

Effectiveness of the Standing Orders as they relate to petitions

Introduction

3.1 This chapter considers in more detail the impact of the House's Standing and Sessional Orders that relate to petitions, in particular:

- Standing Order 204 – rules for the form and content of petitions
- Standing Order 205 – rules for signatures
- Standing Order 206 – lodging a petition for presentation
- Sessional Order 207 – presenting a petition¹
- Standing Order 208 – action by the House
- Sessional Order 209 – a petition may be referred to a Minister for response and
- Standing Order 220 – creation of the Standing Committee on Petitions.²

1 Sessional Order 34, Figure 2, sets out the order of business to be followed in the House. In June 2008 it was amended from the earlier Standing Order, along with Standing Order 207, to enable presentation of petitions and reports by the Committee Chair, and the presentation of statements and reports on petitions by the Chair and another Committee member in a timeslot on Monday evenings from 8.30 to 8.40 p.m. in the House: *Votes and Proceedings*, No. 32, 24 June 2008, p. 421.

2 The text of the current provisions is at Appendix B of this report. The revisions to Standing Orders were originally put in place at the beginning of the 42nd Parliament, *Votes and Proceedings*, No. 1, 12 February 2008, pp. 11–26. Standing Orders 207 and 208 were amended on 12 March 2008: *Votes and Proceedings*, No. 10, 12 March 2008, p. 148; Sessional Orders 34, 207 and 209 were put in place in June 2008: *Votes and Proceedings*, No. 32, 24 June 2008, pp. 421–2.

Previous arrangements

3.2 As the Committee has noted, the revised arrangements have largely come about because of the Procedure Committee's 2007 report, *Making a difference: petitioning the House of Representatives*. As well as a discussion of the history of petitioning, that report contains valuable analysis, including a discussion of previous inquiries on petitions and a comparison with the (then) Standing Orders of other Australian parliaments.³

3.3 It may be useful to consider the revised arrangements discussed in this chapter in light of the previous ones. In summary, the Standing Orders formerly (as at 29 March 2006) provided that:

- a petition must be addressed to the House; refer to a matter that is a Commonwealth legislative or administrative matter; state the facts that the petition wishes the House to notice and contain a request to the House or Parliament to take action(s) (SO 204)
- a petition must be on paper, legible, not contain alterations, must be in respectful, courteous and moderate language and not contain irrelevant statements and must not contain any indication that it has been sponsored or distributed by a Member, although it may show the name and address of a Member as an address to which the petition may be sent for presentation (SO 205)
- only a Member may lodge a petition for presentation; a Member may not lodge a petition from himself or herself (SO 207)
- certification of a petition as complying with Standing Orders is undertaken by the Clerk or Deputy Clerk (SO 208 (b)); the Member presenting the petition is required to count the signatures and obtain certification
- presentation of petitions is possible in one of three ways (SO 209):
 - ⇒ the Clerk announces petitions each sitting Monday
 - ⇒ a Member may present a petition during Members' statements in the House and Main Committee
 - ⇒ a Member may present a petition which refers to a motion or order of the day when that motion or order of the day is moved or called on for the first time

Later in 2008, these Sessional Orders were put in place for the remainder of the 42nd Parliament: *Votes and Proceedings* No. 66, 1 December 2008, pp. 756–7.

3 Appendixes B (history); D (previous inquiries); and E (comparative table of Standing Orders).

- after presentation in the House, the Clerk must refer a copy of the petition to the Minister responsible and a Minister may respond to a petition by lodging a written response with the Clerk who announces any ministerial responses (SO 212) and
- action by the House involves discussion on presentation or when a relevant motion is moved or called on; each petition presented is to be received unless a contrary motion is moved immediately and agreed to; the only other motion allowed is one to refer a petition to a particular committee; the terms of petitions and responses shall be printed in Hansard (SO 213).

Preparing a petition: Standing Orders 204 and 205

Form and content: 204

- 3.4 The form and content of petitions are prescribed in Standing Order 204 and require, among other things, that a petition: be addressed to the House; refer to a matter on which the House has to act; state the reasons for petitioning the House; and contain a request for action by the House. These requirements (in Standing Order 204 (a)) are reasonable and expressed sufficiently clearly, in the Committee's view.
- 3.5 Standing Order 204 (b) requires that a petition not contain alterations, with terms (reasons plus request for action) placed at the top of the first page and (at least) the request of the petition at the top of all other pages. These requirements are reasonable, in the Committee's view. It is possible that some confusion may arise occasionally because of the requirement that the full terms be on the first page only and just the request needs to be on other pages. However, the opportunity of leaving more space for signatures on pages after the first page is valuable and arguably outweighs the risk of confusion.
- 3.6 Standing Order 204 (b) also has a new provision: a word limit on the terms of a petition (reasons plus request for action) – currently 250 words. There has been some comment that this is inflexible and does not allow the Committee discretion when the terms are only slightly over the limit. If this were considered a potential problem, then Standing Order 204(b) could be amended to provide: 'The terms of the petition must not contain any alterations and shall not be expected to exceed 250 words'. However,

the Clerk did not suggest a higher numerical limit⁴ and the Committee concludes that a higher limit is not necessary, particularly if the wording is amended to be more flexible.

- 3.7 Standing Order 204 (c) requires that 'The terms of the petition must not be illegal or promote illegal acts. The language used must be moderate.' The language and intent of this provision are plain and the Committee endorses the provision.
- 3.8 The Committee has no comment on the technical requirements contained in Standing Orders 204 (d) to (f). These relate to translations, attachments, and petitions from corporations.

Signatures: 205

- 3.9 Rules for signatures are contained in Standing Order 205. Only the principal petitioner needs to include their full name and address (205 (a)). In the Committee's view, this requirement is less stringent and expressed more clearly than former provisions that required the page on which the terms were written to have the signature and address of at least one person.
- 3.10 Standing Order 205 (c) proscribes a Member from being a principal petitioner or signatory to a petition. The Committee endorses this provision. Petitions are unique in the opportunity they give citizens to bring their views directly to the Parliament. While Members may offer assistance to petitioners, and advocate for a petition when they present it, the petitions themselves belong to the public. Members have a responsibility as elected representatives to convey views to the House, and this provision does not hinder that role.
- 3.11 The Committee has heard comment that petitions should be required to have more than one signature, that is, to be supported by more than one person. This proposition was put to the Clerk of the House, who did not give it support: 'It could be difficult to argue that an individual should not be permitted to lodge a petition in principle, because there is such a long-established parliamentary right.'⁵ The Committee agrees and does not propose any change in this regard.

4 See Clerk of the House of Representatives, *Submission No. 1*, p. 5, and comments by the Clerk and Clerk Assistant (Table) in *Transcript of Evidence*, 17 March 2010, pp. 4–5.

5 Mr B Wright, Clerk of the House of Representatives, *Transcript of Evidence*, 17 March 2010, p. 3.

Presentation of petitions: Standing Order 206 and Sessional Order 207

Lodging a petition for presentation: 206

- 3.12 The revised arrangements enable petitioners to send petitions directly to the Petitions Committee, or via a Member (Standing Order 206 (a)). This change enables petitioners to process their petitions independently, rather than relying on a Member, and it is welcomed by the Committee.
- 3.13 Standing Order 206 (b) makes plain the Committee's responsibilities in checking petitions for compliance, providing: 'if the petition complies it **shall** be approved for presentation to the House' (emphasis added). This means, when combined with Standing Orders 204 and 205, that the Committee does not have discretion in what petitions it approves. However, in the Committee's view, the requirement that petitions not be illegal, or promote illegal acts, and be in moderate language, are an adequate safeguard, particularly in light of the respect of the House for freedom of speech. The Committee notes again that the contents of petitions presented do not necessarily represent the views of the Member presenting, and it applies the same reasoning to the Committee's certification process.⁶

Presenting a petition: 207

- 3.14 Petitions may be presented either by the Committee Chair (who may also present reports and make statements...) in accordance with Sessional Order 34 (providing in the order of business of the House for the Chair's presentations and statements on Monday evenings at 8.30 to 8.40 p.m.); or by a Member at prescribed times (increased from Members' statements in the House or Main Committee, to include the adjournment debate in the House and Main Committee and the grievance debate).
- 3.15 As noted previously, this provision is currently made by way of Sessional Order. The provision for presentation by the Chair (as well as statements) was made at the Committee's suggestion and, in the Committee's view has proved successful in providing certainty about opportunities for petitions and responses to be presented, and to keep the House and the public informed about the petitions process.

⁶ See the comments by the Committee Chair, *HR Debates* (7.9.2009) 8747.

- 3.16 The Committee endorses the increased opportunities in Sessional Order 207 for Members to present petitions – during Members’ statements in the Main Committee, adjournment debate in the House and Main Committee and in the grievance debate.
- 3.17 At the Committee’s meeting on 26 May 2010, a Member mentioned the possibility of increasing the opportunities for backbench Members to debate petitions in the House or in the Main Committee. Currently, debate would be limited to a motion that a petition not be received, or that a petition be referred to a particular committee (Standing Order 208). The Committee notes that if this proposal to allow debate were taken up it might be enabled by amending Sessional Order 207 to include a paragraph (b) (iv), that would allow a Member to present a petition which refers to a motion or order of the day when that motion or order of the day is moved or called on for the first time.
- 3.18 The Committee notes, however, that while the former Standing Orders would have allowed such a debate,⁷ there is no record of the opportunity having been taken up. The Committee does not know the reason for this and, at this stage, does not recommend a change to the Standing Orders. Such a possibility might subject Members to unreasonable pressure from petitioners to propose a motion and to advocate a particular stance.
- 3.19 A future Petitions Committee might consider this matter anew. An interim measure might be for the Committee to broaden the participants in round table meetings, from time to time, to include Members who have demonstrated a particular interest in a petition, as well as petitioners, and/or Public Servants. While this would not strictly be a debate on a petition, it would enable greater input by Members.

Petitions presented without certification

- 3.20 The Clerk of the House noted that petitions are sometimes presented by Members without having been through the Committee’s approval process. The Chair refers such petitions to the Committee for determination. If the petition is found to be in order, then it is subsequently presented by the Chair and referred to the relevant Minister. If it is not approved, then the principal petitioner and the Member are notified.

7 Standing Order 209 (c) in the *Standing and Sessional Orders as at 29 March 2006*. This opportunity appears to have existed – but not been used – throughout the life of the House.

3.21 The Clerk considered the more reliable way of dealing with these instances would be for the Committee to continue to educate Members and their staff about the petitions process and the role of the Committee. In this regard, the Chair writes to all Members at least once a year to outline the process. The Clerk referred to the possibility of amending Sessional Order 207 to allow a Member to present a petition ‘that has been approved by the Standing Committee on Petitions’. If the Member wished to present an unapproved document, leave would be required, and this may not always be granted.⁸ The Committee agrees that the preferred way of dealing with this matter is through continuing the education of Members and their staff.

Role of Members

3.22 The Committee is pleased to see that the increased opportunities for Members to present petitions have been take up. The Clerk of the House noted that since the changes in 2008, ‘Instances of Members taking the opportunity of presenting petitions have increased markedly both in number and as a percentage of total petitions.’⁹ The percentage of petitions presented by Members rose from 3.2% in 2007 to 18.3% in 2008 and 34% in 2009.

3.23 As the Clerk noted, Members usually speak in support of petitions they present, and so greater exposure is given to the matters raised in petitions.¹⁰ The increased participation by Members in raising the issues in petitions is in keeping with the Procedure Committee’s principle of enhancing the role of Members in the petitions process.

Action on petitions: Standing Order 208 and Sessional Order 209

3.24 The Committee notes that the provisions of Standing Order 208 (c) – a motion to refer a petition to a committee – are of long standing and have not been used by the House. However, there is arguably a role for committees to investigate some matters raised in petitions. The question

8 Clerk of the House of Representatives, *Submission No. 1*, p. 6. Standing Order 63 enables the House or Main Committee to grant leave to a Member to act in a manner not provided for but leave may be granted only if no Member present objects.

9 Clerk of the House of Representatives, *Submission No. 1*, p. 6.

10 Clerk of the House of Representatives, *Submission No. 1*, p. 6.

then arises as to what would be a convenient mechanism. A Minister might include in his or her response to the Committee on a referred petition information that he or she proposed to refer the matters raised in a petition to a committee (although presumably a separate referral letter would be sent by the Minister to the committee concerned).

- 3.25 The Committee also considers that it would be useful if it had the power to refer petitions to a particular House committee for inquiry and report—should the committee choose to undertake such an inquiry. For example, a new Standing Order 210 could provide for the Petitions Committee to refer a petition to a committee for a proposed inquiry and report; a draft Standing Order is contained in Appendix D to this report.
- 3.26 The provisions of Sessional Order 209 appear to be entirely reasonable. They provide (a) that the Committee may refer petitions to the Minister, following presentation; (b) that the Minister be expected to lodge a written response with the Committee within 90 days of presentation; and (c) that the Chair announce ministerial responses and that after this, the responses be printed in Hansard and published on the House’s website.
- 3.27 The Committee endorses the provisions of Standing Order 209 relating to referral to a Minister for response.

Previous comment on the revised Standing Orders

- 3.28 In its report, *Electronic Petitioning to the House of Representatives*, the Committee recommended that the House establish an electronic petitions system (with the current paper system to continue). Among other things, the Committee recommended that Standing Orders 204 (b), (e) and (f), relating to the form of petitions; 205 (a) and (b) relating to signatures; and 206 (a), relating to lodging a petition, be amended to take account of the electronic format.¹¹ The Committee takes this opportunity to confirm its previous recommendation that the Standing Orders be amended to enable electronic petitions. Its comments in this report are not intended to derogate from the views expressed in its earlier report.
- 3.29 In its report on electronic petitioning the Committee also took the opportunity to refer to Standing Orders 207 (presentation of petitions), and 209 (referral to a Minister for a response), currently in the form of Sessional Orders.¹² In the Committee’s view when it reported into

11 House of Representatives Standing Committee on Petitions, *Electronic Petitioning to the House of Representatives*, 2009, pp. 70–71.

12 In place now for the remainder of the 42nd Parliament; *Votes and Proceedings*, No. 32, 24 June 2008, pp. 421–422; *Votes and Proceedings*, No. 66, 1 December 2008, p. 756.

electronic petitions, they had been operating successfully and should be made permanent.¹³ That remains the Committee's view.

Standing Committee on Petitions: Standing Order 220

- 3.30 The Committee's role is prescribed as being 'appointed to receive and process petitions, and to inquire into and report to the House on any matter relating to petitions and the petitions system'.¹⁴
- 3.31 Standing order 208 (b) prescribes membership of the committee as 'ten members: six government and four non-government members. This number of members (total and government and non-government) is the same as for the general purpose standing committees of the House. The Committee has no wish to amend this Standing Order but it notes in passing that it has been functioning without a full complement of members for many months.

Standing orders of general application to House committees

- 3.32 The Committee acknowledges that House Standing Orders 228–247, on the operation of committees, also apply to its work. These Standing Orders cover matters such as appointment of members, quorum, proceedings and sittings of committees, records of proceedings and documents, admission of visitors and other Members, and publication of evidence. The Committee has no comment to make on these Standing Orders of general application, other than to say the effectiveness of its role and methods of operation have not been hindered in any way by them and it does not seek to have any special arrangements for its own general operations.¹⁵

13 House of Representatives Standing Committee on Petitions, *Electronic Petitioning to the House of Representatives*, 2009, p. 70.

14 Standing Order 220 (a).

15 These Standing Orders are available online at:
<http://www.aph.gov.au/house/pubs/standos/pdf/chapter16.pdf> viewed 4 June 2010.

Comments on the revised arrangements: revival of the petitions process

- 3.33 From time to time during round table meetings the Committee has taken the opportunity to ask petitioners their views on the current process for petitioning the House of Representatives. They have been asked about how they collected signatures, and so on. Petitioners have not made comments or complaints about specific elements of the process or the Standing Orders.
- 3.34 One witness at a recent hearing in Melbourne told the Committee: 'I would like to again stress that we welcome the establishment of the committee to look at petitions. I think it treats petitions from the community with the seriousness that they deserve...'¹⁶
- 3.35 The Committee considers that the revised arrangements for petitions have been successful. The Clerk of the House of Representatives has commented favourably on the new arrangements as a whole: 'There was a saying, often used, that petitions gathered dust. I think the new arrangements have brought the process back to life. I think they have demonstrated that an ancient practice can be adapted to modern times.'¹⁷

Conclusions and recommendations

- 3.36 The Committee has considered the work of the Standing Committee on Petitions, with particular reference to the role and operations of the Committee and the effectiveness of the Standing Orders as they relate to petitions.
- 3.37 Indications that petitions are perceived to be treated seriously by the House are welcomed by the Committee. The remarks of the Clerk of the House are also relevant in this regard: 'Although petitioning is certainly not new to the House, the changes have created a more dynamic process. Importantly, the current procedures place a greater focus on what happens to a petition once it is received, which is arguably the most valuable aspect of the process to petitioners in their quest to have their grievances considered by the Parliament and the Government.'¹⁸

16 Dr Mark Zirnsak, *Transcript of Evidence*, 28 April 2010, p. 45.

17 Clerk of the House of Representatives, *Submission No. 1*, p. 2.

18 Clerk of the House of Representatives, *Submission No. 1*, p. 8.

- 3.38 The Committee also considers that the ‘pre-petitioning’ stage of the process has been enhanced by the changes to the web pages of the House and the inclusion there and on the Committee’s web page of information on the preparation of petitions and contact details of the secretariat from where advice can be obtained.
- 3.39 The website provides a collection of the terms of petitions, Ministers’ responses, and transcripts of round table meetings. Such easily accessible information for petitioners and anyone who is interested, is important for the standing of the House as well as for the convenience of petitioners: ‘...this added prominence and easy access to information on petitions considerably strengthens the role of petitions within the democratic process. The high number of signatures received in 2009 may indicate gains in awareness of the process for petitioning the House, and confidence in the value that the avenue offers citizens to have their grievances heard.’¹⁹
- 3.40 Generally the Committee is satisfied that the Standing Orders enable it, and those who interact with it, to fulfil their functions effectively. As noted, the possibility of debate on petitions has been raised and a possible mechanism to allow this has been canvassed by the Committee. At this stage the Committee does not recommend the Standing Orders be amended to include provision for presentation by a Member when a related motion or order of the day is moved or called on. The Committee’s view is that Sessional Order 207 should only be changed to be made permanent.
- 3.41 In the Committee’s view, one of the great successes of the changes to Standing Orders has been the diligence of Ministers in terms of their written responses to the Committee. The Committee notes too that its invitations to Public Servants to appear before it in respect of petitions and responses have overwhelmingly been treated with professionalism and respect for the institution of the Parliament. Accordingly, no change should be made to Sessional Order 209 other than to make it permanent.

Recommendation 1

The Committee recommends that the House make Sessional Orders 207 and 209 permanent.

19 Clerk of the House of Representatives, *Submission No. 1*, p. 8.

- 3.42 The Committee concludes that the petitions process would be further strengthened if it had the power to refer a petition to a House of Representatives committee for inquiry and report. However, the Committee considers that the adoption – or not – of an inquiry into a petition is a matter for the committee concerned. Only that committee will have full knowledge of its own work program and resources.

Recommendation 2

The Committee recommends that the Standing Orders be amended to enable the Petitions Committee to refer a petition to a House committee for inquiry and report, should the committee so choose.

- 3.43 The Committee is pleased with the work it has undertaken to date and with the way that its role has been evolving. No doubt, in the future, its role and style of operations will continue to evolve. What will remain, however, is its focus on strengthening the petitions process, through its contributions to accessibility, transparency and accountability.

Julia Irwin MP
Chair