

The reforms—an overview

- 2.1 The *Agreement for a Better Parliament: Parliamentary Reform* (the Agreement) provides a detailed schedule of reforms, with wide-ranging implications for parliamentary practice and procedure. In the early days of the 43rd Parliament, statements by Members from all sides reflected great interest in, and enthusiasm for, the reform agenda.¹
- 2.2 The procedural reforms outlined in the Agreement have been introduced into the House of Representatives both formally, through amendments to the standing orders, the inclusion of a sessional order, and a resolution of the House, and informally, through arrangements and interpretations of the Agreement that the Speaker has noted to the House from time to time.² The effectiveness of the reforms will be determined through their application and interpretation over time.
- 2.3 This chapter provides an overview of the Agreement, outlining its fundamental objectives and examining individual reforms and the mechanisms used for implementation.

1 See for example: HR Deb, 29 September 2010, 128-141, for a range of views.

2 See for example the Speaker's statement on the treatment of supplementary questions: HR Deb, 20 October 2010, 859.

Preamble to the Agreement

- 2.4 The preamble describes the reforms as intended to enhance the authority of the parliament in its relationship with the executive government and to increase opportunities for participation for all Members of Parliament, 'local Members', regardless of their political party or office. It also acknowledges the critical importance of commitment and cultural change to the successful realisation of parliamentary reform.

Role of the Speaker

- 2.5 A key provision of the Agreement seeks to enhance the authority and independence of the Speaker.³ Speakers have always been expected to strive to discharge their responsibilities impartially. However, the fact that the position of Speaker is occupied by a government Member has led to occasional perceptions or assertions of bias.
- 2.6 Contrary to usual practice, the Agreement proposed that the roles of Speaker and Deputy Speaker should be filled by members from different parties. Following the election of Mr Harry Jenkins as Speaker, a Coalition Member, the Hon Peter Slipper, was elected Deputy Speaker. To enhance impartiality the Agreement provides that both the Speaker and Deputy Speaker will abstain from attending party room meetings.
- 2.7 Although the Agreement also recommends 'pairing' of votes for the occupant of the Chair during divisions, this provision was subject to extensive debate, which included questioning the constitutionality of such an arrangement, particularly any formal arrangement.⁴ This provision has not been implemented.

3 *Agreement for a Better Parliament: Parliamentary Reform*, Clause 2.

4 See, for example, articles by Professor D R Rothwell and Dr D Dalla-Pozza, 'New paradigm shows early signs of wear', 21 September 2010, *Sydney Morning Herald*, viewed 1 March 2011 at <<http://www.smh.com.au/opinion/politics/new-political-paradigm-shows-early-signs-of-wear-20100921-15k6k.html>>; and Marcus Priest, 'Libs to force ALP's hand', *Financial Review*, 29 September 2010. The Commonwealth Solicitor-General issued advice on 22 September 2010.

Selection Committee

- 2.8 The Agreement provides for the establishment of a Selection Committee to facilitate the participation of all Members in the work of the House.⁵ The House Selection Committee was established under standing order 222 at the beginning of the 43rd Parliament, with a wider role than such committees established in the 41st and earlier parliaments.⁶ The Selection Committee consists of eleven members: the Speaker, or in his absence the Deputy Speaker, the Chief Government Whip or their nominee, the Chief Opposition Whip or their nominee, the Third Party Whip or their nominee, three government Members, two opposition Members and two non-aligned Members.⁷
- 2.9 In the 41st and preceding parliaments, the Selection Committee was responsible for arranging private Members' business on sitting Mondays. There was no Selection Committee in the 42nd Parliament and these arrangements were decided by the Government and Opposition Whips.
- 2.10 The Selection Committee now considers every bill introduced in the House and refers those it decides are controversial or requiring further consultation or debate to a relevant House or joint committee. A request by one member of the Selection Committee is sufficient to select a bill for referral. The impact of this arrangement is discussed further in Chapter 4.⁸ Details of the operations of the Selection Committee are discussed in Chapter 3.

Questions without notice

- 2.11 Question Time has long been criticised for its 'robust' nature and its effectiveness – or otherwise – as an accountability mechanism. The

5 *Agreement for a Better Parliament: Parliamentary Reform*, Clauses 1 and 11.

6 Although Selection Committees operated between 1994-2007, during the 42nd Parliament there was no Selection Committee. See para 2.9 and *House of Representatives Practice*, 5 ed., pp 560-566.

7 Standing order 222, 20 October 2010.

8 See standing order 222(a), 20 October 2010, and the Selection Committee's webpage <<http://www.aph.gov.au/house/committee/selc/index.htm>> for an overview of its activities and its reports. As at 24 March 2011, the Committee had referred 11 bills to committees.

Agreement includes several proposals for significant changes,⁹ discussed in more detail in Chapter 4. The following reforms have been implemented through amendments to standing orders:

- imposing time limits on both questions (45 seconds) and answers (4 minutes) during Question Time;¹⁰
- limiting the duration of Question Time, with the expectation that it concludes by 3.30 pm;¹¹
- requiring that answers be ‘directly relevant’ to the questions asked;¹² and
- allowing for only one point of order on relevance for each question.¹³

2.12 The Agreement also proposes that the Leader of the Opposition or a delegate may ask one supplementary question during Question Time.¹⁴ Other reforms include provisions for a proportionate allocation of questions to Members, including questions from non-aligned Members, and to limit the use of notes for both questioners and ministers when giving answers. Standing orders were not amended to incorporate this provision, as the allocation of the call is at the discretion of the Speaker who, by convention, alternates the call. Reforms to Question Time are discussed in detail in Chapter 4.

Private Members’ business and other opportunities for private Members

Time for private Members’ business

2.13 The Agreement proposes priority for committee and delegation business and private Members’ business on Mondays, recommending up to 3 hours and 45 minutes be allocated in the Chamber and 2 and a

9 *Agreement for a Better Parliament: Parliamentary Reform*, Clauses 4.1-4.8.

10 Standing orders 100(f) and 104(c), 20 October 2010.

11 Standing order 34, 20 October 2010.

12 Standing order 104(a), 20 October 2010. See Chapter 4 for further detail.

13 Standing order 104(b), 20 October 2010.

14 *Agreement for a Better Parliament: Parliamentary Reform*, Clause 4.2. Supplementary questions, although provided for in standing orders (101(b)) have not been asked since 1998, according to Chamber Research Office statistics. See Chapter 4 for further detail on current use.

half hours in the Main Committee.¹⁵ However the amended standing orders allocate more time: a total of 8 and a half hours (3 and a half in the Chamber and 5 hours in the Main Committee), compared to 1 hour in the Chamber and 35 minutes in the Main Committee during the 42nd Parliament.¹⁶

Voting on private Members' bills

- 2.14 The Agreement provides for time for votes on private Members' bills during government business time in the House.¹⁷ The Selection Committee now has the authority to recommend items of private Members' business to be voted on.¹⁸ In practice, standing orders have regularly been suspended on Thursday mornings to allow for votes on private Members' motions and bills during government business time in the House.¹⁹ Voting on private Members' bills increases the attention paid to those individual bills, and raises the profile of private Members' bills generally. This is particularly true in the present context of a minority government, where a private Member's bill, even without the support of government, may be passed by the House.

Other opportunities for private Members

- 2.15 The Agreement also provides greater opportunities for participation by private Members outside the allocated private Members' business periods. In accordance with the Agreement, the maximum time for debate on the Matter of Public Importance (MPI) has increased from 1 hour to 1 and a half hours.²⁰ Further detail on the provisions and the use made of them so far is provided in Chapter 3. Under the Agreement, 15 minutes is allocated prior to Question Time allowing for Members to make 90 second statements on constituency issues.²¹ Amendments to the standing orders now provide for fifteen minute periods of 90 second statements in the House on Mondays,

15 *Agreement for a Better Parliament: Parliamentary Reform*, Clause 6.2.

16 Standing orders 34 and 192, 20 October 2010.

17 *Agreement for a Better Parliament: Parliamentary Reform*, Clause 6.1.

18 Standing order 222, 20 October 2010.

19 See for example: HR Deb, 28 October 2010, 1990; HR Deb, 18 November 2010, 2944-2950; HR Deb, 25 November 2010, 3761-3768.

20 See standing orders 1 and 34, 20 October 2010.

21 *Agreement for a Better Parliament: Parliamentary Reform*, Clause 8.

Wednesdays and Thursdays.²² Further detail is contained in Chapter 3.

- 2.16 The Agreement provided for an extended adjournment debate in the House on Mondays and Tuesdays, from 30 minutes to 1 hour and the standing orders were amended accordingly.²³ The use made of this additional time is discussed in Chapter 3.

The House committee system

- 2.17 Most reforms to the House committee system included in the Agreement – and implemented by amendments to standing orders – reflect recommendations made by the Procedure Committee in its report *Building a modern committee system* in June 2010.²⁴
- 2.18 The Agreement provides for nine general purpose House standing committees (down from 12) and for their membership to be reduced from 10 permanent members to seven.²⁵ Recognising that Members may want to participate in specific inquiries by committees of which they aren't a member, the Agreement increases the maximum number of supplementary members allowed on an inquiry from two to four.²⁶
- 2.19 The Agreement provides that the Chair of the Joint Committee on Public Accounts and Audit be an opposition or non-aligned Member. This reflects the overall intention of the Agreement to increase opportunities for all Members to hold various roles related to the

22 *Agreement for a Better Parliament: Parliamentary Reform*, Clause 7. Standing orders 34 and 43, 20 October 2010. In the previous parliament, these statements were held in the Main Committee for 15 minutes on Mondays. Before that time, they had been made in the House on Mondays, only, at 1.45 pm.

23 Standing order 34, 20 October 2010. The standing orders now provide for a 1 hour debate on Wednesday also.

24 See Standing Committee on Procedure, *Building a modern committee system: An inquiry into the effectiveness of the House committee system*, June 2010 and the *Agreement for a Better Parliament: Parliamentary Reform*, Clause 10. Amendments to the standing orders on 29 September 2010 implemented most of these reforms. See standing orders 39, 215, 229, and 232 in particular, as well as the resolution of 29 September 2010 on government responses.

25 Compare standing order 215, 1 December 2008, with standing order 215, 20 October 2010.

26 *Agreement for a Better Parliament: Parliamentary Reform*, Clause 10.2; standing order 215(d), 20 October 2010.

work of the House and asserts the non-partisan nature of committees.²⁷

- 2.20 Under amended standing order 39, the chair or deputy chair of a committee may make statements on an inquiry during periods set aside for committee and delegation business on Mondays.²⁸ This enables committee chairs and deputy chairs to inform the House – and the public – of the commencement of an inquiry, or to raise matters of interest during an inquiry, rather than speaking on an inquiry only at its completion. This change is expected to increase participation in and understanding of committee work, as well as increasing the range of evidence that is available to committees.
- 2.21 The Agreement provides for the Selection Committee to consider all bills and to refer those regarded as controversial or requiring further consultation or debate to House or joint committees for inquiry.²⁹ The Selection Committee’s capacity to refer bills to committees has implications for the profile and work of committees, as well as for scrutiny of legislative proposals. The impact of the reforms on committees is considered further in Chapter 4 but, at this stage, there is not sufficient evidence to draw any conclusions on their effectiveness.
- 2.22 The Agreement requires that government responses to House or joint committee reports be presented within six months of presentation of the report.³⁰ Previously, governments have undertaken to provide responses to committee reports within three months, although there was no formal requirement for this and no sanction for non-compliance.³¹ At approximately six-monthly intervals, Speakers have presented a schedule listing government responses to House and joint committees, including outstanding responses. After this the Leader of the House has presented a list of committee reports, outlining the current status of the government response.

27 In addition, amended standing order 215(e) adopted on 29 September 2010, provides that the Chair of the Standing Committee on Regional Australia need not be a government Member (although this was not provided for in the Agreement).

28 See Standing Committee on Procedure, *Building a modern committee system*, June 2010, recommendation 7, in which the Committee recommended that this opportunity be enabled for committee chairs.

29 See Clause 10.5 of the Agreement, and standing order 222(a)(iii), 20 October 2010.

30 *Agreement for a Better Parliament: Parliamentary Reform*, Clause 10.6.

31 *House of Representatives Practice*, 5 ed., pp 689-90.

- 2.23 In the previous parliament, the Procedure Committee made some recommendations to improve the consistency of responses to committee reports by ministers.³² The Agreement does not adopt the Committee's recommendations per se, but the resolution of the House adopted on 29 September 2010 provides that if a government response is not presented within six months, the relevant Minister must present a statement explaining the delay. If requested, the Minister must appear before the relevant committee to answer questions on that statement.³³ If this process is not complied with to the satisfaction of the committee, it may raise the matter with the Auditor-General or the Speaker. This reform is expected to encourage more timely responses and to enable committees to follow-up on their inquiries.
- 2.24 In Chapter 4 the Committee considers in more detail the implementation and impact of the reforms on House committees and their membership.

Consideration of bills

Speaking times

- 2.25 The Agreement provides that the limit for Members' speaking times at the second reading stage of all bills be reduced from 20 to 15 minutes.³⁴ The amendments to standing orders now provide for a maximum speaking time of 15 minutes for most Members during second reading debate. The rationale is that this allows for more efficient debate on bills and potentially allows more Members to participate in a debate. This time limit does not apply to speeches by the mover, Leader of the Opposition or Member representing them for government bills; or to the mover, Prime Minister or Member representing them, or Leader of the Opposition or Member representing them for private Members' bills.³⁵
- 2.26 Under the Agreement (and implemented in amended standing order 222), the Selection Committee may further reduce second reading

32 Standing Committee on Procedure, *Building a modern committee system*, June 2010, pp 130-131.

33 HR Deb, 29 September 2010, 132.

34 *Agreement for a Better Parliament: Parliamentary Reform*, Clause 11.1. The reduction does not apply to the speeches by the Minister presenting the bill or by the main speaker for the opposition.

35 See standing order 1, 20 October 2010.

speaking times to 5 or 10 minutes where a bill is not considered controversial. That Committee may also limit second reading speaking times when a large number of Members wish to speak on a bill, to enable as many Members as possible to participate.³⁶

Questions during second reading debate

- 2.27 The Agreement provides that the Speaker and the Selection Committee consider and potentially trial an allocation of five minutes for questions at the end of Members' speeches on bills.³⁷ On 29 September 2010, sessional order 142A was adopted for the remainder of the session, providing for questions and answers during second reading debate on government bills. At the end of a Member's second reading speech, the Member may agree to be questioned on his or her speech. Questions and answers may then continue for up to five minutes, with a time limit of 30 seconds for each question and two minutes for each reply. This does not apply to the Minister's second reading speech, the speech of the main opposition speaker or the Minister's speech closing the debate.
- 2.28 The option of questions during second reading debate was recommended by the Procedure Committee in the 41st Parliament in its 2006 report *Encouraging an interactive Chamber* to encourage more interactive debating, consistent with the responsibility of the House to debate legislation before voting.³⁸
- 2.29 To date no Member has taken up this opportunity.

36 *Agreement for a Better Parliament: Parliamentary Reform*, Clause 11.1. See standing orders 1 and 222, 20 October 2010. See standing order 222(a)(iv), 20 October 2010 which provides that subject to standing order 1, the Selection Committee may reduce the maximum speaking time for second reading speeches on government bills for all Members except the mover, Leader of the Opposition or Member representing and the Minister at conclusion of debate; and on private Members' bills for all Members except the mover and Prime Minister or Member representing them.

37 See Clause 11.1.

38 Standing Committee on Procedure, *Encouraging an interactive Chamber*, December 2006, p 14.

Other procedural reforms

Acknowledgement of country

- 2.30 In accordance with the Agreement, standing orders were amended at the beginning of the 43rd Parliament to provide for the Speaker to make an acknowledgement of country prior to prayers at the start of each sitting day.³⁹ Now, at the start of each sitting day, the Speaker says:

I acknowledge the Ngunnawal and Ngambri peoples who are the traditional custodians of the Canberra area and pay respect to the elders, past and present, of all Australia's Indigenous peoples.⁴⁰

- 2.31 This is followed by the reading of the Lord's Prayer by the Speaker, before the business of the House commences. The Committee has received no input on this reform.

Recommittal of votes

- 2.32 On 29 September 2010, as part of the implementation of the Agreement, the Leader of the House moved to amend standing order 132 to allow for a vote to be repeated where a division has miscarried through misadventure (a Member being accidentally absent, or similar incident). Previously, the House could only divide again in the case of confusion, or error concerning the numbers reported by the tellers.
- 2.33 After some debate on the government amendment, the House agreed to an opposition amendment requiring that standing orders be suspended to enable recommittal of a vote.⁴¹ The amendment had the effect that in order to recommit a vote which could be passed by a simple majority in the House, there must first be a suspension of standing orders which, when moved without notice, can only be carried by an absolute majority (currently 76 votes). That is, the votes required to recommit a vote may be greater than the numbers required to pass the vote, when the vote is retaken.
- 2.34 Where numbers in the House are close, it may be that a motion to suspend standing orders would only be carried if the suspension

39 *Agreement for a Better Parliament: Parliamentary Reform*, Clause 3; standing order 38, 20 October 2010.

40 Standing order 38, 20 October 2010.

41 HR Deb, 29 September 2010, 136-142.

motion is agreed to without division, negating the requirement for an absolute majority.

- 2.35 On 10 February 2011 the Leader of the House moved a suspension of standing orders to enable a vote on the second reading of a private Member's bill to be taken again – on the basis that a pair might have been sought (but was not) for an opposition Member who was ill and missed the vote. The question on the suspension was agreed to without a vote and the original vote was repeated.⁴²
- 2.36 This issue is something that the Committee wishes to consider further as at the time of preparing this report this has been the only instance where a vote has been retaken since this change to the standing orders.

Non-procedural reforms

- 2.37 In addition to the procedural reforms, the Agreement also includes proposals for non-procedural reforms. These include measures to ensure adequate resourcing to support the functions of the parliament, to increase the transparency and accountability of parliament and to enhance parliamentary standards.

Resources of the parliament

- 2.38 As for other departments and agencies, funding for the operation of the parliament is determined through government budget processes. Concerns regarding the adequacy of resourcing have been expressed in the past by the Procedure Committee.⁴³ The Agreement includes proposals that relate directly to resourcing of parliament and the House, including the establishment of:
- a House Committee on Appropriations and Staffing; and
 - a Parliamentary Budget Office.⁴⁴

42 Votes and Proceedings No. 22, 10 February 2011, 299.

43 Standing Committee on Procedure, *Building a modern committee system*, June 2010, pp 24-27.

44 *Agreement for a Better Parliament: Parliamentary Reform*, Clause 16.

House Committee on Appropriations and Administration

- 2.39 Standing order 222A establishes a House Committee on Appropriations and Administration with a role that includes estimating the funding required by the Department of the House of Representatives each year and reporting to the Speaker and to the House on other matters of finance or services that might be referred to it for consideration. The Committee has the potential to improve the financial stability and autonomy of the House.⁴⁵

Parliamentary Budget Office

- 2.40 The Agreement proposes the establishment a Parliamentary Budget Office (PBO) to provide high quality financial research and analysis, and policy costings.⁴⁶
- 2.41 In late November 2010 the Joint Select Committee on the Parliamentary Budget Office was established to consider the range of services to be provided by a PBO and other matters associated with its structure, protocols and resourcing. On Wednesday, 23 March 2011 the Committee tabled its report for the inquiry into the proposed Parliamentary Budget Office. The report is available online.⁴⁷ The tabling of the report concluded the work of the Joint Select Committee and it has now been dissolved.

Codifying and enhancing parliamentary standards

- 2.42 The Agreement also proposes the establishment of a code of conduct for Senators and Members, to be overseen by a Parliamentary Integrity Commissioner.⁴⁸ Development of a Draft Code of Conduct has been referred by the House to the Standing Committee of Privileges and Members' Interests for inquiry and report.⁴⁹

45 See *Agreement for a Better Parliament: Parliamentary Reform*, Clause 16.3.

46 *Agreement for a Better Parliament: Parliamentary Reform*, Clause 16.1.

47 Parliament of Australia Website, viewed on 4 April 2011 at:
<<http://www.aph.gov.au/house/committee/jscpbo/report.htm>>.

48 *Agreement for a Better Parliament: Parliamentary Reform*, Clauses 18 and 19.

49 Parliament of Australia Website, viewed on 25 January 2011 at:
<<http://www.aph.gov.au/house/committee/pmi/index.htm>>.

