

6. RULES OF DEBATE

When Members may speak

A Member may speak:

- to any question on which debate is not precluded by the standing orders;
- when moving a motion which will be open to debate;
- when moving an amendment;
- when rising to take a point of order;
- on a matter of privilege;
- on a matter of public importance submitted under standing order 46;
- to explain words in his or her speech which have been misquoted or misunderstood (S.O. 69(e));
- when granted leave by the Chair to make a personal explanation (S.O. 68);
- to make a 90 second statement in the House or a three minute constituency statement in the Federation Chamber during the periods provided by standing orders 43 and 193;
- to ask or reply to a question without notice (S.O.s 98, 99);
- when granted leave of the House to make a statement; and
- by indulgence of the Chair.

Reservation of right to speak

A Member who seconds a motion or amendment without speaking to it may reserve the right to speak at a later stage of the debate (S.O. 70).

Member not to speak twice

A Member may not speak twice in the House to a question (S.O. 69): with four exceptions:

- in the consideration in detail stage of a bill or the consideration of Senate amendments—Members may speak for an unspecified number of periods to each question before the Chair (S.O.s 1, 69(a) and (b));
- in reply—a Member who has moved a substantive motion or the second or third reading of a bill may, at the end of the debate, speak in reply to matters raised during the debate (S.O. 69(c)). The reply closes the debate (S.O. 71);

- in the adjournment debate—a Member may speak a second time if no other Member rises (S.O.s 1, 69(d)); and
- in explanation (see p. 31) (S.O. 69(e)).

The rule does not apply to periods of Members' statements (as there is no question before the Chair). In practice, as in the adjournment debate, Members who have not yet spoken are given priority over those wishing to speak again in a period of Members' statements.

Speaking on amendments

When a Member speaks following the moving of an amendment, the Member is deemed to have spoken to both the original question and the amendment. A Member who has spoken to the original question before the moving of an amendment may speak again, but must confine his or her remarks to the amendment.

Speaking after question put

No Member may speak after the Speaker has put the question and it has been decided (S.O. 72).

Matters not open to debate

The following matters are not open to debate, must be moved without argument or opinion being offered, and must be put immediately by the Chair without amendment (S.O. 78):

- motion that a Member's time be extended (S.O. 78(a));
- motion that the business of the day be called on (S.O.s 78(b), 46(e));
- motion that a Member be heard now (S.O.s 78(c), 65);
- motion that a Member be further heard (S.O.s 78(d), 75);
- motion that debate be adjourned (S.O.s 78(e), 79);
- motion that a Member be no longer heard (S.O.s 78(f), 80);
- motion that the question be now put (S.O.s 78(g), 81);
- question that the bill or motion be considered urgent, following a declaration of urgency (S.O.s 78(h), 82, 83);
- motion that a Member be suspended (S.O.s 78(i), 94);
- question that amendments made by the Federation Chamber be agreed to (S.O.s 78(j), 153);
- question that a bill reported from the Federation Chamber be agreed to (S.O.s 78(k), 153);

- motion that further proceedings on a bill be conducted in the House (S.O.s 78(l), 197); and
- question in the Federation Chamber that a bill be reported to the House (S.O.s 78(m), 198).

In addition, a Minister may require the question for the adjournment of the House under the automatic adjournment provisions to be put without debate (S.O. 31(c)(ii)).

Misrepresentation of Member's speech

A Member who has spoken to a question may speak again to explain some material part of his or her speech which has been misquoted or misunderstood, but cannot introduce any new matter, interrupt any Member who has the call nor bring forward any debatable matter, and no debate may arise following such an explanation (S.O. 69(e)). The correct procedure to be followed by a Member is to rise after the Member speaking has concluded and to inform the Chair that he or she has been misrepresented. The Chair will then usually permit the Member to proceed with the explanation. It helps in the conduct of the proceedings if Members inform the Chair in advance that they intend to rise to make an explanation.

Personal explanations

A Member, having obtained permission from the Chair, may explain matters of a personal nature, although there is no question before the House (S.O. 68). Although in practice such leave is given freely, Members are not entitled to it automatically. A Member wishing to make a personal explanation should inform the Speaker beforehand. Personal explanations should preferably be made between items of business but may be made at any time with the indulgence of the Chair, provided that no other Member is speaking. However, they are usually made at the point in the routine of business following the presentation of documents, after Question Time.

Personal explanations generally claim misrepresentation arising from media reports, the preceding question time, Senate debates, and so on. Usually, when a Member rises to make a personal explanation, the Chair asks whether he or she is claiming to be misrepresented.

A personal explanation must be confined to matters affecting the Member personally. It may not deal with party matters or, in the case of a Minister, departmental matters, nor be used to make attacks on another Member. A Member making a personal explanation must not debate the matter. The indulgence granted by the Chair for a personal explanation may be withdrawn if the Member misuses it. The Chair may intervene if a Member

has made a personal explanation to correct a misrepresentation and another Member later repeats the matter complained of.

If the Speaker refuses leave to a Member to make a personal explanation, or directs a Member to resume his or her seat during the course of an explanation, a motion 'That the Member be now heard' is not in order, nor may the Member move a motion of dissent from the Speaker's 'ruling' as there is no ruling.

Indulgence of the Chair

The term 'indulgence' is often used to describe leave or permission from the Chair, as distinct from leave of the House. Although the standing orders enable Members to speak with permission from the Chair only in respect of a matter of a personal nature (see p. 31), the practice of the House is for the Speaker or Chair occasionally to grant indulgence for Members to address the House on other matters—for example, to permit a Minister to correct or add to an answer, or a Member to seek information about the conduct of proceedings. On occasion, following a Member's statement by indulgence, the Chair's indulgence may be extended to permit another Member to speak on the same matter. On occasion, further statements on the matter may be referred to the Federation Chamber.

Statements by leave

A Member may seek the leave of the House, that is, permission without any Member dissenting (see p. 2), to make a statement when there is no question before the House. This procedure is used in the main by Ministers to announce domestic and foreign policies and other decisions of the Government (ministerial statements, see p. 96). The procedure is also used by Members who wish to speak on a report of a committee or a parliamentary delegation that has been presented at a time other than that provided by standing order 39(b)(i).

Members seeking leave to make statements must indicate the subject matter so that the House can judge whether or not to grant leave. Members must confine their remarks to the subject for which leave has been granted.

Allocation of the call

A Member wishing to speak (unless unable to stand) must rise and address the Speaker (S.O. 65(a)). When two or more Members rise together to speak, the Speaker calls on the Member who, in the Speaker's opinion, rose first. If the Speaker's selection is challenged, any Member may move that [the

Member who was not called] 'be heard now', and that question must be put and decided immediately without amendment or debate (S.O. 65(c)).

The allocation of the call to Members rising to speak is at the discretion of the Chair, but, in principle, the Chair will call Members from each side of the House (government and non-government) alternately. Parties in coalition share the call of their side of the House in proportion to their numbers. Minor parties and independent Members share the call in approximate proportion to their numbers.

Generally, Ministers and the Leader and Deputy Leader of the opposition party or parties are given preference over other Members on their own side of the House, but during consideration in detail debates on bills, where there is need for a greater flexibility, a Minister may be granted a preference over all other Members in order to make a reply or explanation. To assist the Chair, a list of intending speakers is supplied by the party whips (except for consideration in detail debates); the Chair usually follows the list, but does not have to do so and a Member who is not listed may still seek the call to speak.

Time limits for debates and speeches

Speech time limits

Time limits for debates and speeches are set out in standing order 1. Time limits apply to all speeches in debate, with these exceptions:

- There is no time limit for the mover of the second reading of the Main Appropriation Bill and the Leader of the Opposition or a Member deputed by the Leader of the Opposition when speaking to the second reading (the Budget speech and reply).
- The House may agree to vary the time limits for a specific purpose—for example, for an important debate the standing orders may be suspended to grant unlimited or extended time to the Minister in charge and the leading opposition speaker.
- In relation to committee and private Members' business on Mondays the Selection Committee may determine lesser speaking times than the 10 minutes for each Member speaking provided by the standing order.
- Time limits do not apply during debate on motions of condolence or thanks.

Time limits are not imposed by standing order 1 when Members:

- make statements by leave of the House; and

- make personal explanations or speak by indulgence of the Chair. However, such speeches are expected to be short and to the point and the Chair may withdraw indulgence if Members attempt to enter into debate.

However, if further statements on a matter are referred to the Federation Chamber a time limit does apply.

How measured

The period of time for a Member's speech is calculated from the moment the Member is given the call (unless the call is disputed by a motion under standing order 65(c)) and includes time taken up by interruptions such as divisions (but not suspensions of Federation Chamber proceedings caused by divisions in the House), quorum calls, points of order, interventions, motions of dissent from rulings of the Chair, and proceedings on the naming and suspension of a Member.

A Member's time is not affected when debate is interrupted by the Chair for a suspension of the sitting (e.g. in the Federation Chamber for a division in the House), the automatic adjournment provision (S.O. 31), for Members' 90 second statements at 1.30pm (S.O. 43), or question time (S.O. 97). In these cases the Member may continue with no loss of time when the debate is resumed.

Extension of time

On motion by the Member speaking or another Member, a Member may be granted an extension of time for one period up to 10 minutes, but no extension may exceed half of the original period allotted (S.O. 1). The grant of a further extension requires a suspension of the standing order although the House may instead grant leave for a further extension.

A Member cannot be granted an extension of time in an adjournment debate. However, if no other Member rises to address the House, a Member who has already spoken may speak for a second time (S.O. 69(d)).

Speech timing clocks

Speech timing clocks are installed in the Chamber and in the Federation Chamber. They are set by the Deputy Clerk at the Table to the number of minutes allowed for each speech. For analogue clocks, as the time is used up, the hand returns in an anti-clockwise direction to the zero or 12 o'clock position; one minute before the time expires, a small amber warning light appears on each clock face and this glows until the speech time expires.

Manner of speech

Members to stand and address Chair

A Member wishing to speak must rise in his or her place and address the Speaker but, a Member unable to rise, may speak sitting (S.O. 65(a)).

Place of speaking

With the following exceptions all Members should address the House from their own seats. Ministers and shadow ministers speak from the Table. Parliamentary Secretaries may speak from the Table when in charge of the business before the House but at other times are required to speak from their allocated places. The same practice applies in respect of opposition 'parliamentary secretaries', or other Members leading for the Opposition in a particular debate.

Reading of speeches

There is no rule against the reading of speeches.

Decorum

Whenever the Speaker stands during a debate, any Member then speaking, or offering to speak, must sit down, and the House must be silent, so that the Speaker may be heard without interruption (S.O. 61(a)). When the Speaker is putting a question Members may not walk out of or across the Chamber (S.O. 61(b)).

Members should bow to the Speaker when entering or leaving the Chamber (S.O. 62(b)) and Members may not pass between the Speaker and any Member who is speaking (S.O. 62(d)). All Members coming into the Chamber must take their seats promptly (S.O. 62(a)), and not remain in the aisles (S.O. 62(c)).

Members may not converse aloud or make any noise or disturbance to interrupt the Member who is speaking (S.O. 65(b)).

First speech

There is a convention in the House that a Member's first speech in the House is heard without interjection or interruption, and the Chair usually alerts the House to the fact that a Member is making his or her first speech. In return for this courtesy it is expected that the Member should not be unduly provocative. A Member's official 'first speech' may not necessarily be the first time a Member speaks in the House—for example, speeches made

on condolence motions or in a Member's capacity as Minister or opposition spokesperson are not counted as 'first speeches'. In a new Parliament a newly elected Member usually makes his or her first speech in the Address in Reply debate (see p. 20).

Content of speeches

Relevancy in debate

A Member must speak only on the subject matter of a question under discussion, subject to some exceptions (S.O. 76). For the application of the relevancy rule to debate on bills see page 68.

The Chair, after having drawn attention to the conduct of a Member who persists in irrelevance or tedious repetition, may direct the Member to discontinue his or her speech. However, the Member has the right to require the question to be put that he or she 'be further heard'. No debate may occur on this question (S.O. 75).

Exceptions to relevancy rule

There are specific exceptions to the requirement for relevance. Members may use these opportunities for general debate to raise matters of their choice (S.O. 76):

- debate on the adjournment of the House (see p. 108);
- debate on the Address in Reply (see p. 20);
- second reading debates on the Main Appropriation Bill, and other appropriation or supply bills for the ordinary annual services of the Government (see p. 81);
- debate on the adjournment of the Federation Chamber (see p. 109); and
- grievance debate (see p. 107).

Reference to other Members

A Member, when referring to another Member, should refer to the Member by the name of the electoral division which he or she represents—i.e. 'the Member for . . .'; by the Member's parliamentary office—e.g. Leader of the House, Leader of the Opposition, Chief Government Whip; or by his or her ministerial title—e.g. the Prime Minister, the Minister for Foreign Affairs (S.O. 64).

Anticipation of discussion

During a debate (i.e. when there is a question before the House) a Member may not anticipate the discussion of any subject listed on the Notice Paper and which is expected to be debated on the same or next sitting day. The rule is intended to avoid unscheduled debate pre-empting debate on a matter scheduled to be considered shortly. In determining whether a discussion is out of order the Speaker should not prevent incidental reference to a subject (S.O. 77). In practice this rule is taken to apply only to the business section of the Notice Paper and not to matters listed elsewhere, for example, under questions in writing or as subjects of committee inquiry. It does not apply to questions and answers, Members' statements or discussion of a matter of public importance.

Reference to previous debate or proceedings

A Member may not refer to any debate or proceedings of the current session unless the reference is relevant to the matter under discussion (S.O. 73). This rule is not extended to the different stages of a bill.

Offensive or disorderly words

A Member's conduct is considered disorderly if he or she uses objectionable words and refuses to withdraw them (S.O. 91(b)). The Chair may intervene when offensive words are used either by the Member addressing the House or any Member present (S.O. 92(a)). When attention is drawn by a Member to words used, the Chair determines whether or not they are offensive or disorderly (S.O. 92(b)). The Chair's judgment in such cases depends on the nature of the words and the context in which they have been used. Once the Chair determines that offensive or disorderly words have been used, the Chair asks that the words be withdrawn. It has been considered that a withdrawal implies an apology.

If a Member refuses to withdraw, the Chair may name the Member for disregarding the authority of the Chair.

Reflections on Members

Members must not use offensive words against either House, a Member of the Parliament or a member of the Judiciary (S.O. 89) and all imputations of improper motives and all personal reflections on other Members are considered to be highly disorderly (S.O. 90).

The Chair has ruled that any request for the withdrawal of a remark considered offensive must come from the Member reflected upon, if

present, and that any request for a withdrawal must be made at the time the remark was made.

It is not in order to use offensive words against another Member by means of a quotation or by putting words in someone else's mouth. Expressions which are considered unparliamentary when applied to individuals must not be applied to groups.

Members may only direct a charge against other Members or reflect upon their character or conduct by moving a substantive motion which may be voted on by the House. However, in expressing that charge or reflection a Member may not use unparliamentary words.

Other persons or bodies specifically protected

Members may not refer disrespectfully to the Queen, the Governor-General or State Governors in debate or for the purpose of influencing the House in its deliberations (S.O. 88). The character or conduct of such persons, as well as Members, Senators and members of the Judiciary (S.O. 89), can be debated only by way of a substantive motion which can be voted on by the House.

The standing orders and practice of the House do not prevent a Member from reflecting on a State Government or Member of a State Parliament, no matter how much the Chair may deprecate such a reference.

Reflections upon votes of House

Members may not reflect upon any vote of the House except on a motion that the vote be rescinded (S.O. 74). In practice this rule is not interpreted so as to prevent a reasonable expression of views on matters of public concern. This rule does not prevent criticism of any Act of Parliament.

Sub judice convention

The House traditionally imposes a restriction on its own proceedings to avoid prejudicing the course of justice. Briefly stated, the *sub judice* convention is that, subject to the right of the House to legislate on any matter, matters awaiting adjudication in a court of law should not be brought forward in debate, motions or questions. As a general rule, the restriction is imposed in relation to cases before the criminal courts from the time a person is charged until a sentence, if any, has been announced. In the case of civil matters the convention applies from the time they are set down for trial or otherwise brought before the court. Restrictions again apply if an appeal is lodged and remain until the appeal is decided. Depending on the

circumstances, the convention may extend to royal commissions or other similar bodies, especially those concerned with the conduct of individuals.

The application of the *sub judice* convention is always subject to the discretion of the Chair. In exercising this discretion the Chair considers the likelihood of prejudice to court proceedings being caused by comment in the House, as well as to the inherent right of the House to inquire into and debate any matter considered to be within the public interest.

Interruption and adjournment of debate

Interruption of Member speaking

Under standing order 66, a Member may not interrupt another Member who is speaking unless to:

- raise a point of order;
- raise a matter of privilege suddenly arising;
- call attention to the lack of a quorum;
- call attention to the presence of visitors;
- move a closure motion ('That the Member be no longer heard' or 'That the question be now put'; 'That the business of the day be called on' in relation to a discussion of a matter of public importance; 'That the ballot be taken now', in relation to the election of the Speaker); or
- make an intervention as provided in the standing orders.

Interventions

An intervention is an interruption of a Member's speech by a brief question or response from another Member. This procedure was introduced with a view to encouraging interactivity and spontaneity in debate (S.O. 66A).

An intervention is only possible during debate on an order of the day—and not during other proceedings such as Members' statements or adjournment debates. The intervention must be immediately relevant to the interrupted Member's speech (not just to the bill or motion being debated). The Member seeking to intervene must first rise to seek the call of the Chair, and it is entirely up to the Member speaking whether to give way or not. The Chair may cut short or refuse an intervention if it is too lengthy (a maximum of 30 seconds is allowed) or if the Chair believes the procedure is being misused. The speech timing clock is not stopped during an intervention, and the interrupted Member's speaking time is not extended because of the time taken to respond.

Interjections

Members may not converse aloud or make any noise or disturbance to interrupt a Member who is speaking (S.O. 65(b)). However, the Chair does not necessarily intervene in the ordinary course of debate when interjections are made, unless they are frequent or such as to interrupt the flow of a Member's speech. Expressions such as 'Hear, hear' are permitted to indicate approval of speeches, provided they are not used to interrupt the Member speaking.

Closure of Member

Any Member may move that a Member who is speaking, except a Member giving a notice of motion or moving the terms of a motion allowed under the standing orders, 'be no longer heard'. This question must be put and decided immediately without amendment or debate (S.O. 80). If the motion is agreed to, the Member speaking must immediately resume his or her seat. The motion is not necessarily accepted by the Chair when a Member is taking or speaking to a point of order, or making a personal explanation, as both these matters are within the control of the Chair. The motion applies only to the speech currently in progress.

Closure of question

After a question has been proposed from the Chair (see p. 49), the closure motion 'That the question be now put' may be moved by any Member without notice at any time, whether any other Member is addressing the Chair or not. The question on the closure must be put and decided immediately without amendment or debate. If the closure is agreed to, the question before the Chair is then put immediately without any further debate (S.O. 81). If debate on an amendment is closed, debate may then continue on the original question.

The closure motion cannot be moved before the question has been proposed by the Chair—that is, while a Member is moving or seconding a motion (apart from a motion of amendment, in which case the amendment is superseded and the closure applies to the original question).

The closure cannot be moved in respect of proceedings for which time has been allotted under the guillotine procedure (S.O. 85(c)).

Motion to call on business of the day

The motion 'That the business of the day be called on' is used to curtail or preclude a discussion on a matter of public importance, and can only be used in this context. This form of closure is provided because there is no

question before the Chair during an MPI. The motion is moved in a similar way to the closure and can be moved at any time during the discussion. If the motion is agreed to, discussion of the MPI is immediately concluded and the House moves to the next item of business (S.O. 46(e)).

Motion to take ballot now

During the election of the Speaker the form of words used to closure debate is 'that the ballot be taken now' (S.O. 11(h)).

Adjournment of debate

A Member who has not spoken to a question, or who has the right of reply (moved the motion), may move 'That the debate be now adjourned' (S.O. 79(a)). This motion may be moved only by a Member given the call by the Chair, and must not be moved while another Member is speaking. The motion may not be moved during the debate on the motion that the House do now adjourn (the adjournment debate).

The motion 'that debate be adjourned' is not open to debate, must be moved without comment and must be put immediately and resolved without amendment (S.O. 78(e)).

Unless a Member requests that separate questions be put, the time for resumption of the debate may be included in the adjournment question (S.O. 79(a)). In practice the Speaker normally combines the two questions in the form 'That the debate be adjourned and the resumption of debate be an order of the day for . . .' (a later hour this day, the next day of sitting, or, rarely, a specific day). The two questions are put separately when the adjournment motion is opposed or if there is disagreement over the time of resumption, and in this case the question on the time of resumption is open to relevant amendment and debate.

If the adjournment motion is negatived the mover may speak later in the debate (S.O. 79(c)), and the Speaker may refuse to receive a further such motion if he or she considers that it has been moved to obstruct business (S.O. 78). After an adjournment motion has been agreed to, the Member who moved it is entitled to speak first on the resumption of the debate (S.O. 79(b)).

Points of order

The purpose of a point of order is to draw the Chair's attention to a breach of the rules of the House, or to seek the Chair's guidance on a matter of procedure. The conduct of proceedings in the House or in the Federation

Chamber may be questioned at any time by any Member and, until the question of order is decided by the Chair, the consideration of and decision on every other question is suspended (S.O.s 86(a) and (b)).

As a Member speaking may be interrupted only in a few circumstances (S.O. 66), the Member rising should indicate to the Chair at the outset that he or she is interrupting for the purpose of raising a point of order, for example, 'Mr/Madam Speaker, a point of order . . .'. The Member interrupted should immediately resume his or her seat.

During a division, when Members must remain seated while raising a point of order (S.O. 86(c)), Members may adopt the traditional practice of covering their heads with a sheet of paper in order to attract the Chair's attention.

The attention of the Chair must be directed to an alleged breach of order at the time that it occurs. It is not acceptable to raise points of order concerning proceedings earlier in the day or the previous day.

Members misusing the right to raise a point of order to make a debating point are abusing the forms of the House. If Members persist in making spurious points of order they may be disciplined by the Chair.

Ruling

When a question of order is raised, the Chair disposes of the matter by ruling on it (S.O. 86(a)). It is for the Chair to decide whether, and to what extent, a point of order may be discussed. On occasions a discussion may be helpful but discussion is not permissible when the Chair is prepared to rule on a point.

Dissent from ruling

If any objection is taken to the ruling of the Speaker or the Chair, it must be taken at once by way of a motion of dissent, submitted in writing. The motion must be seconded, after which it is proposed and debated immediately (S.O. 87).

Dissent can be moved only in respect of a ruling. Decisions on matters which are at the Speaker's discretion are not rulings and cannot be dissented from. These include the allocation of the call of the Chair to speak, which can be challenged under S.O. 65(c) (see p. 32), the Speaker's selection of a matter of public importance for discussion, or his or her opinion on whether a *prima facie* case has been established on a matter of privilege.