirement to publish notices in each affected locality in respect of interests in land (clause 3(1)(b)) could be removed. The requirement to deposit bills, along with the specification of the land that they affect, in a District Court in the locality in which the land is situated, or nearest to the locality, should also be removed, if promoters’ websites are to be the point of access for parties outside the promoters’ localities.

### **Amendment 39**

Amend clauses 2, 7, and 8 of Appendix C so that it is no longer a requirement that a copy of a bill and certified description of any affected land and copy of a plan be lodged in a District Court in each locality where land is affected or there is interest in the land.

Amend clauses 2, 3, and 7 of Appendix C so that the published notification for a private bill or a local bill includes the promoter’s office and website, as points of access for the bill and certified description of any affected land and copy of a plan.

Omit from clause 3 of Appendix C the requirement to affix notification to a noticeboard in a locality where no daily newspaper circulates.

### **Plans of land**

Concerns were raised about the requirement to provide a plan or alternative documentation set out in clause 9(2) certified by the chief executive of the department that administers the Cadastral Survey Act 2002. It was argued that a certified plan is not necessary, as the power of select committees to request information they require from promoters should be sufficient.

Where a promoter comes to Parliament for legislative action to deal with any land, it is fair to expect that the land is described with precision and certainty. An external check is desirable. This should be done at the outset so that when the House agrees to the first reading, it does so knowing precisely what land the bill affects.

### **Requirement to notify local members of Parliament**

Promoters intending to introduce a local bill are required to notify members of Parliament for general or Māori electoral districts whose constituents may be affected by the bill. This requirement has been a long-standing feature of the process and is not onerous, particularly given that clause 6 allows for notification by email.

### **Petition and declaration**

For many years, private bills have been initiated by a petition to the House. Local bills must be accompanied by a declaration. It is time to align the two processes, especially as the substantive requirements for these documents are the same whether they are petitions or declarations. We recommend that the procedure for petitioning the House to introduce a private bill be discontinued.

### **Amendment 40**

Amend Appendix C so that both private bills and local bills are accompanied by a declaration on introduction.

## **Appendix D—Rules for filming and conditions for use of official television coverage**

### **Rules for filming**

Official television coverage of the House (Parliament TV) has now been operating uninterrupted for three years, and is widely available through digital television platforms and the Internet. It is a quality service that significantly increases the visibility and accessibility of Parliament as an institution. Some clarification is needed of the rules for filming set out in Part A(1) of Appendix D of the Standing Orders, particularly with changes to the technology used and the introduction of a simultaneous interpretation service, and with experience of suitable approaches to filming the House in action.

### **Amendment 41**

Amend Part A(1) of Appendix D as follows:

- Rule 2: amend so that the default shot is either the Speaker or a wide shot of the Chamber
- Rule 4: omit the second sentence
- Rule 6: omit the reference to the interpreters
- Rule 7: provide that, during personal votes, a static wide shot of the Chamber can be used, along with the screening of the “Personal vote in progress” graphic, provided that this coverage does not seek to identify how individual members are voting. Any spoken proceedings that occur during a personal vote (such as a point of order) will be covered (subject to the usual rules)
- Rule 8: add that no close-up shots are permitted of members’ actions and interactions that are unrelated to proceedings
- Rule 10: omit the reference to ambient microphones.

### **Conditions for use of official television coverage (Part B)**

Part B(1) of Appendix D sets out the conditions that attach to the use of the official television coverage. Rule 1 states that any broadcast or re-broadcast of coverage must comply with the Broadcasting Standards Authority rules (BSA rules). This specific reference to the BSA rules is unwarranted. These codes of practice may, from time to time, be inconsistent with the exercise of absolute freedom of speech in the House. There should be no implication that BSA rules impinge upon article 9 of the Bill of Rights 1688.

### **Amendment 42**

Amend Part B(1)1 of Appendix D to omit specific reference to the Broadcasting Standards Authority rules, and instead to require compliance with broadcasters’ legal obligations.

## 9 Other issues raised about Parliament

### Emergency response

#### Legislative response to Canterbury earthquake

Following the first Canterbury earthquake, in September 2010, the Canterbury Earthquake Response and Recovery Act 2010 was enacted. This Act empowered delegated legislation and provided for protection from liability for those responding to the earthquake, but concerns were expressed about the adequacy of limits and safeguards on those powers and protections. A second bill, the Canterbury Earthquake Recovery Bill, was passed in the wake of the 22 February 2011 disaster, replacing the Canterbury Earthquake Response and Recovery Act 2010. A limited select committee process to gather evidence on this bill enabled a number of significant drafting issues raised by submitters to be addressed even though the bill was passed under urgency. While retaining essentially the same powers for delegated law-making as the 2010 Act, the Canterbury Earthquake Recovery Act 2011 reflects the experience gained following the September earthquake by including powers and institutional arrangements needed for the longer term recovery of Christchurch and other affected areas.

While a number of constitutional issues were again raised in the context of the 2011 Act, there appears to be a general sense that the Act has been administered appropriately to date. The Regulations Review Committee presented an interim report in December 2010 about its examination of Orders in Council made under the Canterbury Earthquake Response and Recovery Act 2010, and concluded that the committee was satisfied with the responses it had received about matters it had raised in relation to some of the orders.<sup>43</sup> The committee intends to report again on its ongoing scrutiny of regulations made under the earthquake recovery legislation.<sup>44</sup>

The period during or following a state of national emergency is not an ideal time to formulate a legislative regime for recovery that takes full account of all constitutional considerations. It would be appropriate for the House to take stock of such matters through a policy process that would equip its legislative response to future disasters of this scale. We recommend that the House refer to a select committee an inquiry into Parliament's legislative response to a national emergency, particularly in terms of how it enables ongoing response and recovery. In making this recommendation, we are contemplating potential future contingencies, and do not intend to reflect on or impede the current recovery process. We therefore suggest that the inquiry be referred following a reasonable period to enable that recovery to progress.

#### Recommendation to the House

We recommend to the House that it refer to a select committee an inquiry into Parliament's legislative response to a national emergency, particularly in terms of how it

<sup>43</sup> *Orders in Council made under the Canterbury Earthquake Response and Recovery Act 2010*, Interim report of the Regulations Review Committee, I.16H, December 2010, p. 17.

<sup>44</sup> *Activities of the Regulations Review Committee in 2010*, Report of the Regulations Review Committee, I.16J, March 2011, p. 10.

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enables ongoing response and recovery, but that such an inquiry be referred following a reasonable period to enable the progress of the recovery from the Canterbury earthquakes.

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### **Contingency planning for Parliament**

The Canterbury earthquakes have highlighted the need for contingency planning by all sectors of society, including Parliament. As part of contingency planning, the Clerk of the House has analysed procedural and legal matters in relation to emergencies that directly affect Parliament. On the whole, provisions currently in the Standing Orders for emergency situations are sufficient, though they may need to be adjusted in light of the circumstances. In particular, the Standing Orders clearly establish the Speaker's authority to suspend, adjourn, or postpone a sitting, in the event of an emergency, and to determine the time for the postponed sitting, for up to 7 days from the date originally scheduled.

A number of observations arise:

- It is important in the event of a major disaster to arrange for an ongoing programme of sittings of the House, and not just an initial sitting that may be required under the Civil Defence Emergency Management Act 2002. The House does not go into abeyance when an emergency has taken place—its functions take on added significance.
- In the event of an emergency, there are a number of possible scenarios for the types of arrangements that may be made for sittings of the House, depending on the nature of the emergency and its effects. These include scenarios that require sittings of the House to be relocated to an alternative venue, either in Wellington or another location.
- The Speaker's constitutional role in presiding over the House, and the power to control admission to, and conduct in, the Chamber, lobbies, and galleries, exist in conjunction with the Speaker's powers as occupier of the place where the House meets. If sittings of the House were to require relocation to a venue outside the parliamentary precincts, it would be imperative for the Speaker to control proceedings, possibly by becoming the occupier of that venue for the period of the relocated sittings.

These points and a number of others are being addressed through contingency planning for the parliamentary complex.

### **Proclamation summoning Parliament**

One particular issue that has been identified relates to the wording of the Proclamation summoning Parliament at the commencement of a session. The location of sittings of the House must accord with the terms of the Proclamation summoning the Parliament to meet or a subsequent Proclamation changing the place of meeting. It has been customary for a Proclamation summoning Parliament to appoint a meeting place "in the Parliament House, in the City of Wellington",<sup>45</sup> and this was repeated in the Proclamation summoning the

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<sup>45</sup> *New Zealand Gazette*, 12 February 1990, Issue No 20, p. 403; 9 September 1996, Issue No 109, p. 2803. To allow for the House to meet in the temporary debating chamber at No 3 The Terrace during the renovation of Parliament House,

present (49th) Parliament.<sup>46</sup> It may be advisable for future Proclamations summoning Parliament to appoint the place of meeting as “in the parliamentary precincts in the City of Wellington”, rather than specifying Parliament House. This would allow flexibility to use the alternative chamber adjacent to Bowen House if necessary, without the need for a further Proclamation.

### **Recommendation to the Government**

We recommend to the Government that future Proclamations summoning Parliament appoint the place of meeting as “in the parliamentary precincts in the City of Wellington”, rather than specifying Parliament House.

### **Openness and transparency**

A number of submissions raised Parliament operating in an open and transparent manner as a democratic value. They advocated that the parliamentary process should be open and accessible, so that all relevant issues and the implications of issues before the House can be carefully considered and that the media can report on parliamentary proceedings. The need for openness and transparency has also driven the consideration of arrangements governing entitlements for members of Parliament. The current arrangements are seen as lacking clarity and transparency.

### **Law Commission review of Official Information Act 1982**

The Law Commission is currently undertaking a review of the Official Information Act 1982 (OIA). Application of the OIA to Parliament arose first during the commission’s review of the Civil List Act 1979. In recommending changes to improve the clarity, transparency, and independence of the regime governing the remuneration and expenses of members and Ministers, the commission made initial proposals for the OIA to apply to Parliament, but not to parliamentary proceedings.

The commission proposed that the OIA should be extended to cover information held by the Speaker in his or her role with ministerial responsibilities for Parliamentary Service and the Office of the Clerk; the Parliamentary Service; the Parliamentary Service Commission; and the Office of the Clerk in its departmental holdings.

Under the commission’s proposal, the OIA should not apply to—

- proceedings in the House of Representatives, or select committee proceedings; and internal papers prepared directly relating to the proceedings of the House or committees
- information held by the Clerk of the House as agent for the House of Representatives
- information held by members in their capacity as members of Parliament

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Proclamations made in 1991 and 1993 simply appointed that sittings occur “in the City of Wellington” (18 January 1991, Issue No 6, p. 138; 9 December 1993, Issue No 179, p. 3695).

<sup>46</sup> Proclamation dated 19 November 2008, *New Zealand Gazette*, Thursday, 20 November 2008—Issue No 178.

- information relating to the development of parliamentary party policies, including information held by or on behalf of caucus committees
- party organisational material, including media advice and polling.

The commission's reasoning for applying the official information regime to Parliament was that the "landscape of freedom of information" has changed significantly, and that there are now legitimate and significant public interests weighing in favour of a principle of availability of information held by Parliament and the parliamentary administration.<sup>47</sup>

### **Difficulties in defining categories of parliamentary information**

In the Law Commission's report, the recommendations use the terms "proceedings" in relation to the information dealt with in the House and committees, and "departmental holdings" in relation to information held by the Office of the Clerk.

The term "parliamentary proceedings" is at the core of parliamentary privilege, and it would be inappropriate for a definition of parliamentary proceedings to be set out only in freedom of information legislation. The definition of "departmental holdings" is also uncertain. In order to protect the confidence and the trust between the Clerk of the House and the Speaker and other members, records relating to the provision of advice on procedure and parliamentary law would need to be withheld. Allowing the publication of such documents would undoubtedly undermine those relationships and the effective functioning of the House. These definitional issues would require close consideration if a detailed statutory scheme for the disclosure of parliamentary information were to be implemented.

### **Wide availability of parliamentary information**

A great deal of parliamentary information is already available to the public, subject to the House's rules on confidentiality. Access to the proceedings of the House is available through *Hansard*, the Journals and papers presented. Public information about Parliament is provided through its website and broadcasting arrangements (such as Parliament TV, the Parliament AM network, and [www.inthehouse.co.nz](http://www.inthehouse.co.nz)). Select committees often proactively release all evidence received on an item of business, and documents not already released become publicly available when the business to which they relate is reported to the House. A major step forward in recent years has been the routine publication on the Parliament website of select committee documents upon release. The sheer volume of parliamentary information that is publicly available may contribute to an impression that information is not easily accessible.

The Estimates and financial review processes play an important role in ensuring transparency in the work and spending of parliamentary agencies. Their votes stand referred to a select committee each year for examination. The documents the select committees consider are released and made available. Furthermore, each year the parliamentary agencies are subject to the financial review process. A lack of public

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<sup>47</sup> *Review of the Civil List Act 1979: Members of Parliament and Ministers*, Report of the Law Commission, E.31 (119); see especially Chapter 3.

awareness about these processes may also lead to an impression that information about expenditure by parliamentary agencies is not transparent or accessible.

### **Consideration of dedicated parliamentary information disclosure regime**

We acknowledge the importance of openness and transparency to our system of representative democracy, and consider that this matter should be addressed by the Standing Orders Committee in light of the passage of the legislation to replace the Civil List Act 1979. One option that could be considered is for a freedom of information regime for Parliament to be developed, with high-level principles established in legislation, but implemented under the Standing Orders or other rules adopted by the House or published by the Speaker. This model would be similar to how the New Zealand Bill of Rights Act 1990 (NZBORA) already applies to the legislative branch of government. The Bill of Rights is binding on the House of Representatives, its officers and staff. However, the Bill of Rights is an affirmation of core rights and freedoms, rather than a prescriptive regime. The House decided in 1995 to discharge its legal obligations in respect of the high level principles in the NZBORA through amendments to the Standing Orders.

Such a regime would complement any statutory disclosure requirements for members' entitlements that emerge from the current review of the Civil List Act 1979. Details of expenditure by members would be dealt with under that separate statutory regime, and other parliamentary expenditure would continue to be reported under the Public Finance Act 1989, to ensure appropriate transparency around the use of public money.

## **Communicating Parliament**

### **Perceptions of Parliament**

Public attitudes to Parliament are often seen as negative, because the public rate parliamentarians poorly as a group. This negative perception needs to be put in context. We have a highly successful parliamentary democracy and should celebrate its strengths. Members of the public value the ability to participate in the select committee processes, write to members and attend electorate offices, and visit Parliament. They are interested in the issues with which Parliament deals. While young people do not always find parliamentary and democratic processes accessible, they engage with issues and, particularly, use new social media to have conversations about them. Those who use information about the proceedings of Parliament in their day-to-day work use the information that is available and value it.

### **Promoting engagement with Parliament**

Much information about Parliament is available through live coverage on television and radio, through print publications and through the Parliament website, but this information does not necessarily meet the public's need for an understanding of what Parliament is doing. There is an audience for the unadulterated proceedings of the House, but it needs to be mixed with presentations reflecting media skills, and the capacity to utilise new social media. People need to be able to readily identify the issues in which they are interested and sources of related information. Then they need to be able to find out how to engage.

There is no appetite to spend more on communications in the current fiscal climate. Public communications from Parliament also need to be impartial, balanced, free from political

direction, and contestable. To remain relevant, Parliament needs to adopt communications strategies that are effective and efficient, and utilise technological advances. The submission we received from YouthLaw Tino Rangatiratanga Taitamariki addressed political engagement, and suggested ways in which Parliament might interact with young people, in particular, through more extensive use of social media.

#### **Developing a communications strategy**

The Clerk of the House intends to work with the Parliamentary Service to develop a communications strategy for Parliament. This strategy would cover—

- access to information, utilising technological advances to enable people to engage with Parliament in different ways
- enhancing the integration of the information available, particularly select committee information, to make it easy for the public to participate in and understand parliamentary business
- assisting members to engage in conversations about what Parliament is doing, with their constituents and in particular with young voters
- working with news media to enhance their understanding of Parliament and parliamentary reporting.

The development of such a strategy would require input from stakeholders, in particular members. We endorse the development of a communications strategy for Parliament, and encourage members to submit their views on this matter to the Clerk.

## Part 2—Recommended amendments to the Standing Orders



# STANDING ORDERS OF THE HOUSE OF REPRESENTATIVES

Amendments recommended by the  
Standing Orders Committee

September 2011

- Notes**     References are to numbered amendments as set out in Part 1 of the report.
- The Standing Orders will be fully renumbered when they are reprinted to incorporate the amendments as agreed by the House.
- Recommended amendments are shown as follows: ~~struck out~~ and inserted text.
- In relation to Chapter 8 and Appendix B, the amendments recommended in our previous report on the Review of Standing Orders relating to pecuniary interests (I.18A), which were adopted by the House as a sessional order, are now recommended as amendments to the Standing Orders. Further amendments to these provisions are shown as follows: ~~struck out~~ and inserted text.

## CHAPTER 1

### GENERAL PROVISIONS AND OFFICE-HOLDERS

#### INTRODUCTION

....

#### 3 Definitions

- (1) In these Standing Orders, if not inconsistent with the context,—

....

**New Zealand court** means the Supreme Court, the Court of Appeal, the High Court, or a District Court; or any of the following specialist courts: the Court Martial of New Zealand established under section 8 of the Court Martial Act 2007, the Court Martial Appeal Court constituted by the Court Martial Appeals Act 1953, the Employment Court, the Environment Court, the Maori Appellate Court, and the Maori Land Court

Amendment 12

....

~~**party** means a party recognised for parliamentary purposes in accordance with the Standing Orders~~

Amendment 3

**party** means the parliamentary membership of a political party that is recognised as a party for parliamentary purposes under the Standing Orders

....

#### OPENING OF PARLIAMENT

....

#### 13 Further provision for swearing-in of members

(1AA) A member taking the oath or making the affirmation is called to the Table for only this purpose and must do so using only the words required by law. A member who fails to take the oath or make the affirmation in that manner must withdraw immediately, and may not sit or vote in the House or serve on a committee until that member has taken the oath or made the affirmation required by law.

Amendment 1

- (1) Members who are unable to take the oath or make the affirmation at the time appointed by Standing Order 12(e) and persons becoming members of Parliament subsequent to the general election may take the oath or make the affirmation by presenting themselves at the bar of the House. The Speaker interrupts the business as convenient and calls the member to the Table for the purpose. If this occurs during the election of the Speaker, the Clerk interrupts the proceedings for the purpose.

## ELECTION OF SPEAKER

....

### 16 Nomination of members

- (1) Any member may, on being called by the Clerk, ~~rise and nominate himself or herself~~ nominate another member for election as Speaker. A nomination must be seconded. A member who is absent may be nominated by another member for election as Speaker provided that that member's consent in writing to being nominated is produced to the Clerk.

Amendment 2

- (1A) A member who is absent may be nominated for election as Speaker only if that member's absence is on account of extraordinary circumstances beyond his or her control. The Clerk will accept the nomination only if the Clerk has received the absent member's written consent to being nominated.

- (2) No question is proposed on the election of a Speaker and no debate may arise in connection with it.

....

## PARTIES

### 34 Recognition of parties

- (1) ~~Every party~~ Every political party registered under Part 4 of the Electoral Act 1993, and in whose interest a member was elected at the preceding general election or at any subsequent by-election, is entitled to be recognised as a party for parliamentary purposes.

Amendment 3

- (2) Independent members, or members who cease to be members of the party for which they were originally elected, may be recognised, for parliamentary purposes,—

- (a) as members of an existing recognised party if they inform the Speaker in writing that they have joined that party with the agreement of the leader of that party, or
- (b) as a new party if they apply to the Speaker and their new party—
- (i) ~~is registered as a party by the Electoral Commission under Part 4 of the Electoral Act 1993, and~~
- (ii) has at least six members of Parliament, or
- (c) as members of a component party in whose interest those members stood as constituency candidates at the preceding general election if they inform the Speaker in writing that they wish to be so recognised.

- (3) A party that has been recognised as a new party under paragraph (2)(b) loses its recognition if its membership falls below six members of Parliament.

- (4) Any member who is not a member of a recognised party is treated as an Independent member for parliamentary purposes.

....

## CHAPTER 2

### SITTINGS OF THE HOUSE

....

#### STRANGERS

##### 39 Strangers may be ordered to withdraw

- (1) A member may move, without notice, that strangers be ordered to withdraw. In moving the motion, the member informs the House of the circumstances that warrant the order.
- (2) There is no amendment or debate on the question.

Amendment 7

##### 40 Effect of order that strangers withdraw

If the House resolves that strangers be ordered to withdraw—

- (a) all strangers must leave the galleries, and
- (b) all members of the parliamentary press gallery must leave that gallery, and
- (c) official reporters and attendants must leave the Chamber and no official report of the proceedings is made, and
- ~~(d) broadcasting of debates ceases.~~
- (d) no recording, transmission, or broadcast of proceedings may be made.

Amendment 8

The Clerk makes a note of proceedings for the Journals of the House.

....

#### SITTINGS

....

##### 44 Broadcasting

- (1) The proceedings of the House are broadcast on radio during all hours of sitting and are available for television coverage.
- (1A) When the Clerk, or a provider of official radio, television or other coverage on behalf of the Clerk, broadcasts, transmits, or otherwise makes available either live or recorded coverage of the proceedings of the House or any public proceedings of a select committee, the Clerk or that provider does so under the authority of the House.
- (2) A provider of official television coverage of the House, or any other person filming from the gallery, must comply with the rules set out in Part A of Appendix D.
- (3) Any use of the official television coverage of the House, in any medium, must comply with the conditions set out in Part B of Appendix D.

Amendment 13

....

**53A Extended sitting hours****Amendment 4**

- (1) A sitting of the House may be extended—
- (a) on motion without notice, or
  - (b) by determination of the Business Committee.
- (2) Unless the Business Committee determines otherwise, only one motion under **paragraph (1)(a)** may be moved in any one week, and such a motion—
- (a) may be moved only by a Minister,
  - (b) is moved without amendment or debate on the question,
  - (c) must relate to the extension of only one sitting day, being either a Tuesday or a Wednesday,
  - (d) may be moved only if the Government has advised the Business Committee before the week in which it is intended to move for the sitting to be extended, and
  - (e) must specify which orders of the day are intended to be considered during the extended sitting.
- (3) A determination under **paragraph (1)(b)** may relate to the extension of—
- (a) a sitting on a Tuesday, Wednesday, or Thursday:
  - (b) more than one sitting day in the same week;
  - (c) sittings in more than one week.
- (4) Whenever a sitting has been extended under this Standing Order, the sitting is suspended at the normal time for its conclusion and,—
- (a) if the sitting is on a Tuesday or a Wednesday, resumes at 9 am the following day;
  - (b) if the sitting is on a Thursday, resumes at 7.30 pm, then is suspended at 10 pm, and resumes at 9 am the following day;
  - (c) concludes when the orders of the day (or other business as determined by the Business Committee) intended to be considered during the extended sitting are dealt with, or at a time determined by the Business Committee, or at 1 pm on the day after the sitting commenced, whichever is the earlier.

**54 Urgency**

- (1) A Minister may move, without notice, a motion to accord urgency to certain business.
- (2) A motion for urgency may not be moved until after the completion of general business.
- (3) There is no amendment or debate on the question, but the Minister must, on moving the motion, inform the House with some particularity why the motion is being moved of the circumstances that warrant the claim for urgency.

**Amendment 5**

....

## BUSINESS OF THE HOUSE

....

### 71 Discharge or postponement of order of the day

- (1) An order of the day may be discharged or postponed—
- (a) on motion without notice, or
  - (b) by the member in whose name the order stands informing the Clerk accordingly, or
  - (c) by determination of the Business Committee.

- (2) There is no amendment or debate on the question to discharge or postpone an order of the day.

(2A) An order of the day for the first reading of a Member's bill—

- (a) may not be postponed under paragraph (1)(b):
  - (b) if postponed under paragraph (1)(c), is arranged on the Order Paper as determined by the Business Committee.
- (3) Subject to paragraph (4), the order of the day for consideration of the report of a select committee is discharged if not dealt with within 15 sitting days or within 15 sitting days of the presentation of a Government response that relates to it, as the case may be.

Amendment 9

- (4) A select committee report that is selected for debate under Standing Order 246(4) is not discharged under paragraph (3), and bills that subsequently become available for first reading are arranged on the Order Paper after that report unless the Business Committee determines otherwise.

Amendment 10

....

## BUSINESS COMMITTEE

....

### 76 Business of House

The Business Committee may determine—

- (a) the order of business to be transacted in the House:
- (b) when business will be transacted in the House:
- (c) the time to be spent on an item of business:
- (ca) that any two or more items of business may be taken together for the purpose of debate:
- (d) how time on an item of business is to be allocated among the parties represented in the House:
- (e) the speaking times of individual members on an item of business:
- (f) any other matters delegated to the committee under Standing Orders.

....

## CHAPTER 3

### GENERAL PROCEDURES

#### MAINTENANCE OF ORDER

....

#### 84 Points of order

- (1) Any member may raise a point of order. A point of order takes precedence of other business until ruled on by the Speaker.
- (2) The Speaker may rule on a point of order when it is raised without allowing any discussion apart from that of the member raising the point.
- (3) A member raising a point of order and any member permitted by the Speaker to speak to a point of order must put the point ~~tersely~~ succinctly and speak only to the point of order raised. A point of order is heard in silence by the House.

Amendment 11

....

#### RULES OF DEBATE

....

#### 111 ~~Matters awaiting subject to judicial decision~~

~~Subject always to the discretion of the Speaker and to the right of the House to legislate on any matter, matters awaiting or under adjudication in any court of record may not be referred to—~~

Amendment 12

- ~~(a) — in any motion, or~~
- ~~(b) — in any debate, or~~
- ~~(c) — in any question, including a supplementary question, — if it appears to the Speaker that there is a real and substantial danger of prejudice to the trial of the case.~~
- (1) Matters awaiting or under adjudication in, or suppressed by an order of, any New Zealand court may not be referred to in any motion, debate, or question, including a supplementary question, subject always to the discretion of the Speaker and to the right of the House to legislate on any matter or to consider delegated legislation.
- (2) To enable the exercise of the Speaker’s discretion under **paragraph (1)**, a member who intends to refer to such a matter must give written notice to the Speaker of this intention.
- (3) In determining whether to exercise discretion under **paragraph (1)**, the Speaker has regard to the written notice given by the member under **paragraph (2)**, and—
  - (a) balances the privilege of freedom of speech against the public interest in maintaining confidence in the judicial resolution of disputes; and

- (b) takes into account the constitutional relationship of mutual respect that exists between the legislative and judicial branches of government, and the risk of prejudicing a matter awaiting or under adjudication in any New Zealand court, including one awaiting sentencing.
- ....

## PUTTING THE QUESTION

....

### 139 Procedure for party vote

....

- (4) Subject to Standing Order 151, any party consisting of ~~three~~ five or fewer members, and any Independent member, may cast their votes by proxy, otherwise a party may have votes cast on its behalf only if it has a member in the House at the time of the vote.
- ....

Amendment 14

### 151 Casting of proxy vote

....

- (3) In the case of a party vote, proxy votes may be exercised for a party consisting of two ~~or three~~ to five members only if at least one of the members of that party is within the parliamentary precincts at the time.
- ....

Amendment 14

## RESPONSES

....

### 158 Speaker decides response should be incorporated

- (1) A response that the Speaker determines should be incorporated in the parliamentary record is presented to the House ~~for publication by order of the House~~ and is published under the authority of the House.
- (2) The Speaker may decide that a response should be incorporated in the parliamentary record after the person has amended it in a manner approved by the Speaker.

Amendment 15

## PECUNIARY AND OTHER SPECIFIED INTERESTS

### 159 Pecuniary and other specified interests

- (1) Members must make returns of pecuniary and other specified interests in accordance with the provisions of Part 1 of Appendix B.
- (2) Returns of members' pecuniary and other specified interests are to be maintained in a register in accordance with the provisions of Part 2 of Appendix B.

Review of Standing Orders relating to pecuniary interests

## DECLARATION OF FINANCIAL INTERESTS

....

### 161 Declaration of financial interest

- (1) A member must, before participating in the consideration of any item of business, declare any financial interest that the member has in that business.
- (2) Nothing in this Standing Order requires a member to declare an interest that is contained in the Register of Pecuniary and Other Specified Interests of Members of Parliament.

....

## COMMITTEES OF THE WHOLE HOUSE

....

### 172 Instructions to a committee of the whole House

- (1) An instruction may be given to a committee of the whole House extending or restricting its powers in regard to consideration of the bill or other matter referred to it or requiring it to carry out that consideration in a particular manner.
- (2) An instruction is moved immediately after the order of the day for consideration in committee has been called.
- (2A) An instruction relating to a Supplementary Order Paper or amendment may not be moved unless the Supplementary Order Paper has been printed and circulated to members, or the amendment has been delivered to the Clerk at the Table.
- (2B) An instruction may not be moved that is the same in substance as an instruction that was agreed to or defeated in the same calendar year.
- (3) Any debate on the question for an instruction is restricted to the subject-matter of the motion. It may not extend to the principles, objects, or provisions of the bill or other matter to which the motion relates.
- (4) There is no amendment or debate on the question for an instruction to a committee requiring it to consider a bill clause by clause.
- ~~(5) An instruction may not be moved that is the same in substance as an instruction that was agreed to or defeated in the same calendar year.~~
- (6) A committee may, by leave, vary the terms of any instruction that has been given to it.

....

Amendment 16

## CHAPTER 4

### SELECT COMMITTEES

#### ESTABLISHMENT OF COMMITTEES

....

##### 182 Non-voting members

- (1) The Business Committee may appoint a member to serve on a select committee but without the right to vote on any question put to the committee or participate in any decision taken by leave of the committee.
- (2) Such membership may be permanent, for a limited time, or for consideration of a particular matter.
- (3) The Business Committee may end such an appointment.

Amendment 17

....

#### MEETINGS OF COMMITTEES

##### 186 Time for meetings

- (1) The first meeting of a select committee is held at a time appointed by the Speaker.
- (2) A committee adjourns until the time it decides that it should next meet. In the absence of a time decided by the committee for its next meeting, the chairperson, by notice in writing, decides when it should next meet.
- (3) If there is no chairperson or deputy chairperson or if they are both absent from New Zealand, the Speaker may exercise the chairperson's power to decide when the committee should meet.
- (4) The Business Committee may determine that a select committee may meet at a time otherwise prohibited under Standing Order 187 or 190(1)(b) or (c).

Amendment 4

....

#### CONDUCT OF PROCEEDINGS

....

##### 201 Notice of meeting

- (1) A written notice informing members of the committee of a meeting of the committee is to be circulated by the clerk of the committee no later than the day before the meeting. The notice must contain a summary of the items of business proposed to be dealt with at the meeting.
- (2) The requirement for a written notice to be circulated may be waived if all members of the committee, or the leaders or whips of their respective parties, agree. When a meeting has lapsed or been adjourned for lack of a quorum, agreement is required under this paragraph only from those members who were expected to attend that meeting. Agreement from non-voting members is not required under this paragraph.

Amendment 17

....

## GENERAL PROVISIONS FOR EVIDENCE

....

### 212 Return of evidence

A select committee may return, or expunge from any transcript of proceedings, any evidence or statement that it considers to be irrelevant to its proceedings, offensive, ~~or possibly defamatory,~~ or suppressed by an order of a New Zealand court.

Amendment 3

....

## REPORTS

....

### 244 Day fixed for presentation of reports

When a day is fixed for the presentation of a select committee's report, the final report must be made on or before that day, unless the House or the Business Committee grants further time.

Amendment 23

....

### 246 Reports set down

....

- (2) The Business Committee may direct that a report on a petition be set down as a Members' order of the day.
- (3) A report on a briefing, inquiry, international treaty examination or other matter, or a report of the Regulations Review Committee, is set down as a Members' order of the day.
- (4) A report set down under paragraph (2) or (3) may be selected by the Business Committee for debate.

Amendment 10

### 247 Consideration of reports

- (1) On the consideration of any select committee report (other than a report on a bill or a report to which paragraph (2) applies), the chairperson or a member of the select committee moves a motion to take note of the report. ~~In the absence of the chairperson any other member of the committee may move the motion.~~
- (2) On the consideration of a report of the Privileges Committee containing a recommendation to the House, the chairperson or a member of that committee may move a motion that reflects that recommendation.

Amendment 18

### 248 Government responses to select committee reports

- (1) The Government must, not more than ~~90 days~~ 60 working days after a select committee report has been presented, present a paper to the House responding to any recommendations of the committee which are addressed to it.
- (2) No response under this Standing Order is required in respect of select committee reports on bills, Supplementary Order Papers, questions of privilege, Estimates, Supplementary Estimates, and financial reviews of departments, Offices of Parliament, Crown entities, public organisations, or State enterprises.

Amendment 19

## CHAPTER 5

### LEGISLATIVE PROCEDURES

#### FORM OF BILLS

....

#### ~~OMNIBUS BILLS~~

256 Bills to relate to one subject area

....

257 Speaker to scrutinise bills

....

#### OMNIBUS BILLS

258 Types of omnibus bills that may be introduced

....

259 Other omnibus bills

....

#### GENERAL PROVISIONS

....

#### 263 Copies of bills

- (1) On the introduction of a bill, the member in charge must provide printed copies of the bill to the Clerk for circulation.
- (2) A bill must be reprinted when it is reported by a select committee or committee of the whole House if it is reported with amendment or is divided by the committee, except—
  - (a) a bill passed under urgency, or
  - (b) a bill that is set down for third reading forthwith, or
  - (c) as approved by the Speaker in respect of any minor textual amendment.
- (2A) A bill must be reprinted when it is divided by the Clerk following a determination of the Business Committee, except when the bill is set down for third reading forthwith.
- (3) If a bill is reprinted—
  - (a) the member in charge must provide printed copies of the reprinted bill to the Clerk for circulation, and
  - (b) the bill is not available for debate until copies of it, as reprinted, have been circulated to members.

Amendment 27

#### 264A Cognate bills

- (1) The House or the Business Committee may determine that any two or more bills are **cognate bills**. Such a determination may be made in respect of bills before or after their introduction, and may relate to any or all of the first, second and third readings of the

Amendment 20

bills concerned.

- (2) Cognate bills that are set down on the Order Paper for the same stage are taken as one question for the purpose of debate, provided that the member in charge of a cognate bill or bills may require the bill or bills to be set down separately.
- (3) Unless the House or the Business Committee determines otherwise, if one or more of the cognate bills to be taken as one question under **paragraph (2)** is a Government bill, the time for debate on the cognate bills is the same as would apply for Government bills.

....

#### **267 ~~Private bill petitions~~ Private bills**

~~Before a petition for a private bill can be presented the bill~~ Before a private bill is introduced it must be endorsed as complying with Standing Orders as provided in Appendix C.

Amendment 40

....

## INTRODUCTION

### **271 ~~Introduction of Members' bills~~**

- (1) ~~A Member's bill is introduced after notice of intention to introduce it is given and the bill's introduction has been announced to the House. Notice is given by delivering a signed copy to the Clerk between 9 am and 10 am on a sitting day.~~
- (2) ~~A fair copy of every Member's bill must be delivered to the Clerk no later than the time at which the member gives notice of intention to introduce it.~~

Amendment 21

### **272 ~~Ballot for Members' bills~~**

- (1) ~~There may not be more than four orders of the day for the first readings of Members' bills before the House at any one time. The Clerk rejects any notices that would lead to more than this number.~~
- (2) ~~If two or more notices of intention to introduce Members' bills are given on the same day, the Clerk conducts a ballot at midday on that day to determine which bills are to be introduced and the order in which they are to be introduced.~~
- (3) ~~No member is to be entered in a ballot in respect of more than one notice and only one notice is to be entered in respect of any bills that are the same or substantially the same in substance. When members have, on the same day, given notices in respect of bills that are the same or substantially the same in substance, the notice that is to be entered in the ballot is (in the absence of agreement among the members concerned) determined by a ballot conducted by the Clerk.~~
- (4) ~~Despite paragraph (1), if, —~~
- (a) ~~whenever the Clerk is to conduct a ballot under paragraph (2), or~~
- (b) ~~on a Wednesday on which Government orders of the day take precedence, —~~
- ~~it appears that there will not be four orders of the day for the first readings of Members' bills available for consideration at the next~~

~~Wednesday's sitting at which Members' orders of the day take precedence, the Clerk may accept notices of intention to introduce bills so as to bring the number of orders of the day for the first readings of Members' bills available that day up to four.~~

### **271 Introduction of Members' bills**

A Member's bill is introduced when its introduction is announced to the House by the Clerk.

Amendment 21

#### **271A Notice of proposal of Members' bills**

- (1) Notice of a member's proposal to introduce a Member's bill (**notice of proposal**) may be given by delivering a signed copy of the notice to the Clerk on any working day.
- (2) A notice of proposal, if in order, is held by the Clerk until the bill is introduced, unless the member in whose name the notice stands withdraws it.
- (3) A member may not, at the same time, propose more than one Member's bill for introduction.

#### **271B Fair copies of proposed Members' bills**

- (1) A fair copy of each proposed Member's bill must be delivered to the Clerk no later than the time at which the member gives notice of proposal to introduce it.
- (2) The Clerk provides access through a website to fair copies of proposed Members' bills for which the Clerk holds notices of proposal.
- (3) A fair copy of a proposed Member's bill may be withdrawn and replaced only if the member gives a new notice of proposal at the same time.

#### **271C Support for proposed Members' bills**

Any member may indicate support for the introduction of a proposed Member's bill for which the Clerk holds a notice of proposal.

Amendment 22

### **272 Ballot for Members' bills**

- (1) Eight orders of the day for the first readings of Members' bills are available for consideration at each sitting at which Members' orders of the day take precedence. When it appears to the Clerk that fewer than eight such orders of the day will be available, the Clerk conducts a ballot to select which proposed Members' bills are to be introduced and the order in which they are to be introduced. Such a ballot is conducted at midday on a sitting day. All notices of proposal that are held by the Clerk at 10 am that day are entered in the ballot.
- (2) Only one notice of proposal is to be entered in respect of any bills that are the same or substantially the same in substance. When the Clerk holds notices of proposal for two or more bills that are the same or substantially the same in substance, the notice that is to be entered in the ballot is (in the absence of agreement among the members concerned) determined by a preliminary ballot conducted by the Clerk.
- (3) The Clerk announces the introduction of the bill or bills selected in a ballot under **paragraph (1)**.

Amendment 21

**273 Introduction of local bills and private bills**

A local bill or a private bill is introduced when notice of intention to introduce it is given by any member by delivering a signed copy to the Clerk on any working day or by 1 pm on any sitting day.

**~~274 Introduction of private bills~~**

~~A private bill is introduced by presenting a petition for the bill to the House.~~

Amendment 40

**277 Bills set down for first reading**

- (1) After its introduction a Government bill is set down for first reading,—
  - (a) in the case of a bill introduced on any sitting day, on the next Tuesday on which the House sits, or
  - (b) in the case of a bill introduced on any working day that is not a sitting day, on the third sitting day following.
- (2) A private bill, local bill, or Member's bill is set down for first reading on the third sitting day following its introduction.
- (3) Urgency may be accorded to the first reading of a bill despite the bill not being available to be set down for first reading under paragraph (1) or (2).

Amendment 6

....

**~~279 Debate on Speech of member moving first reading~~**

- ~~(1) The member moving the bill's first reading must indicate in that member's speech to which select committee it is proposed to refer the bill and whether it is proposed to move for any special powers or give an instruction in respect of the committee's consideration of the bill.~~
- (1) The member moving the bill's first reading must, on the commencement of that member's speech,—
  - (a) nominate the select committee to consider the bill, and
  - (b) if it is proposed to move for any special powers or instruction in respect of the committee's consideration of the bill, indicate the terms of that proposed motion.
- (2) Following the member's speech, written notice of any special powers or instruction to be moved must be delivered to the Clerk at the Table.
- (3) This Standing Order does not apply in respect of a bill that is not to stand referred to a select committee under Standing Order 280.

Amendment 23

**SELECT COMMITTEE CONSIDERATION**

....

**281 Determination of committee to consider bill**

- ~~(1) After a bill's first reading the member in charge moves a motion nominating the committee to consider the bill. There is no debate on the question or on any amendment to the question.~~
- (1AA) At any time before the question is put on a bill's first reading, a member may deliver to the Clerk at the Table a nomination of a select committee, other than the committee nominated under **Standing Order 279(1)(a)**, to consider the bill.

Amendment 23

- (1) Following the bill's first reading, the question is put that the bill be considered by the committee nominated under **Standing Order 279(1)(a)**. If the question is lost, the question is put on any nomination of another select committee made under **paragraph (1AA)**. There is no amendment or debate on a question for the nomination of a committee to consider the bill.
- (2) The committee to consider the bill may be a committee to be specially established by motion with notice.
- ~~(3) The member in charge may also include in the motion nominating the committee to consider the bill any special powers or instruction in respect of the committee's consideration of the bill that the mover has indicated in the first reading speech are to be proposed.~~
- ~~(4) If notice of an amendment to substitute another committee or to alter any proposed special powers or instruction is delivered to the Clerk at the Table before the bill is read a first time, the question on such an amendment is put when the motion for the special powers or instruction is reached.~~

#### **281A Instruction to select committee**

- (1) When the House has determined the committee to consider the bill, and if the terms of a motion for any special powers or instruction in respect of the committee's consideration of the bill have been indicated under **Standing Order 279(1)(b)**, the member in charge may move that motion.
- (2) If an instruction relates only to the time for report on the bill, and provides for the time for report on the bill to be between four and six months, there is no debate on the question or on any amendment to the question.
- (3) Any debate on the question for a motion under this Standing Order is restricted to the special powers or instruction set out in the motion. It may not extend to the principles, objects, or provisions of the bill to which the motion relates.

Amendment 23

....

### **SELECT COMMITTEE REPORTS**

#### **286 Time for report**

- (1) A select committee must finally report to the House on a bill within six months of the bill being referred to it or by such other time as fixed by the House or the Business Committee.
- (2) The Business Committee may extend the time for report for any bill.
- (3) If the committee has not reported within the time for report, the bill is discharged from further consideration by the committee and set down for its next stage in the House on the third sitting day following.

Amendment 23

....

## SECOND READING

....

### 290 Next stage of bill

A bill that has been read a second time is set down for consideration in committee next sitting day. The Business Committee may ~~decide~~ determine that the bill does not require consideration in committee, in which case the order of the day is altered and the bill is set down for third reading.

....

## COMMITTEE STAGE

### 291A Arrangements for consideration in committee

- (1) The Business Committee may, in relation to a bill's consideration by a committee of the whole House, determine— Amendment 24
- (a) how the committee will consider the bill;
  - (b) that the committee's powers are to be extended or restricted in regard to its consideration of the bill.
- (2) A determination under **paragraph (1)** may be made in respect of a bill before or after its introduction, and may be varied by—
- (a) a further determination of the Business Committee,
  - (b) a decision of the committee of the whole House,
  - (c) an instruction under Standing Order 172, or
  - (d) postponement by the member in charge of the bill under Standing Order 293(1)(c).
- (3) Where practicable, the Government advises the Business Committee which bills are intended by the Government to be considered in committee in the next week in which the House will sit. Such advice is noted on the Order Paper unless the Business Committee agrees otherwise.

....

### 293 Order of considering bill

- (1) Subject to this Standing Order, the committee considers a bill as set out in paragraph (2) unless—
- (a) the bill is not drafted in parts, or
  - (b) the committee decides otherwise, or
  - (ba) the Business Committee has determined otherwise, or Amendment 24
  - (c) the member in charge of the bill requires that consideration or further consideration of a part or other provision be postponed.

....

### 297 Consideration of amendments

- (1) Any relevant amendment that is on a Supplementary Order Paper that has been circulated to members, or that is delivered to the Clerk at the Table, can be referred to in the course of the debate on the provision proposed to be amended.
- (2) If an amendment is not on a Supplementary Order Paper, six copies of the amendment must be delivered to the Clerk at the Table.
- (3) At the conclusion of the debate on a provision, the question on any amendment or motion to change a Vote that is in order is put.

- (4) The chairperson, at his or her discretion, may put a single question on a group of amendments if—
- (a) the amendments stand in the name of the same member:
  - (b) the amendments lend themselves to being grouped on account of their content or subject-matter, or because they form a single alternative proposition:
  - (c) grouping of the amendments is necessary to enable the committee’s effective consideration of the bill.
- (5) Where amendments are proposed that, in the opinion of the chairperson, are the same in substance, the chairperson may select amendments on which to put a question, in order to test the will of the committee.

Amendment 25

....

**299 Amendment of omnibus bill**

- (1) ~~In considering an omnibus bill, no substantive amendment to an Act not amended by the bill as originally introduced may be moved without the leave of the committee.~~
- (2) ~~A consequential amendment to an Act not amended by the bill as originally introduced may be made.~~

Amendment 26

**300 Committee may divide bill**

- (1) A committee of the whole House may divide into two or more separate bills any bill that—
- (a) is drafted in parts, or
  - (b) lends itself to division because it comprises more than one subject-matter—
- and in respect of which a Supplementary Order Paper notifying the intention to move for division of the bill into separate bills has been circulated.
- (2) The Supplementary Order Paper must show how it is proposed to divide the bill, setting out the enacting formula, title, and commencement provision for each new bill. The Supplementary Order Paper may also set out a principal Act clause for any or all of the new bills.
- (3) A motion to divide a bill into separate bills, as set out on the Supplementary Order Paper, is moved after the bill has been fully considered by the committee.

- (4) On determining that a bill does not require consideration in committee, the Business Committee may also determine that the Clerk divide the bill in the manner set out on a Supplementary Order Paper under this Standing Order. The bills so divided are set down for third reading.

Amendment 27

....

**THIRD READING AND PASSING**

....

**303 Third reading**

- (1) The motion on the order of the day for the third reading of a bill is that the bill be now read a third time.
- (2) At the option of the member in charge, the third readings of each bill divided out of a bill during the committee stage, or by determination of the Business Committee, may be taken together.

Amendment 27

....

## DELEGATED LEGISLATION

....

### 314 Negative resolution procedure

- (1) Any notice of a motion that the House, under any statute, disallow, disapply, revoke, or otherwise not approve of a regulation or other instrument, other than a notice of motion to which Standing Order 312 or 315 applies, stands referred to a select committee. The notice of motion is allocated by the Clerk to the most appropriate select committee for consideration.

**Amendment 28**

....

## CHAPTER 6

### FINANCIAL PROCEDURES

....

#### ANNUAL TAXING PROVISION

##### 333 Debate on annual taxing provision

- (1) When a committee of the whole House considers a bill that includes an annual taxing provision, the committee considers the annual taxing provision as a separately debatable provision, ~~unless the committee, by leave, decides otherwise.~~ **Amendment 29**
- (2) In this Standing Order, **annual taxing provision** means a clause or provision, or group of clauses or provisions, that sets or confirms rates of income tax in respect of a specified tax year or other period. **Amendment 30**

## CHAPTER 7

### NON-LEGISLATIVE PROCEDURES

....

#### DEBATE ON PRIME MINISTER'S STATEMENT

##### 345 Prime Minister's statement

- (1) ~~Before the House meets on~~ At 2 pm on the first sitting day of each year, the Prime Minister must present ~~to~~ in the House a statement reviewing public affairs and outlining the Government's legislative and other policy intentions for the next 12 months ~~(the Prime Minister's statement)~~.
- (2) The Prime Minister's statement must be provided to each party leader no later than 10 am on the ~~first sitting day of the year~~ day the statement is to be presented.
- (3) The Prime Minister's statement is published under the authority of the House.
- (4) ~~Despite paragraphs (1), (2), and (3) paragraph (1),~~ no Prime Minister's statement is presented—
  - (a) when the first sitting day of the year is the first day of the meeting of a new Parliament, or
  - (b) when the first sitting day of the year is the first day of a session of Parliament, or
  - (c) if the motion for an Address in Reply was moved within a period of three months before the first sitting day of the year.

Amendment 31

##### 346 Debate on Prime Minister's statement

- (1) ~~When the House meets following the presentation of the Prime Minister's statement, the Prime Minister, at 2 pm, Immediately after presenting the Prime Minister's statement, the Prime Minister~~ moves a motion relating to the statement.
- (2) The debate on the Prime Minister's statement is taken ahead of all other Government orders of the day.

#### STATEMENTS IN THE HOUSE

....

##### 349A Response to misrepresentation during time for oral questions

- (1) A member may apply to the Speaker,—
  - (a) claiming to have been misrepresented during the time for questions for oral answer, and that that misrepresentation may adversely affect the member or damage the member's reputation, and
  - (b) requesting to respond to that claimed misrepresentation.
- (2) An application under **paragraph (1)** must be made in writing at the earliest opportunity. The Speaker may treat a matter of privilege as an application for this purpose.
- (3) The Speaker may allow a member, who has made an application under **paragraph (1)**, to respond to the misrepresentation in the House. Any response must be succinct and strictly relevant to the

Amendment 32

reference that was made, and must not contain any discreditable reference to a member, or an offensive or unparliamentary expression.

....

## PAPERS AND PUBLICATIONS

....

### **363** ~~Publication of papers~~

- ~~(1) In presenting a paper under Standing Order 362(1), the Speaker or the Minister may indicate that it is intended that it be published. The Clerk announces the presentation of such papers at the time appointed by Standing Order 63.~~
- ~~(2) In presenting a paper in the House under Standing Order 362(2), the Speaker may indicate that it is intended that it be published.~~
- ~~(3) A paper that is indicated for publication under paragraph (1) or paragraph (2) is published under the authority of the House.~~

Amendment 33

### **363** Parliamentary papers

- (1) The Speaker designates certain papers presented by Ministers or by the Speaker as **parliamentary papers**.
- (2) The Clerk announces the presentation of parliamentary papers at the time appointed by Standing Order 63.
- (3) In presenting a paper in the House under Standing Order 362(2), the Speaker may indicate that it is a parliamentary paper.
- (4) Parliamentary papers are published under the authority of the House.

....

### **366** Budget papers and Estimates

After delivering the Budget or introducing an Appropriation Bill, or at any time prior to that time on the same day, a Minister may present any papers relating to the Budget or the bill. Such papers are published under the authority of the House.

....

## QUESTIONS TO MINISTERS AND MEMBERS

....

### **372** Lodging of oral questions

- (1) Notices of questions for oral answer are lodged by members in writing to the Clerk. A notice of a question for oral answer must be—
  - (a) signed by the member or by another member on the member's behalf, and
  - (b) delivered to the Clerk between 10 am and 10.30 am on the day the question is to be asked.
- (2) Twelve questions to Ministers may be accepted for oral answer each day. Questions will be allocated on a basis that is proportional to party membership in the House. The Business Committee decides the weekly allocation and rotation of questions.

Amendment 34

....

## CHAPTER 8

### PARLIAMENTARY PRIVILEGE

....

#### 393 Raising a matter of privilege

- (1) A member may raise a matter of privilege with the Speaker in writing at the earliest opportunity.
- (2) In any case a matter of privilege must be raised before the next sitting of the House or, if the matter relates to the proceedings of a select committee, before the commencement of the sitting of the House following the day of the next meeting of the committee concerned.
- (2A) If, in the Speaker's opinion, a matter of privilege is raised that should be treated as a request that the Registrar of Pecuniary and Other Specified Interests of Members of Parliament conduct an inquiry under clause 15A of Appendix B, the Speaker forwards the matter to the Registrar without considering it further.
- (3) A matter of privilege relating to the conduct of strangers present may be raised forthwith in the House and dealt with in such way as the Speaker determines.

Review of Standing Orders relating to pecuniary interests

....

#### 398 Question of privilege stands referred to Privileges Committee

Any matter reported to the House by the Speaker, or by the Registrar of Pecuniary and Other Specified Interests of Members of Parliament under Appendix B, as involving a question of privilege stands referred to the Privileges Committee.

....

#### 401 Examples of contempts

Without limiting the generality of Standing Order 400, the House may treat as a contempt any of the following:

....

- (g) as a member, knowingly failing to make a return of pecuniary and other specified interests by the due date:
- (h) as a member, knowingly providing false or misleading information in a return of pecuniary and other specified interests:
- (ha) as a member, requesting without any reasonable grounds that the Registrar of Pecuniary and Other Specified Interests of Members of Parliament conduct an inquiry into another member under clause 15A of Appendix B:

....

- (x) knowingly making reference to a matter that is suppressed by an order of a New Zealand court, contrary to Standing Orders, in any proceedings of the House or of a committee.

Amendment 12

....

## APPENDIX B

### PECUNIARY AND OTHER SPECIFIED INTERESTS

#### INTRODUCTION

##### 1AA Introduction

This Appendix establishes the Register of Pecuniary and Other Specified Interests, and sets out requirements and arrangements for members to make returns declaring specified financial, business and personal interests.

Review of Standing Orders relating to pecuniary interests

#### PART 1

##### 1 Definitions

- (1) For the purposes of the return and registration of pecuniary and other specified interests, unless the context otherwise requires,—

**business entity** means any body or organisation, whether incorporated or unincorporated, that carries on any profession, trade, manufacture, or undertaking for pecuniary profit, and includes a business activity carried on by a sole proprietor

**company** means—

- (a) a company registered under Part 2 of the Companies Act 1993:
- (b) a body corporate that is incorporated outside New Zealand

**effective date of the return** means the date as at which the return is effective as required by clause 2(1) or clause 3(1) (as the case may be)

**employed**—

- (a) means employed under a contract of service, but
- (b) does not include holding the position of a member of Parliament or any other position for which the person in question would not be qualified unless he or she had been elected a member of Parliament (for example, the position of Minister of the Crown, Parliamentary Under-Secretary, Leader of the Opposition, or Whip)

**general election** means the election that takes place after the dissolution or expiration of Parliament

**Government funding** means funding from any one or more of the following:

- (a) the Crown:
- (b) any Crown entity:
- (c) any State enterprise

**other specified interest** means a matter or activity that may not be of financial benefit to the member and that is required to be declared under clause 4 or clause 7

**pecuniary interest** means a matter or activity of financial benefit to the member that is required to be declared under clause 4 or clause 7

**polling day**, in relation to any election, means the day appointed

in the writ for that election for the polling to take place if a poll is required

**register** means the Register of Pecuniary ~~and Other Specified~~ Interests of Members of Parliament established by clause 11

**Registrar** means the Registrar of Pecuniary and Other Specified Interests of Members of Parliament, and—

- (a) ~~means is~~ the Deputy Clerk or a person appointed ~~by the Clerk, with the agreement of the Speaker, under clause 12~~ to act as Registrar, ~~and;~~
- (b) includes every person who has been authorised by the Registrar to act on his or her behalf under the Standing Orders

**registered superannuation scheme** means any superannuation scheme that is registered under the Superannuation Schemes Act 1989 (including any scheme referred to in section 19H of the Government Superannuation Fund Act 1956)

**return** means a return of pecuniary and other specified interests required to be made under this Appendix

**voting right** means a currently exercisable right to cast a vote at meetings of the owners or proprietors of a business entity, not being a right to vote that is exercisable only in relation to a special, immaterial, or remote matter that is inconsequential to control of the entity.

- (2) Every amount specified in this Appendix is inclusive of goods and services tax (if any).
- (3) Every reference in this Appendix to a person elected at an election includes a person elected as a consequence of a recount or an election petition relating to that election.

## 2 **Duty to make initial return of pecuniary interests**

- (1) Every member must make an initial return ~~of pecuniary interests~~ as at the day that is 90 days after the date that the member takes the oath or makes the affirmation required by section 11(1) of the Constitution Act 1986.
- (2) Subclause (1) does not apply if,—
  - (a) in the case of a member who is elected at an election, polling day for the election is after 1 July in the year of the election, or
  - (b) in the case of a member who is declared to be elected under section 137 of the Electoral Act 1993, the date that the member's election is notified in the *Gazette* is after 1 July in the year that the member is declared to be elected.
- (3) An initial return must be transmitted by the member to the registrar within 30 days of the effective date of the return.

## 3 **Duty to make annual return of pecuniary interests**

- (1) Every member must make an annual return ~~of pecuniary interests~~ in each year as at 31 January.
- (2) The annual return must be transmitted by the member to the registrar by the last day of February in each year in which an annual return must be made.

#### 4 Contents of return relating to member's position as at effective date of return

(1) Every return of ~~pecuniary interests~~ must contain the following information as at the effective date of the return:

(a) the name of each company of which the member is a director or holds or controls more than 5 percent of the voting rights and a description of the main business activities of each of those companies, and

(b) the name of every other company or business entity in which the member has a pecuniary interest and a description of the main business activities of each of those companies or entities, and

(c) if the member is employed, the name of each employer of the member and a description of the main business activities of each of those employers, and

~~(d) the name of each trust in which the member has a beneficial interest, except as disclosed under subclause (1)(g), and~~

(d) the name of each trust of which the member is aware, or ought reasonably be aware, that he or she is a beneficiary or a trustee, except trusts disclosed under subclause (1)(e) where the member is a trustee and registered superannuation schemes disclosed under subclause (1)(g), and

Amendment 35

(e) if the member is a member of the governing body of an organisation or a trustee of a trust that receives, or has applied to receive, Government funding, the name of that organisation or trust and a description of the main activities of that organisation or trust, unless the organisation or trust is a Government department, a Crown entity, or a State enterprise, and

~~(f) the location of each parcel of real property in which the member has a pecuniary interest, unless the member has no beneficial interest in the real property, and~~

(f) the location of each parcel of real property in which the member has a legal interest in the fee simple or leasehold or stratum estate, or in which any such interest is held by a trust that the member knows (or ought reasonably to know) he or she is a beneficiary of, but does not include land held by a member as a trustee only or property held by a superannuation scheme disclosed under subclause (1)(g), and

Amendment 36

(g) the name of each registered superannuation scheme in which the member has a pecuniary interest, and

(h) the name of each debtor of the member who owes more than \$50,000 to the member and a description, but not the amount, of each of the debts that are owed to the member by those debtors, and

(i) the name of each creditor of the member to whom the member owes more than \$50,000 and a description, but not the amount, of each of the debts that are owed by the member to those creditors.

- (2) For the purposes of subclause (1)(b), a member does not have a pecuniary interest in a company or business entity (entity A) merely because the member has a pecuniary interest in another company or business entity that has a pecuniary interest in entity A.
- (2A) For the purposes of subclause (1)(e), a member who is patron or vice-patron of an organisation that receives, or has applied to receive, Government funding, and who is not also a member of its governing body, does not have to name the organisation, unless the member has been actively involved in seeking such funding during the period specified in clause 8.
- ~~(3) The description of a debt under subclause (1)(h) and (i) must include disclosure of the rate of interest payable in relation to the debt if that rate of interest is less than the most recent rate of interest prescribed by regulations made under section ND 1F of the Income Tax Act 2004 (or any successor to that provision) as at the effective date of the return.~~
- (3) For the purposes of subclause (1)(h) and (i) a member must also declare if the rate of interest payable in relation to ~~the debt~~ any debt owed to a person other than a registered bank as defined in section 2(1) of the Reserve Bank Act 1989 or a building society as defined in section 2 of the Building Societies Act 1965, is less than the normal market interest rate that applied at the time the debt was incurred or, if the terms of the debt are amended, at the time of that amendment.

Amendment 37

....

## **7 Contents of return relating to member's activities for period ending on effective date of return**

- (1) Every return must contain the following information for the period specified in clause 8:
- (a) for each country (other than New Zealand) that the member travelled to,—
    - (i) the name of the country, and
    - (ii) the purpose of travelling to the country, and
    - (iii) the name of each person who contributed (in whole or in part) to the costs of the travel to and from the country, and
    - (iv) the name of each person who contributed (in whole or in part) to the accommodation costs incurred by the member while in the country, and
  - (b) a description of each gift received by the member that has an estimated market value in New Zealand of more than \$500 and the name of the donor of each of those gifts (if known or reasonably ascertainable by the member), and
  - (c) a description of all debts of more than \$500 that were owing by the member that were discharged or paid (in whole or in part) by any other person and the names of each of those persons, and
  - ~~(d) a description of each payment received by the member for activities in which the member is involved (other than the salary and allowances paid to that person under the Civil List Act 1979 and the Remuneration Authority Act 1977), including the source of each payment.~~

- (d) a description of each payment received, and not previously declared, by the member for activities in which the member was involved, including the source of each payment, except that a description is not required of any payment that is—
- (i) paid as salary or allowances under the Civil List Act 1979 or the Remuneration Authority Act 1977, or as a funding entitlement for parliamentary purposes under the Parliamentary Service Act 2000;
  - (ii) paid in respect of any activity in which the member concluded his or her involvement prior to becoming a member (that is, before the commencement of a period set out in clause 8(2)(b) or (d), as applicable).
- (2) The information referred to in subclause (1)(a) does not have to be included in the return if the travel costs or accommodation costs (as the case may be) were paid by the following or any combination of the following:
- (a) the member:
  - (b) the member's spouse or domestic partner:
  - (c) any parent, child, step-child, foster-child, or grandchild of the member:
  - (d) the Crown:
  - (e) any ~~State~~ government, parliament or international parliamentary organisation, if the primary purpose of the travel was in connection with an official parliamentary visit. **Amendment 38**
- (3) For the purposes of subclause (1)(b), **gift**—
- (a) includes hospitality and donations in cash or kind other than donations made to cover expenses in an electoral campaign:
  - (b) excludes gifts received from family members (that is, any of the following: the member's spouse or domestic partner or any parent, child, step-child, foster-child, or grandchild of the member).
- (4) For the purposes of subclause (1)(d), a description of a payment is required if the terms of the payment have been agreed in the period specified in clause 8, even if the payment has not been received during that period.
- ....

## PART 2

### 11 Register of Pecuniary and Other Specified Interests of Members of Parliament

- (1) A register called the Register of Pecuniary and Other Specified Interests of Members of Parliament is established.
- (2) The register comprises all returns transmitted by members under this Appendix.

### 12 Office of Registrar

The office of Registrar of Pecuniary and Other Specified Interests of Members of Parliament is held by the Deputy Clerk or a person appointed by the Clerk, with the agreement of the Speaker, to act as Registrar.

**13 Functions of Registrar**

The functions of the Registrar are to—

- (a) compile and maintain the register, ~~and;~~
- (b) provide advice and guidance to members in connection with their obligations under this Appendix;
- (c) receive and determine requests for an inquiry under clause 15A, and, if the Registrar thinks fit, conduct and report to the House on any such inquiry.

**~~14 Registrar must supply returns to Auditor-General~~**

~~The Registrar must supply to the Controller and Auditor-General a copy of every return within 21 days of the date by which all returns are due.~~

**15 Auditor-General's review and inquiry**

(1AA) The Registrar must supply to the Controller and Auditor-General a copy of every return within 21 days of the date by which all returns are due. The Registrar may, as the Registrar thinks fit, supply to the Auditor-General any other information relating to a return.

- (1) The Auditor-General will review the returns provided under ~~clause 14~~ subclause (1AA) as soon as is reasonably practicable, and will advise the Registrar of any matters arising from the review.
- ~~(2) The Auditor-General may inquire, either on request or on the Auditor-General's own initiative, into any issue as to whether—~~
  - ~~(a) any member has complied, or is complying, with his or her obligations under this Appendix, or~~
  - ~~(b) the Registrar has complied, or is complying, with his or her obligations under this Appendix.~~
- ~~(3) The Auditor-General may, after he or she has completed an inquiry under subclause (2), report to the House the findings of the inquiry and any other matter that the Auditor-General considers it desirable to report on.~~

**15A Registrar's inquiry**

- (1) A member who has reasonable grounds to believe that another member has not complied with his or her obligations to make a return may request that the Registrar conduct an inquiry into the matter.
- (2) The request must be in writing, signed, and set out:
  - (a) the specific matter that the member believes to be a failure to comply, and
  - (b) the reasonable grounds for that belief.
- (3) A member who makes a request for an inquiry under this clause must, as soon as reasonably practicable, forward a copy of the request to the member who is the subject of the request.
- (4) On receiving a request, the Registrar conducts a preliminary review of the request to determine if, in the Registrar's opinion, an inquiry is warranted. In making a determination under this subclause, the Registrar takes account of the degree of importance of the matter under inquiry, and whether the matter—
  - (a) may involve a breach of the obligations to make a return:

- (b) is technical or trivial.
- (5) On determining whether an inquiry is warranted, the Registrar must inform the member who made the request of this determination, and must also inform the member who was the subject of the request.
- (6) If the Registrar determines that an inquiry is warranted, the Registrar conducts an inquiry.
- (7) In conducting the inquiry, the Registrar—
- (a) must invite the member who is the subject of the inquiry to provide a response to the matter under inquiry within 10 working days (provided that the Registrar and member may agree on a different period of time for the member's response):
  - (b) may seek further information from the member who made the request for an inquiry, from the member who is the subject of the inquiry, and from any other person that the Registrar considers may have relevant information:
  - (c) may seek assistance or advice from the Auditor-General or from any other person, as the Registrar sees fit:
  - (d) may disclose any return or returns and information relevant to the inquiry to a person providing assistance or advice under **paragraph (c)**.
- (8) The Registrar may,—
- (a) if the Registrar considers that the matter under inquiry does not involve a breach of the obligations to make a return, or is so minor as not to warrant the further attention of the House, determine that no further action is required:
  - (b) if the Registrar considers that the matter under inquiry involves an inadvertent or minor breach of the obligations to make a return, advise the member who is the subject of the inquiry to submit an amendment to the member's return or returns to remedy the breach:
  - (c) determine that the matter under inquiry involves a question of privilege, and report this to the House at the first opportunity:
  - (d) report to the House on any other matter that may warrant the further attention of the House.

### **15B Information on Registrar's inquiry**

- (1) A request under **clause 15A** and all information relating to the Registrar's consideration of that request are confidential until the Registrar determines whether to conduct an inquiry in respect of the request.
- (2) After determining whether an inquiry is warranted under **clause 15A**, and after informing members under **clause 15A(5)**, the Registrar may, at the Registrar's discretion, disclose any or all of the following information:
- (a) the name of the member who made the request:
  - (b) the date on which the request was received:
  - (c) the name of the member who was the subject of the request:
  - (d) the particular requirement or requirements in this Appendix to which the request relates.

- (3) The proceedings of the conduct of an inquiry are strictly confidential, subject to **clause 15A(7) and (8)**.
- (4) All returns and information disclosed to a person by the Registrar under **clause 15A(7)(d)** are confidential and must be returned to the Registrar or destroyed when that person's involvement in the inquiry is concluded.
- (5) If the Registrar completes an inquiry under **clause 15A** without making a report to the House, the Registrar—
  - (a) must communicate the result of the inquiry to the member who requested the inquiry and the member who was the subject of the inquiry;
  - (b) publishes the result of the inquiry to the Parliament website.
- (6) If the Registrar reports to the House that the matter under inquiry involves a question of privilege, the Registrar—
  - (a) must, before reporting to the House, inform the member that is the subject of the inquiry that it is intended to do so, and
  - (b) includes in the report any information relating to the inquiry that the Registrar considers is necessary to inform the House of the matter, and
  - (c) forwards to the Privileges Committee any information relating to the inquiry that the Registrar considers is necessary for the committee's consideration of the report.
- (7) In considering a question of privilege determined by the Registrar, the Privileges Committee may request from the Registrar information that it considers is necessary for the committee's consideration. The Registrar decides whether to provide the information requested.
- (8) Information provided by the Registrar to the Privileges Committee under **subclauses (6)(c) or (7)** is received by the committee as evidence in private, unless it is received in secret.

## **16 Registrar must publish summary of returns of current members of Parliament**

- (1) The Registrar must, within 90 days of the due date for transmitting any initial returns that are required to be made following a general election, publish on a website and in booklet form a summary containing a fair and accurate description of the information contained in those initial returns that has been transmitted by persons who, at the date of publication, are members of Parliament.
- (2) The Registrar must, within 90 days of the due date for transmitting annual returns, publish on a website and in booklet form a summary containing a fair and accurate description of the information contained in those annual returns that has been transmitted by persons who, at the date of publication, are members of Parliament.
- (3) The Registrar must promptly provide a copy of the booklet to the Speaker.
- (4) The Registrar must ensure that a summary containing a fair and accurate description of information contained in all returns is—
  - (a) maintained on a website:
  - (b) available for inspection by any person at Parliament

Buildings in Wellington on every working day between the hours of 10 am and 4 pm.

(4A) Subclause (4) does not apply in respect of information contained in the annual return of any member who has ceased to be a member of Parliament after submitting a return and before the information is published under subclause (4).

(5) A person may take a copy of any part of the summary referred to in subclause (4)(b) on the payment of a fee (if any) specified by the House.

....

### **17A Errors or omissions**

(1) Any member who becomes aware of an error or omission in any return previously made by that member must advise the Registrar of that error or omission as soon as practicable after becoming aware of it.

(2) The Registrar may, at the Registrar's own discretion, publish amendments on a website to correct errors or omissions advised under **subclause (1)**.

(3) Nothing in this Appendix requires members to advise the Registrar of changes to their interests that have occurred since the effective date of their last return.

### **18 Information about register**

~~(1) The Registrar must disclose any information relating to the register that the Auditor General requires for the purposes of reviewing and inquiring into the returns under clause 15.~~

(2) Subject to ~~subclause (1)~~ **clauses 15, 15A and 15B**, all returns and information held by the Registrar or by the Auditor-General relating to an individual member (~~other than information that is required to be disclosed under clause 16~~) are confidential until the dissolution or expiration of Parliament ~~destroyed under **subclause (3)**~~.

~~(3) On the dissolution or expiration of Parliament all returns and information held by the Registrar or by the Auditor General relating to individual members are to be destroyed, except in respect of the return of any individual member which the Auditor-General requires to be retained for the purposes of a review or inquiry under clause 15.~~

(3) On the dissolution or expiration of Parliament, all returns and information that have been held for three complete terms of Parliament by the Registrar or by the Auditor-General relating to individual members must be destroyed.

....

## APPENDIX C

### PRELIMINARY PROCEDURES FOR PRIVATE BILLS AND LOCAL BILLS AND LOCAL LEGISLATION BILLS

#### PRIVATE BILLS AND LOCAL BILLS

....

#### 2 Form and contents of notice

- (1) Every notice must be headed with the title by which the Act is to be known.
- (2) The notice must state—
  - (a) that it is the intention of the promoter to promote the bill, and
  - (b) the objects of the bill, and
  - (c) the postal address of the promoter, or the promoter’s solicitor or agent, to which communications may be sent, and
  - (d) the address of the promoter, or other place specified in clause 7(2), at which a copy of the bill may be inspected, and
  - (e) ~~the address of the District Court at which a copy of the bill may be inspected~~ the website on which a copy of the bill is publicly available, and
  - (f) the dates of the period during which the bill will be available for inspection.

Amendment 39

#### 3 Publication of notice

- (1) A notice must be published at least once in each of two consecutive calendar weeks,—
  - (a) if for a private bill, in a daily newspaper circulating in each of the cities of Auckland, Hamilton, Wellington, Christchurch, and Dunedin:
  - (b) if for a private bill affecting any land or ~~interest in land~~, ~~also in a daily newspaper circulating in the locality in which the land is situated~~; if for a local bill—
    - (i) in 1 or more daily newspapers circulating in the locality in which the land is situated or the region or district of the local authority; or
    - (ii) in 1 or more other newspapers that have at least an equivalent circulation in that locality or region or district to the daily newspapers circulating in that region or district.
  - (c) ~~if for a local bill, in a daily newspaper circulating in the local authority district.~~

Amendment 39

- (2) ~~If subparagraph (b) or subparagraph (c) of paragraph (1) cannot be applied as no daily newspaper circulates in the locality or local authority district, then the notice is —~~
- ~~(a) — published in a daily newspaper circulating in an adjoining district, or~~
  - ~~(b) — affixed to a noticeboard that is accessible to the public without charge.~~
- (2) The promoter or the promoter’s solicitor or agent must ensure that the notice is publicly available on a website that is maintained by or on behalf of the promoter or the promoter’s solicitor or agent, for at least two calendar weeks after the day on which the notice is first published under paragraph (1).

....

## 7 Deposit and inspection of bill

- (1) At the time of the first publication of notice of a bill a copy of the bill must be deposited,—
- (a) ~~in the case of a private bill, in the District Court in or nearest to the locality in which the promoter’s residence or registered office is situated;~~ in the office of the promoter or the promoter’s solicitor or agent, or
  - (b) ~~in the case of —~~
    - ~~(i) — a private bill that affects any land or an interest in land, or~~
    - ~~(ii) — a local bill, —~~

~~in the District Court in or nearest to the locality or local authority district concerned.~~

in the case of a local bill, in a public library or a service centre.
- (2) ~~Another copy of the bill must be deposited in one of the following:~~
- ~~(a) — the office of the promoter, or~~
  - ~~(b) — in the case of a private bill, in the office of the promoter’s solicitor or agent, or~~
  - ~~(c) — in the case of a local bill, in a public library or a service centre.~~
- (3) Each copy of the bill must be open to public inspection during the usual business hours of the place of deposit, without fee, for a period of not less than 15 whole working days.
- (4) The promoter or the promoter’s solicitor or agent must also ensure that a copy of the bill is publicly available on a website that is maintained by or on behalf of the promoter or the promoter’s solicitor or agent for the period specified in **subclause (3)**.

Amendment 39

## 8 Certification of deposit of bill

- (1) ~~The fact that a copy of the bill was deposited and remained open for public inspection must be certified,~~ Amendment 39
- ~~(a) in the case of the copy of the bill that was deposited in the District Court, by the District Court Judge or the Registrar or a Deputy Registrar of the District Court, and~~
- ~~(b) in the case of the copy of the bill that was deposited in the public office of the promoter or other place specified in clause 7(2), by—~~
- ~~(i) the promoter, or~~
- ~~(ii) the promoter’s solicitor or agent, or~~
- ~~(iii) the promoter’s chief executive.~~

- (1) The fact that a copy of the bill was deposited and remained open for public inspection must be certified by—
- (a) the promoter, or
- (b) the promoter’s solicitor or agent, or
- (c) the promoter’s chief executive.
- (2) Each certificate must—
- (a) state the first and last whole days on which the copy of the bill was open for public inspection, and
- (b) be written directly on the copy of the bill and may not be separate from it, and
- (c) be signed by the relevant person over his or her designation, and
- (d) be dated.

## 9 Bills dealing with land

- (1) Where it is intended in any private bill or local bill to take power to deal with any land, ~~each deposited copy of the bill must be accompanied by a description of the land together with a true copy of the plan of the land, affected land must be prepared, both certified to be~~ Both the description and any true copy of the plan of the land must be certified as correct by the chief executive of the department of State responsible for the administration of the Cadastral Survey Act 2002 (the **chief executive**) or by any other person to whom that power has been delegated by the chief executive.
- (2) A true copy of the plan is not required if the chief executive or delegate certifies that the bill proposes to deal—
- (a) with the whole or the residue of the land comprised in any certificate of title issued under the Land Transfer Act 1952 or any computer register created under that Act:
- (b) with land previously dealt with and separately described in any statute, ordinance, Proclamation, declaration, notice, or Order in Council:
- (c) with the whole of the land comprised in a separate lot or other surveyed subdivision which is shown on a plan deposited in the relevant Land Information New Zealand office in accordance with the provisions of the Land Transfer Act 1952 or lodged with the chief executive or with any other person to whom the power to receive such a

lodgement has been delegated by the chief executive.

- (3) The plan is to be—
- (a) in a form specified in rules made under the Cadastral Survey Act 2002:
  - (b) lodged in the relevant Land Information New Zealand office and endorsed by the chief executive, or by a person to whom that power has been delegated by the chief executive, with the words “approved for parliamentary purposes”.
- (4) All copies of the certified descriptions and plans must be made available for inspection with the deposited copies of the bill.

#### 10 Certification of deposit of plans

All deposited descriptions and plans of the land dealt with in the bill must be certified in the same manner as for each deposited copy of the bill.

#### 11 Forwarding of bills, plans, and other documents

- (1) Each deposited copy of the bill as certified, together with ~~each deposited copy of copies of~~ any descriptions of land and plans, ~~as certified as required~~, copies of notices, and certificates are forwarded to the Clerk.
- (2) The documents are attached to the ~~petition for a private bill or to the declaration for a local bill~~ declaration for the bill.

....

#### 13 Fees

- (1) The fee payable by the promoter of a bill is \$2,000 (including goods and services tax) and accompanies the documents forwarded under clause 11.
- ~~(2) The fee is,—~~
- ~~(a) in the case of a private bill, made payable to the Speaker and held in a private bills fees account, and may be applied for such parliamentary purposes as the Speaker directs:~~
  - ~~(b) in the case of a local bill, made payable to the Clerk of the House of Representatives, and applied to defraying general administrative expenses incurred in respect of the promotion of local bills.~~
- (2) The fee is made payable to the Clerk of the House of Representatives, and applied to defraying general administrative expenses incurred in respect of the promotion and printing of private bills and local bills.

#### 14 Refunds

- (1) If the select committee which considers a private bill recommends to the House that a refund be made on the ground of hardship, the House may direct that the whole or any part of the fee be refunded to the promoter.
- (2) Every refund directed by the House is made accordingly by the ~~Speaker out of the private bills fees account~~ Clerk.

**15—Petition for private bill**

The promoter of a private bill must petition the House for the introduction of the bill. Amendment 40

**16—Form and content of petition for private bill**

The petition must conform, in general, to the following form and contain all matters specified in it, and have attached to it the relevant notices:

**PETITION FOR A PRIVATE BILL**

To the House of Representatives

- 1—The petition of [full name of individual(s) or corporation] respectfully requests that [title of bill] (the deposited copies of which are attached) be introduced into the House.
- 2—[If a corporation] Your petitioner is represented by its duly authorised officer [or authorised attorney, if a corporation incorporated outside New Zealand], [person's name], of [place of residence or headquarters].
- 3—The reasons for the bill are —  
[list the reasons in the preamble of the bill].
- 4—The objects of the bill are —  
[list the objects in the preamble or purpose clause].
- 5—The objects of the bill cannot be attained otherwise than by legislation because [give reasons].  
or  
The objects of the bill can be attained otherwise than by legislation but [give reasons why legislation sought].
- 6—Notice of the bill has been published in two consecutive calendar weeks in issues of [name(s) of newspaper(s)] on [dates] on page(s) [give numbers] or on noticeboards at [specify places] (copies of which notices are attached).
- 7—Notice of the bill was given to the following persons who have a direct interest in the subject matter of the bill or in the exercise of a power proposed to be given by the bill:  
[name and address of natural or legal person, including person specified in clause 4(2) of this Appendix], who is affected by clause [give reference] of the bill because [give reason].  
[etc.]  
(copies of which notices are attached).  
[Signature]  
[Name of signatory]  
[Date]

**17 Declaration for private bill or local bill**

The promoter of a private bill or a local bill must make a declaration to the House relating to the bill for introduction.

**18 Form and content of declaration for private bill or local bill**

The declaration must conform, in general, to the following form and contain all matters specified in it, and have attached to it the relevant notices:

**DECLARATION FOR A PRIVATE BILL OR LOCAL BILL**

To the House of Representatives

I, *[full name of representative, and position]* declare that—

- 1 The *[name of promoter or local authority]* respectfully requests that *[title of bill]* (the deposited copies of which are attached) be introduced into the House.
- 2 The reasons for the bill are—  
*[list the reasons]*.
- 3 The objects of the bill are—  
*[list the objects, including any in a preamble or purpose clause]*.
- 4 The objects of the bill cannot be attained otherwise than by legislation because *[give reasons]*.  
*or*  
The objects of the bill can be attained otherwise than by legislation but *[give reasons why legislation sought]*.
- 5 Notice of the bill has been published in two consecutive calendar weeks in issues of *[name(s) of newspaper(s)]* on *[dates]* on page(s) *[give numbers]* ~~or on noticeboards at *[specify places]*~~ (copies of which notices are attached). A copy of the bill was publicly available at *[name of website]* for the same period.
- 6 Notice of the bill was given to the following persons who have a direct interest in the subject-matter of the bill or in the exercise of a power proposed to be given by the bill:  
*[name and address of natural or legal person, including person specified in clause 4(2) of this Appendix]*, who is affected by clause *[give reference]* of the bill because *[give reason]*.  
*[etc.]*  
(copies of which notices are attached).

*[Signature]*

*[Name of signatory]*

*[Date]*

**19 Examination and endorsement of bills and documents**

- (1) The Clerk examines the bill and other documents required to be forwarded to the Clerk to ensure that the Standing Orders have been complied with.
- (2) If the Standing Orders appear to have been complied with, the Clerk—
  - (a) ~~endorses the petition for a private bill or~~ the declaration for a private bill or a local bill “Standing Orders complied with”, and
  - (b) signs and dates that endorsement.
- (3) If the Standing Orders appear not to have been complied with, the Clerk returns the documents and the fee to the promoter.

## APPENDIX D

### RULES FOR FILMING AND CONDITIONS FOR USE OF OFFICIAL TELEVISION COVERAGE

#### PART A: RULES FOR FILMING

- (1) A provider of official television coverage of the House must comply with the following rules:
1. The cameras will cover the member who has been called to speak until the member's speech is finished or the member's call is terminated by the Speaker. Coverage will normally be medium range, head and shoulders. The director may choose to vary the camera angle to add interest to the coverage. Switching between such shots should be done at an appropriate point in the speech.
  2. The default shot will be on the Speaker or presiding officer, including the arrival of the Speaker's procession or a wide-angle shot of the Chamber.
  3. The television director may choose other shots to reflect the business transacted, such as a wide-angle shot of the Chamber or, during oral questions, a reaction shot of the Minister being asked a question or of a member listening to the reply to a question.
  4. The television director may use a wide-angle shot of the Chamber as a continuity shot, for instance, at the end of oral questions or when the House is going into committee. ~~Sound from the Speaker or ambient noise microphones can be added to this shot.~~
  5. Generally, interjections are not covered. But if the member speaking engages with the interjector, the interjector's reaction can be filmed.
  6. Officials (Clerks, ~~interpreters,~~ Serjeant-at-Arms) should be shown when they are participating in the business of the House by making announcements, calling party votes, ~~interpreting speeches,~~ or carrying the Mace.
  7. While a personal vote is in progress a graphic to this effect ~~should~~ may be shown in place of live coverage. ~~This graphic would be shown from the time the Speaker directs the Ayes to the right, the Noes to the left and appoints the tellers, until the announcement of the result, or a static wide-angle shot of the Chamber may be used, provided that this coverage does not seek to identify how individual members are voting. Any spoken proceedings that occur during a personal vote (such as a point of order) will be covered, subject to the usual rules.~~
  8. Shots unrelated to the proceedings are not permitted, that is, interruptions from the gallery and business occurring outside the House. No close-up shots are permitted of members' actions and interactions that are unrelated to proceedings.
  9. In case of general disorder on the floor of the House, coverage will revert to the Speaker or presiding officer.

Amendment 41

10. During an interruption to proceedings such as a prolonged disturbance from the gallery, the coverage will be of the Speaker or presiding officer, with sound from only the Speaker's microphone ~~and ambient noise microphones~~. Coverage from the Chamber should continue, unless the Speaker or presiding officer indicates otherwise, by either suspending or adjourning the House, or specifically directing that coverage should cease. Television coverage recommences when the House resumes or at the direction of the Speaker or presiding officer.
  11. Coverage ceases as soon as the Speaker or presiding officer announces that the House stands adjourned or the Speaker or presiding officer leaves the chair for the suspension of a sitting.
- (2) These rules apply also to any other filming from the gallery.
  - (3) The Serjeant-at-Arms will intervene if it becomes apparent that cameras are filming matters not within the rules. Broadcasters who offend the rules may have their privilege of filming in the Chamber withdrawn.

## **PART B: CONDITIONS FOR USE OF OFFICIAL TELEVISION COVERAGE**

- 1) Official television coverage of the House is made available on the following conditions:
  1. Any broadcast or re-broadcast of coverage must comply with the ~~Broadcasting Standards Authority rules~~ broadcaster's legal obligations.
  2. Coverage of proceedings must not be used in any medium for—
    - (a) political advertising or election campaigning (except with the permission of all members shown):
    - (b) satire, ridicule, or denigration:
    - (c) commercial sponsorship or commercial advertising.
  3. Reports that use extracts of coverage of proceedings and purport to be summaries must be fair and accurate.
- (2) Breach of these conditions may result in a loss of access to official television coverage, and may be treated as a contempt and proceeded against accordingly.

Amendment 42



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## Appendix A

### Committee procedure

At its meeting held on 9 September 2010, the Standing Orders Committee resolved to commence a review of the Standing Orders. The conduct of a review of the Standing Orders, procedures and practices of the House is a function of the committee under Standing Order 7(a). The committee invited public submissions on the review, with a closing date for submissions of 28 October 2010. Submissions were received from 28 people or organisations, as listed in Appendix B. Evidence from submitters was heard in public at Parliament House. The committee met between 9 September 2010 and 15 September 2011 to consider the review.

Mary Harris, Clerk of the House of Representatives, was our principal adviser on the review.

### Committee members

Dr The Rt Hon Lockwood Smith (Chairperson)  
Hon Jim Anderton  
Hon Rick Barker  
Hon John Boscawen  
Hon Peter Dunne (Deputy Chairperson)  
Te Ururoa Flavell  
Dr Kennedy Graham  
Chris Hipkins (non-voting)  
Hon Trevor Mallard  
Hon Simon Power  
Lindsay Tisch (non-voting)  
Chris Tremain

## Appendix B

### List of submitters

Anglican Church, Co-Presiding Bishops  
Auckland District Law Society, Commercial Law Committee  
Dame Margaret Bazley, Registrar of Pecuniary and Other Specified Interests of Members of Parliament  
David Cochrane  
Graeme Edgeler  
Gordon Findlay  
Hon Christopher Finlayson, Minister for Treaty of Waitangi Negotiations  
Robert Glennie  
Green Party  
Malcolm Harbrow  
Mary Harris, Clerk of the House of Representatives  
Hon Rodney Hide, Minister for Regulatory Reform  
Human Rights Commission  
Justice and Electoral Committee  
Robert McKinnon  
Māori Party  
Hon Dr Wayne Mapp MP  
Parliamentary Counsel Office  
PositiveNZ Trust  
Primary Production Committee  
Paul Quinn MP  
Regulations Review Committee  
Hon Tony Ryall, Minister of Health and State Services  
Hon Tariana Turia, Associate Minister of Health  
Urgency Project  
Wellington Branch of New Zealand Law Society, Public Law Committee  
Jesse Wilson  
YouthLaw Tino Rangatiratanga Taitamariki Inc