

# 5 Suspension of standing orders

The Senate normally conducts its business in accordance with standing orders. These are procedural rules to facilitate the orderly conduct of business and protect the rights of individual senators. They are made by the Senate under the authority of [section 50 of the Constitution](#).

At any time the Senate may decide to vary the way it does business, perhaps by making temporary changes to the standing orders or by overriding or adding to them for a particular purpose. These variations are made by a decision (or resolution) of the Senate following a motion (or proposal). Motions usually require notice (see [Guide No. 8](#)—Notices of Motion).

On occasion, however, the Senate may decide that there is an urgent need to override the standing orders to take action that the standing orders would otherwise prevent. In these circumstances, there are two ways in which the Senate dispenses with its normal rules in order to take a different course of action:

- by granting leave; or
- by a motion to suspend the standing orders.

## 1. What is leave?

Leave is the unanimous consent of all senators present in the chamber and is determined by the Chair after he or she ascertains whether there is any objection to a particular course of action being followed. A senator may object by simply saying “no” when the chair asks “is leave granted?” Major and minor departures from the standing orders may occur with leave, provided that there is unanimous consent. By convention, requests for leave are generally negotiated between the whips of the different parties in the Senate and independent senators.

## 2. In what circumstances are standing orders suspended?

When leave is either unlikely or refused, a senator may move for standing orders to be suspended to enable a course of action to be followed. This requires the agreement of a majority of the Senate ([standing order 209](#)). If such a motion is moved **without notice**, it requires the agreement of an absolute majority of the whole Senate (39 senators). **With notice**, it requires only a simple majority (a majority of senators voting).

A motion to suspend standing orders is often connected with a proposal to rearrange the Senate’s business, including for the purpose of initiating a completely new item of business. Although a minister may move a motion without notice at any time in connection with the conduct of business ([standing order 56](#)), other senators may not. In some cases, a suspension of standing orders may be designed to give other senators the same powers as ministers to rearrange business. But not even a minister may initiate completely new business without notice, so ministers may sometimes move for the suspension of standing orders to achieve this.

If a motion to suspend standing orders is moved during the consideration of a matter, including in committee of the whole, it must be relevant to the matter. For example, if the Senate is considering a bill, a senator may not move to suspend standing orders to bring on another item, unless the debate on the bill is first concluded or adjourned.

Because it is more difficult to obtain the agreement of an absolute majority of the Senate, most motions to suspend standing orders are moved by a special type of notice called a **contingent notice**, which means they can be agreed to by a more easily achievable simple majority.

### 3. Contingent notices

A contingent notice is a notice that a particular motion will be moved when a certain event happens or a certain stage in the proceedings is reached. There are two types of contingent notice: specific and general.

Specific contingent notices seek to suspend any standing orders that would prevent an action occurring, for instance:

- the standing orders that would prevent a senator moving an amendment
- the standing orders that would prevent a senator making a statement; and
- the standing orders that would prevent a notice being taken as formal notice.

These require two procedural steps. The first step is to suspend standing orders and, if successful, the second step is to take the substantive action (for example, to move the amendment, make the statement or to move the motion as formal). An example of a specific contingent notice is as follows:

To move (contingent on any senator being refused leave to table a document in the Senate)—  
That so much of the standing orders be suspended as would prevent the senator moving that the document be tabled.

General contingent notices are about reorganising the business before the Senate, either to give priority to particular items on the Notice Paper or, similarly, to bring on an entirely new matter. They are drafted in general terms to try to capture the broadest possible range of circumstances. General contingent notices require an extra procedural step.

The first step is to suspend standing orders so that a procedural (or precedence) motion can be moved. The second step sets out how the substantive matter will be dealt with (eg, that it will have precedence until determined). The second motion may be debated, although it rarely is, as it is simply a means to the desired end. The third step is proceeding with the substantive matter. This third step may involve the chair calling on the substantive business that has been given precedence (if it is listed on the Notice Paper) or calling a senator to move the substantive motion.

Examples include:

- suspending standing orders, to allow a procedural motion to be moved, to give a private senators' bill precedence over all other business until determined; or
- suspending standing orders, to allow a procedural motion to be moved, to require a new motion changing the Senate's hours of meeting and routine of business to be voted on without amendment or debate.

A general contingent notice commonly lodged by party leaders and independent senators is as follows:

To move (contingent on the Senate on any day concluding its consideration of any item of business and prior to the Senate proceeding to the consideration of another item of business)—  
That so much of the standing orders be suspended as would prevent the senator moving a motion relating to the conduct of the business of the Senate.

A motion to suspend standing orders may be debated for up to 30 minutes with each speaker allowed up to 5 minutes. As it is a procedural motion, the mover does not have a right of reply (see [Guide No. 2](#)—Rules of Debate). Under a rule first introduced in 2018, suspension motions moved in connection with formal business are put without debate.

It has been ruled that a contingent notice may be used only once by any senator on any one occasion (see [chapter 8](#) of *Odgers' Australian Senate Practice*).

Contingent notices remain on the *Notice Paper* and are thus available again for future use after they are moved unless they are withdrawn by the senator who gave them or unless they are “spent”.

A contingent notice is spent (of no further use) if the contingency, or event on which it depends, has passed.

Contingent notices are commonly given to enable senators to move for the suspension of standing orders in the following circumstances:

- between items of business—to rearrange business or to provide for a completely new item of business (such as a censure motion, for example)
- on any senator objecting to a motion being taken as formal—to enable the motion to be moved immediately and determined without debate
- on any senator being refused leave to move an amendment to a formal motion—to enable the amendment to be moved
- when a minister moves that a bill is urgent under [standing order 142](#) (the “guillotine”)—to provide for that motion to be debated
- when a minister moves a motion to allot time for an urgent bill—to provide for an unlimited debate on that motion
- when the time allotted to an urgent bill expires—to provide for the time to be extended
- when a motion to debate a matter of urgency under [standing order 75](#) is moved—to enable an amendment to be moved to the motion
- at placing of business—to rearrange the order of business on the *Notice Paper*
- at the end of question time—to move that question time be extended until 30 questions have been asked and answered
- on any senator being refused leave to make a statement—to enable the senator to make the statement; and
- on any senator being refused leave to table a document—to move that the document be tabled.

Using these notices, and with the agreement of a simple majority, senators may in urgent cases move for the suspension of standing orders to do a range of things that would otherwise be prevented by the standing orders.

## 4. What is the effect of suspending standing orders?

Standing orders are suspended only for the particular purpose mentioned in the motion ([standing order 210](#)). So, for example, if a senator who is refused formality for a general business notice of motion successfully follows the 2-step process referred to above, the only standing orders which are suspended are those which would prevent the motion being moved and having precedence. All other standing orders, such as those relating to the rules of debate (see [Guide No. 2—Rules of Debate](#)), continue to apply.

A suspension of standing orders lasts for the period specified in the relevant motion. In a rearrangement motion, for example, moved after a suspension of standing orders has been agreed to, the item of business to be given precedence is usually given precedence over all other business **that day** until determined (voted on). If that item is not resolved by the end of that day, then it has no special precedence on the following day unless a new suspension is agreed to. Precedence may also be specified to last over a period of days. Private senators’ bills have occasionally been given precedence over government business until proceedings on the bills were concluded.

### Need assistance?

For assistance with any of the matters covered by this guide, government senators or their staff should contact the Clerk Assistant (Table), on extension 3020 or [ca.table.sen@aph.gov.au](mailto:ca.table.sen@aph.gov.au), and non-government senators or their staff should contact the Clerk Assistant (Procedure), on extension 3380 or [ca.procedure.sen@aph.gov.au](mailto:ca.procedure.sen@aph.gov.au).

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