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Inquiry into recommendations 10 and 27 of Set the Standard

Dear Mr Neumann,

Thank you for the Committee's acknowledgement of my correspondence dated 21 October 2022, and for the opportunity to participate in a private hearing before the Committee on 29 November 2022, as part of the Committee's Inquiry into recommendations 10 and 27 of the Set the Standard report.

During the private hearing, the Committee requested that I provide further information about the different approaches the Albanese Government has taken to the time management of debates in the House of Representatives – both through motions suspending standing & sessional orders to alter the duration and structure of debate on the bill(s) (herein referred to as debate management motions) as well as the new 'urgent bills' process provided for by Standing Orders 82 and 85.

The Government has used debate management motions on urgent legislation as they provide greater opportunities for Members to speak and allow for a more democratic process than simply moving closure of a member and/or of the question. Under the former Government, these "gag" motions were moved more than 700 times, with the House wasting more than 61 hours voting in divisions on whether or not debate should be gagged. While this kind of closure has always been needed on occasion to conclude debate on urgent matters, their routine use has ceased under the Albanese Government.

Overview of debate management motions & urgent bills

This correspondence will outline the different approaches proposed by the Government (and subsequently adopted by the House) to manage the duration and structure of debate on four pieces of legislation throughout the 2022 Spring sittings:

- **Climate Change Bill 2022 & Climate Change (Consequential Amendments) Bill 2022 (the Climate Change Bills)** – debate management motion (see **Attachment A**)
- **Social Security (Administration) Amendment (Repeal of Cashless Debit Card and Other Measures) Bill 2022** – bill declared urgent under Standing Orders 82 and 85 (see **Attachment B**)
- **Family Assistance Legislation Amendment (Cheaper Child Care) Bill 2022** – debate management motion (see **Attachment C**)
- **Fair Work Legislation Amendment (Secure Jobs, Better Pay) Bill 2022** – debate management motion (see **Attachment D**)

On each of the above occasions, the House agreed to various limits on the second reading debate and consideration-in-detail stage of the bill(s). The table included at **Attachment E** provides a general overview of the different provisions of the various debate management approaches the House adopted in relation to each bill.

Effects of different debate management approaches

The table below, prepared by the Parliamentary Library, shows the effects of these debate management motions on each of the four debates in terms of:

- Duration of second reading debate
- Number of speakers during second reading debate (including the number of speakers whose speaking time was reduced to either 10 or 5 minutes)
- Duration of consideration-in-detail stage (where relevant)
- The number of occasions a Minister required a question to be put during consideration-in-detail

	Repeal of Cashless Debit Card Bill	Climate Change Bill & Cognate Bill	Cheaper Child Care Bill	Secure Jobs, Better Pay Bill
Approximate duration of 2R stage	5 hours 14 mins	8 hours 36 mins	7 hours 32 mins	13 hours 6 mins
No. of divisions held during 2R stage	1	2	2	4
Total no. of 2R speakers	28 MPs	50 MPs	44 MPs	84 MPs
Time reduced 2R speakers: 10mins	23 MPs	32 MPs	7 MPs	65 MPs
Time reduced 2R speakers: 5mins	n/a	4 MPs	9 MPs	17 MPs
Approximate duration of consideration-in-detail stage	n/a	2 hours 39 mins	n/a	3 hours 27 mins
No. of divisions held during consideration-in-detail stage	n/a	10	n/a	9
Sets of amendments at consideration-in-detail stage	n/a	9 sets of amendments	n/a	10 sets of amendments*
Minister required question be put at consideration-in-detail stage (no.)	n/a	n/a	n/a	3 occasions

Source: Parliamentary Library calculated based on *Hansard* records available in Parlinfo.

*Includes two sets of different amendments moved by the same MP (the Member for Wentworth moved amendments to the block of Government amendments, as well as her own set of amendments).

As the table shows, the three debate management motions have all provided for longer debates – more than 16 hours in the case of the Fair Work Amendment (Secure Jobs Better Pay) Bill 2022 – with a greater number of speakers, and it is on this basis that the Government has generally opted to use such motions rather than the urgent bills process provided for in the Standing Orders.

The Government is open to considering any recommendations the Committee may have in terms of amendment(s) to Standing Order 85 (or any other relevant standing order(s)) to improve the urgent bills process and/or bring it more into line with the approach that the Government has taken through debate management motions.

Debate management approaches and the Set the Standard Report

All of the debate management approaches outlined above seek to allow debate on bills to continue, while also ensuring Members are not forced to remain at Parliament House extremely late in the evening – in line with recommendation 27 of the Set the Standard report. By allowing debate on the bills to continue until 10pm (or later), but deferring all divisions and quorums after 6:30pm until the following sitting, in effect Members are free to leave Parliament House at any time after 6:30pm, while those wishing to contribute to the debate are able to remain in the building to do so.

The Government's approach to debate management has also evolved over the course of the term so far. For example, the debate management motion for the Climate Change Bills had the effect of cancelling that day's adjournment debate. Given the Government and Opposition Whips generally allocate places on the speaking lists for adjournment debates many weeks in advance, and members make plans accordingly (both in relation to their adjournment speeches, but also any personal/caring responsibilities), the Government received feedback from a number of Members that it would be preferable for the adjournment debate to occur during its usual place in the routine of business. Accordingly, the Government ensured that the adjournment debate was preserved in the subsequent debate management motions on the Family Assistance Legislation Amendment (Cheaper Child Care) Bill 2022 (see Attachment C, paragraph 1) and the Fair Work Amendment (Secure Jobs, Better Pay) Bill 2022 (see Attachment D, paragraph 4).

Conclusion

In summary, the Government has adopted a number of similar, albeit different, approaches to attempt to strike the balance between facilitating fulsome, comprehensive debates of legislation, and the need to meet particular timeframes dictated by the Senate, implementation dates and other factors. One particular limitation of the existing family-friendly measures currently in place in the House Standing Orders is that if the House sits beyond 7:30pm, the deferral of quorums and divisions ceases to apply. This may cause some Members to feel that they must remain present at Parliament House, which was clearly not the House's intention when it adopted these changes to the Standing Orders at the beginning of the 47th Parliament.

The Government's approach to debate management is very much an evolving one, and the Government would welcome considering any recommendations the Committee may have in this regard.

Yours sincerely,

THE HON TONY BURKE MP

6 / 2 / 2023

ATTACHMENT A - Suspension of standing and sessional orders regarding debate on the Climate Change Bill 2022 and the Climate Change (Consequential Amendments) Bill 2022 as adopted by the House of Representatives on 3 August 2022:

That so much of the standing and sessional orders be suspended as would prevent the following from occurring in relation to proceedings on the Climate Change Bill 2022 and the Climate Change (Consequential Amendments) Bill 2022:

- (1) there being a second reading debate on both bills together, and, from the conclusion of the Matter of Public Importance on Wednesday 3 August 2022, the time limit for Members speaking on the debate being 10 minutes;*
- (2) the second reading debate continuing until either:
 - (a) no further Members rise to speak; or*
 - (b) a Minister requires that the debate be adjourned at no earlier than 10 pm; at which point, debate being adjourned and the House immediately adjourning until Thursday 4 August at 9 am;**
- (3) from 9 pm on 3 August if, in the opinion of a Minister, the number of speakers remaining on the debate means the House will sit unreasonably late, the Minister requiring the time limit for second reading speeches be reduced to 5 minutes;*
- (4) during the sitting of Thursday 4 August, the bills being called on together and then without delay one question being put on any amendments moved to motions for the second readings and one question being put on the second readings of the bills;*
- (5) the consideration in detail stages on the bills, if required, being taken together, with any detail amendments to be moved together, with:
 - (a) one question to be put on all government amendments;*
 - (b) one question to be put on all opposition amendments; and*
 - (c) separate questions then to be put on any sets of amendments moved by crossbench Members;*and one question to be put that the bill/s [as amended] be agreed to.*
- (6) should a Minister require, any question provided for under paragraph (5) being put after no less than 10 minutes of debate on each set of amendments;*
- (7) at the conclusion of the detail stage, one question being put on the third readings of the bills together; and*
- (8) any variation to this arrangement being made only on a motion moved by a Minister.*

ATTACHMENT B – House of Representatives Standing Order 85 (as at 9 January 2023)

85 Proceedings on urgent bills

(a) If one or more bills have been declared urgent, the provisions of standing order 31 will not apply and a single second reading debate on the bill[s] may continue from 7.30 pm until 10 pm that sitting, or earlier if no further Members rise to speak, at which time the Speaker shall interrupt the debate and immediately adjourn the House until the time of its next meeting.

(b) After prayers on the next sitting, each bill will be considered in turn. The question on any second reading amendment and the question on the second reading shall be put without further amendment or debate.

(c) If the second reading of a bill is agreed to and any message from the Governor-General announced, the bill then to be taken as a whole during consideration in detail, if required, with any detail amendments to be moved together and the mover to speak for a maximum of five minutes, without further debate, and any government amendments to the bill which have been circulated to be treated as if they had been moved together, any opposition amendments which have been circulated to be treated as if they had been moved together, and any amendments by crossbench Members which have been circulated to be treated as if they had been moved as one set per Member, with:

(i) one question to be put on all the government amendments;

(ii) one question then to be put on all opposition amendments;

(iii) separate questions then to be put on any sets of amendments circulated by crossbench Members; and

(iv) any further questions necessary to complete the remaining stages of the bill to be put without delay.

(d) Standing order 81, providing for the closure of a question, shall not apply to any proceedings to which this standing order applies.

(e) Any division called for during the second reading debate from 7.30 pm until 10 pm that sitting shall be deferred until the first opportunity the next sitting day, except for a division called on a motion by a Minister during this period, and, if any Member draws the attention of the Speaker to the state of the House, the Speaker shall announce that he or she will count the House at the first opportunity the next sitting day if the Member then desires.

ATTACHMENT C – Suspension of standing and sessional orders regarding debate on the Family Assistance Legislation Amendment (Cheaper Child Care) Bill 2022 as adopted by the House of Representatives on 26 October 2022:

That so much of the standing and sessional orders be suspended as would prevent the following from occurring in relation to proceedings on the Family Assistance Legislation Amendment (Cheaper Child Care) Bill 2022:

- (1) from 8 pm on Wednesday 26 October, the time limit for Members speaking on the second reading debate being reduced to 10 minutes;*
- (2) from 9 pm on 26 October, the time limit for Members speaking on the second reading debate being reduced to 5 minutes;*
- (3) the second reading debate continuing until either:
 - a. no further Members rise to speak; or*
 - b. a Minister requires that the debate be adjourned at no earlier than 10 pm; at which point, debate being adjourned and the House immediately adjourning until Thursday 27 October at 9 am;**
- (4) during the sitting of Thursday 27 October, the bill being called on and questions being immediately put on any amendments moved to the motion for the second reading and on the second reading of the bill;*
- (5) if required, a consideration in detail stage of the bill, with any detail amendments to be moved together, with:
 - a. one question to be put on all government amendments;*
 - b. one question to be put on all opposition amendments; and*
 - c. separate questions then to be put on any sets of amendments moved by crossbench Members;**and one question to be put that the bill [as amended] be agreed to;**
- (6) should a Minister require, any question provided for under paragraph (5) being put after no less than 10 minutes of debate on each set of amendments;*
- (7) when the bill has been agreed to, the question being put immediately on the third reading of the bill; and*
- (8) any variation to this arrangement being made only on a motion moved by a Minister.*

ATTACHMENT D – Suspension of standing and sessional orders regarding debate on the Fair Work Legislation Amendment (Secure Jobs, Better Pay) Bill 2022 as adopted by the House of Representatives on 8 November 2022:

That so much of the standing and sessional orders be suspended as would prevent the following from occurring in relation to proceedings on the Fair Work Legislation Amendment (Secure Jobs, Better Pay) Bill 2022:

- (1) on Tuesday, 8 November when the bill is called on, the Leader of the Opposition, or a Member representing, speaking for no longer than 30 minutes;*
- (2) the time limit for other Members speaking on the second reading debate being 10 minutes;*
- (3) on Wednesday, 9 November, the second reading debate continuing when the bill is called on;*
- (4) notwithstanding standing order 31, at 8 pm on Wednesday, 9 November, the bill being called on for further consideration;*
- (5) the second reading debate continuing until either:
 - a. no further Members rise to speak; or*
 - b. a Minister requires that the debate be adjourned at no earlier than 10 pm, at which point, debate being adjourned and the House immediately adjourning until Thursday, 10 November at 9 am;**
- (6) from 9 pm on Wednesday, 9 November, the time limit for Members speaking on the second reading debate being 5 minutes;*
- (7) from 7.30 pm on Wednesday, 9 November until the adjournment of the House:
 - a. any division called for being deferred until the first opportunity on Thursday, 10 November; and*
 - b. if any Member draws the attention of the Speaker to the state of the House, the Speaker announcing that he will count the House at the first opportunity on Thursday, 10 November, if the Member then so desires;**
- (8) on Thursday, 10 November when the bill is called on, questions being immediately put on any amendments moved to the motion for the second reading and on the second reading of the bill;*
- (9) if required, a consideration in detail stage of the bill, with all government amendments to be moved together, all opposition amendments to be moved together, and any crossbench Members' amendments to be moved as one set per Member, with:
 - a. one question to be put on all government amendments;*
 - b. one question to be put on all opposition amendments;*
 - c. separate questions to be put on any sets of amendments moved by crossbench Members; and*
 - d. one question to be put that the bill [as amended] be agreed to.**
- (10) should a Minister require, any question provided for under paragraph (9) being put after no less than 10 minutes of debate on each set of amendments;*
- (11) when the bill has been agreed to, the question being put immediately on the third reading of the bill; and*
- (12) any variation to this arrangement being made only on a motion moved by a Minister.*

ATTACHMENT E – Overview of different provisions of debate management approaches

Bill	Second Reading Debate	Consideration-in-detail	Other
Climate Change Bills	<ul style="list-style-type: none"> • Speaking times reduced to 10 minutes after MPI • Debate continuing until no further members rise to speak, or Minister requires debate be adjourned no earlier than 10pm • Minister able to require speaking times to be further reduced to 5 minutes after 9pm • All questions to complete second reading put without delay or debate when bills are called on the next day 	<ul style="list-style-type: none"> • Amendments put as one block for Government, one block for Opposition, one block per crossbench member • One final question during CID that bill [as amended] be agreed to • Minister able to require any question during CID to be put after 10 minutes of debate • Third reading put immediately following CID as single question 	-
Social Security (Administration) Amendment (Repeal of Cashless Debit Card and Other Measures) Bill 2022	<ul style="list-style-type: none"> • Debate continues until 10pm or no further members rise to speak (if earlier) • Bill called on immediately after prayers next sitting, with all questions to complete second reading put without delay or debate 	<ul style="list-style-type: none"> • Amendments put as one block for Government, one block for Opposition, one block per crossbench member • Question on each block of amendments put immediately after mover finishes speaking 	<ul style="list-style-type: none"> • Divisions and quorums after 7:30pm deferred to next sitting
Family Assistance Legislation Amendment (Cheaper Child Care) Bill 2022	Same as for Climate Change Bills, other than the reduction in speaking times to 10 minutes taking effect from 8pm, rather than after MPI	Same as for Climate Change Bills	-
Fair Work Legislation Amendment (Secure Jobs, Better Pay) Bill 2022	<ul style="list-style-type: none"> • All speaking times reduced to 10 minutes (other than first Opposition speaker) • Normal adjournment of House on Tuesday, debate continues until 10pm or no further members rise to speak (if earlier) on Wednesday • Speaking times further reduced to 5 minutes after 9pm on Wednesday • All questions to complete second reading put without delay or debate when bills are called on Thursday 	Same as for Climate Change bills	<ul style="list-style-type: none"> • Second reading debate interrupted for adjournment debate, then returning to second reading debate • Divisions and quorums after 7:30pm deferred to next sitting