

**Interim Report No. 3:
Monitoring and review
of procedural changes
implemented in the
43rd Parliament
The effectiveness of reforms to the
House committee system**

House of Representatives
Standing Committee on Procedure

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Foreword

Procedural reforms implemented at the beginning of the 43rd Parliament have now been in place for over a year. This short report by the Procedure Committee looks specifically at reforms relating to the House committee system and captures some of the features, opportunities and challenges associated with the first year of their implementation.

The review suggests that reforms to the operation of House and joint committees have generally been embraced enthusiastically by Members, though there are some aspects the Committee has highlighted as warranting further consideration.

The Committee will continue to seek feedback from Members and collect information about the impact of the reforms on Members' ability to perform their committee duties as effectively as they would wish.

Julie Owens MP
Chair



Membership of the Committee

Chair Ms Julie Owens MP

Deputy Chair Mr Russell Broadbent MP

Members Ms Sharon Bird MP

Mr Steve Irons MP

Hon Joel Fitzgibbon MP

Mr Ewen Jones MP

Ms Jill Hall MP (from 7 February 2012)

Mr Sid Sidebottom MP (to 7 February 2012)

Committee Secretariat

Secretary Ms Catherine Cornish

Inquiry Secretary Mr Justin Baker

Senior Researcher Ms Naomi Swann

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Terms of reference

To monitor and report on procedural changes implemented in the House of Representatives in the 43rd Parliament

The effectiveness of reforms to the House committee system

Introduction

- 1.1 Although parliamentary committees have existed since 1901, the House of Representatives committee system today reflects the structure introduced in 1987 when the House established a comprehensive series of general purpose standing committees to scrutinise all areas of government activity. Since then, successive parliaments have overseen some variations, the most notable occurring in 1998 following a major review by the Procedure Committee.¹
- 1.2 More recently, in June 2010 the Procedure Committee in its report on the effectiveness of House committees made a series of recommendations.² Many of these were taken up in the *Agreement for a Better Parliament: Parliamentary Reform* (the Agreement) negotiated between the political

1 Standing Committee on Procedure, *Ten years on: A review of the House of Representatives committee system*, May 1998, Parliamentary Paper No. 91/98. Available online at: <http://aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=proc/reports/comsys/index.htm>. The Government implemented many of the Committee's recommendations, including a reorganisation of the standing orders governing committees; a reduction in the membership of general purpose standing committees from 14 to 10 (or in one case – 12); and a greater consistency of powers and procedures between committees.

2 Standing Committee on Procedure, *Building a modern committee system: An inquiry into the effectiveness of the House committee system*, 21 June 2010, Parliamentary Paper No. 144/2010. Available online at: <http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=proc/committees2/report.htm>.

parties and non-aligned Members in the period between the 2010 federal election and the formation of government. They were implemented in the amendments to standing orders made at the beginning of the 43rd Parliament.³

1.3 Changes to the operation of House committees implemented in the 43rd Parliament include:

- a rationalisation of the number of general purpose standing committees and a reduction in their membership;⁴
- an increase in the number of supplementary members able to participate in a committee inquiry;⁵
- the ability for chairs and deputy chairs to make statements in the House about inquiries;⁶
- a requirement for ministerial explanations if government responses are not received within a six month timeframe;⁷ and
- the referral of bills requiring additional scrutiny (as determined by the Selection Committee) to House and joint committees.⁸

Background to inquiry and purpose of this report

1.4 It is over one year since significant procedural reforms – including the changes to committees – were introduced into the House. This is the Procedure Committee’s third report as part of its monitoring and review of the procedural changes. Recommendations the Committee made in its two previous interim reports are listed in Appendix A.

1.5 In May 2011, the Committee made some preliminary observations on the operation of the changes and suggested some initial fine-tuning.⁹ At the

3 H.R. Deb. (29.9.10) 116–143.

4 The number of general purpose House standing committees was reduced from twelve to nine while the permanent membership was reduced from ten to seven (or eight where a non-aligned member is appointed to a committee). See standing orders 215(a) and 215(d), *H.R. Standing and Sessional Orders*, 20 October 2010.

5 Supplementary membership increased from a maximum of two members to a maximum of four members. Standing order 215(d), 20 October 2010.

6 Standing order 39(a), 20 October 2010.

7 Resolution adopted 29 September 2010. See standing orders, 20 October 2010, p. 126.

8 Standing order 222(a)(iii), 20 October 2010.

9 Standing Committee on Procedure, *Interim report: Monitoring and review of procedural changes implemented in the 43rd Parliament*, 22 May 2011, Parliamentary Paper No. 116/2011. Available online at: <http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=proc/proceduralchanges/report1.htm>.

time the Committee began its report, the House had only sat for five weeks – insufficient time to conduct a comprehensive review – and therefore the Committee did not draw significant conclusions. Nor could it comment then on whether the ultimate objective of the reforms – the building of a more active and participatory House – had been achieved. Nonetheless it was important to document the early stages of this new style of parliament and to capture some initial reactions of Members and others who participate in the work of the House. The first interim report also enabled the Committee to flag some emerging issues arising from the reforms. To date, no response to this report has been received.

- 1.6 A second interim report was presented in July and focused specifically on one of the procedural changes foreshadowed in the Agreement: the referral of bills by the House Selection Committee to committees to prepare an advisory report to the House.¹⁰ While Members generally have been enthusiastic about the increase in opportunities to review proposed legislation, the new bill-referral mechanism has seen the workloads of some committees increase significantly. The Committee's report drew attention to the marked increase in bill referrals and its impact on committees' workloads and resourcing. The report suggested some enhancements to the referral process. To date, no response to this report has been received.
- 1.7 This, the Committee's third interim report, examines the effectiveness of reforms to the operation of the House committee system. In its first interim report, the Committee made some tentative comments on the changes to the committee system and indicated it would expand upon these later. Committees have now had over twelve months of changed operations and the Committee is better able to comment on the effectiveness of this aspect of the reforms.

Conduct of inquiry

- 1.8 At its first meeting of the 43rd Parliament, the Committee adopted the following terms of reference:

To monitor and report on procedural changes implemented in the House of Representatives in the 43rd Parliament.

10 Standing Committee on Procedure, *Interim report no. 2: Monitoring and review of procedural changes implemented in the 43rd Parliament – Referral of bills to committees by the House Selection Committee*, 4 July 2011, Parliamentary Paper No. 175/2011. Available online at: http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=proc/proceduralchanges/report2.htm. The report examined new standing order 222(a)(iii), agreed by the House on 29 September 2010.

- 1.9 In preparing this third interim report, the Committee has drawn on feedback provided informally, at Committee briefings and a roundtable meeting with Members (detailed below). The report also draws on data collected by the Chamber Research Office and on comments made by Members in the House, or elsewhere, which are in the public domain.
- 1.10 On 20 September 2011 the Committee held a private roundtable meeting, to which all Members were invited, to seek feedback on their views and experiences of reforms to the House committee system in the 43rd Parliament. On 13 October 2011 the Committee held a private meeting with the Speaker and the Clerk to discuss emerging issues on these reforms.
- 1.11 The House committee system comprises House general purpose standing committees, House domestic committees, and joint committees, on which Members serve. By convention, if the corresponding House and Senate standing orders or procedures differ, joint committees follow Senate standing orders or procedures.¹¹

Structure of report

- 1.12 This short report consists of this chapter and an appendix. The remainder of the chapter examines reforms to the operation of House and joint committees. The Committee considers the objectives of each reform and the mechanisms used to support their implementation. Where appropriate, the Committee has added comment about the effectiveness, from its observations, of each of the reforms.
- 1.13 Appendix A lists the recommendations of the Committee's two previous interim reports on the procedural reforms.

Rationalisation of general purpose standing committees

- 1.14 The implementation of the proposal in the Agreement to rationalise the number of committees and reduce their membership has seen the number of general purpose House standing committees reduced from twelve to nine.¹² The number of positions per committee has been reduced from ten

11 See *House of Representatives Practice*, 5th ed., p. 628, which notes that this practice is based on that of the United Kingdom whereby joint committees follow House of Lords select committee procedures when such procedures differ from those of Commons select committees.

12 Standing order 215(a), 20 October 2010.

permanent members to seven, with the membership of each committee comprising four government and three non-government members.¹³

- 1.15 The rationale for having fewer and smaller House standing committees was to alleviate time pressures on Members and to allow them to dedicate more time to the committee or committees on which they serve.¹⁴ Table 1.1 (p. 6) provides a comparative breakdown of the number of Members serving on committees in the 42nd and 43rd Parliaments.
- 1.16 While changes to standing orders reduced the number of permanent places on House standing committees from 161 to 125, the establishment of a new joint standing committee (the Joint Committee on the National Broadband Network) and six joint select committees in the 43rd Parliament has meant that, in effect, there has been little reduction in the number of committees on which Members may serve.
- 1.17 Select committees are established for a particular purpose, usually with a specific reporting deadline, and then they cease to exist upon completion of their final report. In the 42nd Parliament there was only one select committee; on this six positions were occupied by House Members. Already in the 43rd Parliament, Members have been appointed to 38 positions across the six joint select committees.¹⁵ Three of the committees have completed their inquiries and have been dissolved.
- 1.18 At the close of the 42nd Parliament, excluding *ex-officio* positions filled by the Speaker and Deputy Speaker, there were 262 positions on House and joint committees being filled by 115 eligible Members – an average of 2.3 positions per available Member.¹⁶ Most eligible Members were therefore required to serve on two or three committees. At 25 November 2011 there were 247 positions on House and joint committees being filled by 116 eligible Members – an average of 2.1 positions per eligible Member.

13 Standing order 215(d), 20 October 2010. Note: where a non-aligned Member is appointed to a general purpose standing committee, standing order 215(d) provides that committee membership consist of eight members – four government members, three non-government members and one non-aligned member.

14 Standing Committee on Procedure, *Building a modern committee system: An inquiry into the effectiveness of the House committee system*, 21 June 2010, Parliamentary Paper No. 144/2010, p. 68.

15 See Table 1.1, p. 6.

16 Eligible Members include shadow spokespersons, but exclude Ministers, Parliamentary Secretaries, the Leader of the Opposition, the Speaker and Deputy Speaker. See standing order 230, 20 October 2010 and *House of Representatives Practice*, 5th ed., pp. 635–37.

Table 1.1 Members of the House serving on committees in the 42nd and 43rd Parliaments*

	42nd Parliament		43rd Parliament	
House Standing Committees	Aboriginal and Torres Strait Islander Affairs	10	Aboriginal and Torres Strait Islander Affairs	7
	Climate Change, Water, Environment and the Arts	10	Agriculture, Resources, Fisheries and Forestry	8
	Communications	10	Appropriations and Administration	8
	Industry, Science and Innovation	10	Climate Change, Environment and the Arts	7
	Economics	10	Economics	7
	Education and Training	10	Education and Employment	7
	Employment and Workplace Relations	10	Health and Ageing	7
	Family, Community, Housing and Youth	10	House	6
	Legal and Constitutional Affairs	10	Infrastructure and Communications	8
	Health and Ageing	10	Petitions	10
	House	6	Privileges and Members' Interests	11
	Infrastructure, Transport, Regional Development and Local Government	10	Procedure	7
	Petitions	8 [^]	Publications	7
	Primary Industries and Resources	10	Regional Australia	8
	Privileges and Members' Interests	11	Selection	10
	Procedure	7	Social Policy and Legal Affairs	7
	Publications	7		
Joint Statutory Committees	Australian Commission for Law Enforcement Integrity	5	Australian Commission for Law Enforcement Integrity	5
	Australian Crime Commission	5	Broadcasting of Parliamentary Proceedings	5
	Broadcasting of Parliamentary Proceedings	5	Corporations and Financial Services	5
	Corporations and Financial Services	5	Intelligence and Security	6
	Intelligence and Security	5	Law Enforcement	5
	Public Accounts and Audit	10	Public Accounts and Audit	10
	Public Works	6	Public Works	6
Joint Standing Committees	Electoral Matters	5	Electoral Matters	5
	Foreign Affairs, Defence and Trade	22	Foreign Affairs, Defence and Trade	22
	Migration	6	Migration	6
	National Capital and External Territories	6	National Broadband Network	9
	Parliamentary Library	7	National Capital and External Territories	5
	Treaties	9	Parliamentary Library	6
Joint Select Committees	<i>Cyber-Safety</i>	7	<i>Australia's Clean Energy Future Legislation (dissolved)</i>	9
			<i>Australia's Immigration Detention Network</i>	6
			<i>Christmas Island Tragedy (dissolved)</i>	5
			<i>Cyber-Safety</i>	6
			<i>Gambling Reform</i>	6
			<i>Parliamentary Budget Office (dissolved)</i>	6
	Totals	262		267

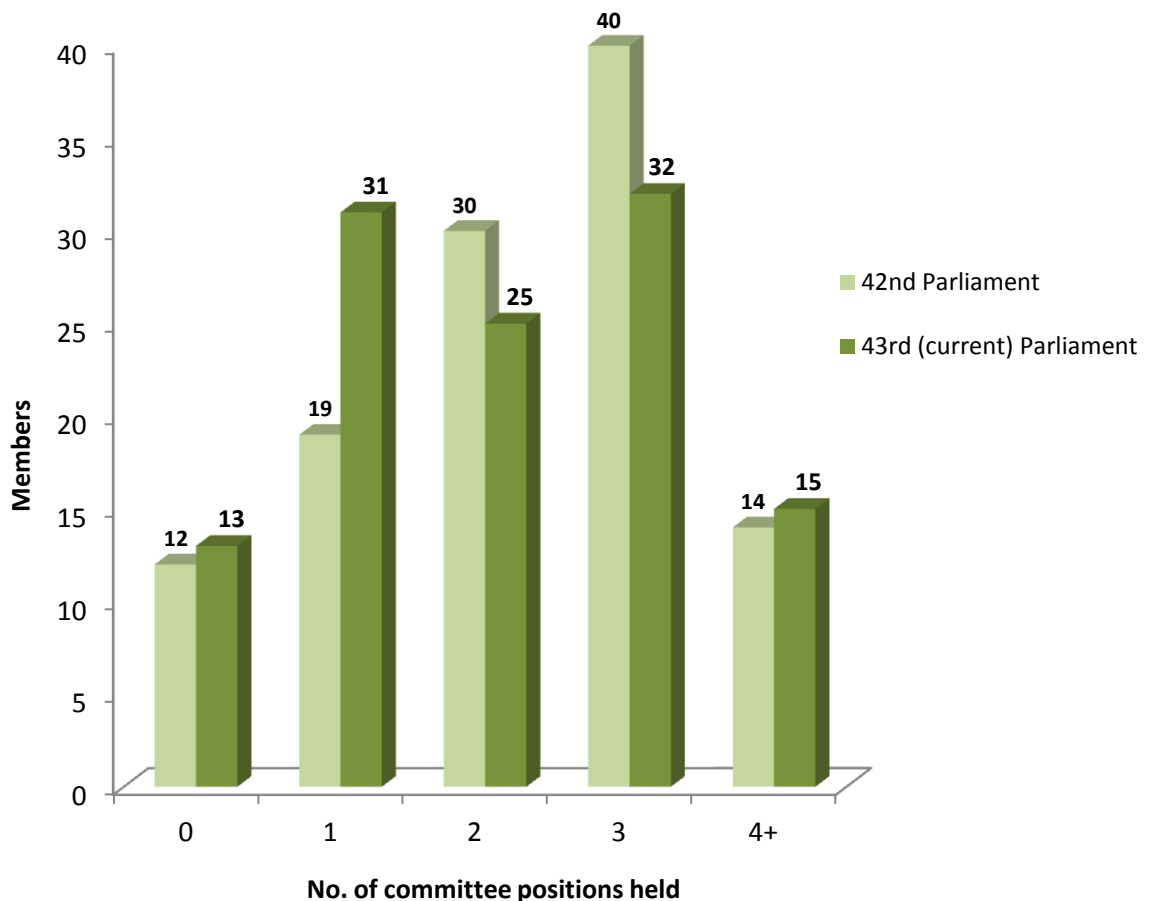
* Excludes ex-officio positions filled by the Speaker and Deputy Speaker.

[^] While standing orders allowed for 10 Members to serve on the Petitions Committee, 2 positions were vacant at 24 June 2010.

Source: *House of Representatives Notice Papers, 24 June 2010 and 24 November 2011.*

- 1.19 The distribution of committee positions among Members is shown in Figure 1.1. As this graph shows, there are more Members serving on one committee in the 43rd Parliament than in the previous parliament and fewer Members serving on two and three committees. The number of Members serving on four or more committees has increased by one. At the close of the 42nd Parliament, there were no Members serving on more than five committees, while in the current Parliament there are three Members serving on six committees.
- 1.20 The figures in Figure 1.1 and Table 1.1 do not include Members who participate in inquiries as supplementary members – Members falling within this category are discussed in the next section.

Figure 1.1 Distribution of committee positions among Members in the 42nd and 43rd Parliaments¹⁷



Source: House of Representatives Notice Papers 24 June 2010 and 24 November 2011.

17 Excludes membership on the three select committees which have been dissolved as at 25 November 2011 (see Table 1.1).

Supplementary members

- 1.21 Although the permanent membership of general purpose House standing committees has been reduced, the standing orders now provide for up to four supplementary members (with a maximum of two government and two non-government members) to be appointed for a particular inquiry.¹⁸ Previously a maximum of two supplementary members could be appointed per inquiry. This change to the standing orders was recommended by the Committee in its 2010 report as a means of allowing more Members to contribute to those areas most relevant to them.¹⁹
- 1.22 Supplementary members share the same participatory rights as permanent committee members but they cannot vote.²⁰ If a committee is considering a bill referred under standing order 143, one or more members may be replaced by other Members, by motion moved on notice.²¹ This does not affect the ability of a committee's membership to be supplemented in accordance with the provisions described above.²²
- 1.23 In the 43rd Parliament, regular use has been made of the provision to appoint supplementary members. At 25 November 2011, 22 Members have been appointed as supplementary members for a total of 12 committee inquiries (see Table 1.2, p. 9). By comparison, in the 42nd Parliament, three supplementary members were appointed for two inquiries, and in the 41st Parliament two supplementary members were appointed for one inquiry. The Committee notes that in the current parliament it has been common for shadow ministers to be appointed as supplementary members for inquiries concerning their portfolio.

Statements on inquiries by committee chairs and deputy chairs

- 1.24 In line with the Agreement, standing orders were amended to allow committee chairs and deputy chairs to make announcements in the House in relation to committee inquiries during periods for committee and delegation business on Mondays.²³ The Selection Committee determines time limits for these announcements and normally allocates five minutes

18 Standing order 215(d), 20 October 2010.

19 Standing Committee on Procedure, *Building a modern committee system: An inquiry into the effectiveness of the House committee system*, 21 June 2010, Parliamentary Paper No. 144/2010, p. 72.

20 Standing order 215(d), 20 October 2010.

21 Standing order 229(c), 20 October 2010.

22 Standing order 215(d), 20 October 2010.

23 Standing order 39(a), 20 October 2010.

Table 1.2 Supplementary members appointed to committees for inquiries in the 43rd Parliament

Date appointed	Committee	Inquiry	Supplementary members
16 Nov 2010 18 Nov 2010	Standing Committee on Regional Australia	Inquiry into the impact of the Murray-Darling Basin Plan in regional Australia	4 supplementary members
25 Nov 2010	Standing Committee on Climate Change, Environment and the Arts	Inquiry into the National Radioactive Waste Management Bill 2010	1 supplementary member
25 Nov 2010	Standing Committee on Economics	Inquiry into the Competition and Consumer (Price Signalling) Amendment Bill 2010 and Competition and Consumer Amendment Bill (No. 1) 2011	1 supplementary member
24 March 2011	Standing Committee on Education and Employment	Inquiry into the Social Security Legislation Amendment (Job Seeker Compliance) Bill 2011	1 supplementary member
7 July 2011	Standing Committee on Economics	Inquiry into the Food Standards Amendment (Truth in Labelling - Palm Oil) Bill 2011	4 supplementary members
17 Aug 2011	Standing Committee on Economics	Review of the Reserve Bank of Australia Annual Report 2010	1 supplementary member
13 Sept 2011	Standing Committee on Regional Australia	Inquiry into the use of 'fly-in, fly-out' (FIFO) and 'drive-in, drive-out' (DIDO) workforce practices in regional Australia	1 supplementary member
12 Oct 2011 13 Oct 2011	Standing Committee on Agriculture, Resources, Fisheries and Forestry	Inquiry into the Competition and Consumer Amendment (Horticultural Code of Conduct) Bill 2011 and the Constitutional Corporations (Farm Gate to Plate) Bill 2011	4 supplementary members
13 Oct 2011	Standing Committee on Agriculture, Resources, Fisheries and Forestry	Inquiry into the Environment Protection and Biodiversity Conservation Amendment (Mining, Petroleum and Water Resources) Bill 2011	1 supplementary member
13 Oct 2011	Standing Committee on Infrastructure and Communications	Inquiry into the Telecommunications Amendment (Enhancing Community Consultation) Bill 2011	1 supplementary member
21 Nov 2011	Standing Committee on Infrastructure and Communications	Inquiry into the Telecommunications Universal Service Management Agency Bill 2011, Telecommunications Legislation Amendment (Universal Service Reform) Bill 2011 and Telecommunications (Industry Levy) Bill 2011.	1 supplementary member
23 Nov 2011	Standing Committee on Social Policy and Legal Affairs	Inquiry into the operation of the insurance industry during disaster events	2 supplementary members

Source: Chamber Research Office statistics, 25 November 2011.

for each speaker. This provision reflects a recommendation by the Procedure Committee in its 2010 report on the effectiveness of the House committee system. The Committee considered that opportunities for short statements would further develop committee work and build on its accountability and transparency.²⁴ The Chair of the Committee of Privileges and Members' Interests, on using the new provision commented:

I want to thank the Standing Committee on Procedure for the change to the standing orders that actually allows us to discuss committee reports as they are going along and not just at the end, when all the hard work is done and you are relegated to five minutes in this place. I think this is a terrific initiative and I commend the parliament and those involved in the change.²⁵

- 1.25 A number of committees have used this opportunity to update the House and the Australian public on their work. In the 43rd Parliament at 25 November 2011, 14 announcements (23 individual statements) have been made by chairs and deputy chairs of seven different committees. Typically, announcements are made to announce new inquiries and comment on the progress of inquiries. In addition, chairs and deputy chairs have used the opportunity to relay a particular message with regard to an inquiry. For example, the Chair and Deputy Chair of the Migration Committee asked Members to promote an inquiry into multiculturalism in their electorates.²⁶ The Chair of the Committee of Privileges and Members' Interests encouraged Members to participate in a roundtable for the inquiry into a draft code of conduct for Members.²⁷
- 1.26 Announcements may be made in the House more than once in relation to a particular inquiry. For example, the Standing Committee on Regional Australia made announcements in the House at three different stages of its inquiry into the impact of the Murray-Darling Basin Plan in regional Australia. On 22 November 2010 announcements were made by the Chair and Deputy Chair outlining the scope and intended timetable for the inquiry.²⁸ On 28 February 2011 the Chair and Deputy Chair informed the House of the Committee's intention to relate issues of concern raised in

24 Standing Committee on Procedure, *Building a modern committee system: An inquiry into the effectiveness of the House committee system*, June 2010, Recommendation 7, Parliamentary Paper No. 144/2010, p. 53.

25 H.R. Deb. (28.2.11) 1528.

26 H.R. Deb. (28.2.11) 1521–1523.

27 H.R. Deb. (28.2.11) 1528–1529.

28 H.R. Deb. (22.11.10) 3114–3117.

evidence to relevant Ministers²⁹ and, on 23 May 2011, the Chair informed the House that the Committee would not be presenting its report within the time frame requested by the Minister.³⁰

Government responses to committee reports

- 1.27 Early in the 43rd Parliament, the House resolved to impose a six-month limit for government responses to reports by House and joint committees.³¹ If a response is not presented within six months, the relevant Minister must present a statement to the House explaining the reasons for the delay. In addition, the Minister is required to make him or herself available at the request of the relevant committee to answer questions on the statement. If no response is received, or the committee is unsatisfied with the Minister's response, the committee may seek assistance from the Auditor-General regarding matters in the report, or the Speaker regarding the timeliness of the government response.
- 1.28 Prior to the 43rd Parliament, successive governments have undertaken to provide responses to committee reports within a three month period, although there was no formal requirement that they do so.³² However, responses were rarely received within this timeframe and some reports received no response at all.³³ The resolution adopted in the current parliament in relation to government responses reflects the expectation of the House that the government provide timely responses to House and joint committee reports.

Referral of bills to committees by the House Selection Committee

- 1.29 A significant procedural reform foreshadowed in the Agreement was the re-establishment of a House Selection Committee that would have a new power to refer bills regarded as 'controversial or requiring further consultation or debate' directly to House or joint committees for advisory report.³⁴ That power has been exercised regularly.

29 H.R. Deb. (28.2.11) 1525–1528.

30 H.R. Deb. (23.5.11) 3994.

31 Resolution adopted 29 September 2010.

32 *House of Representatives Practice*, 5th ed., pp 689–90.

33 See report register for data on timeliness of responses. Available online at: http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=report_register/index.htm.

34 *Agreement for a Better Parliament: Parliamentary Reform*, clause 10.5, p. 6. This proposal was implemented in SOs 143(b) and 222(a)(iii), Standing Orders, 20 October 2010.

- 1.30 In its interim report of July 2011, the Committee noted the increase in referrals of bills and the corresponding impact on committees. The Committee suggested that the impact could be managed by amending standing order 222(a)(iii).³⁵ At that time 26 bills had been referred to House or joint committees by the Selection Committee. The Committee does not intend to revisit all of the issues canvassed in its previous report, although it will make observations on some recent developments in the evolution of advisory reports.
- 1.31 Since the Committee's previous report, a further 42 bills have been referred by the Selection Committee, bringing the number of bill referrals in the 43rd Parliament to 68³⁶ (see Table 1.3; sometimes related bills are referred, which are considered together). By comparison, between 1994 and the end of the 42nd Parliament in 2010, 16 bills were investigated by House committees in 14 committee inquiries.³⁷

Table 1.3 Bills referred to committees by the House Selection Committee in the 43rd Parliament

Title of Bill	Committee	Date referred
▪ Higher Education Legislation Amendment (Student Services and Amenities) Bill 2010	Education and Employment	21 Oct 2010
▪ National Radioactive Waste Management Bill 2010	Climate Change, Environment and the Arts	21 Oct 2010
▪ Wild Rivers (Environmental Management) Bill 2010	Economics	17 Nov 2010
▪ Competition and Consumer (Price Signalling) Amendment Bill 2010	Economics	24 Nov 2010
▪ Income Tax Rates Amendment (Temporary Flood and Cyclone Reconstruction Levy) Bill 2011	Economics	10 Feb 2011
▪ Tax Laws Amendment (Temporary Flood and Cyclone Reconstruction Levy) Bill 2011		
▪ National Health Reform Amendment (National Health Performance Authority) Bill 2011	Health and Ageing	3 March 2011
▪ Carbon Credits (Carbon Farming Initiative) Bill 2011	Climate Change, Environment and the Arts	24 March 2011
▪ Carbon Credits (Consequential Amendments) Bill 2011		
▪ Australian National Registry of Emissions Units Bill 2011		
▪ Social Security Legislation Amendment (Job Seeker Compliance) Bill 2011	Education and Employment	24 March 2011

35 Standing Committee on Procedure, *Interim report no. 2: Monitoring and review of procedural changes implemented in the 43rd Parliament – Referral of bills to committees by the House Selection Committee*, 4 July 2011. The Committee recommended that a majority decision of the Selection Committee be required to refer a bill and that the Committee provide reasons for referral of bills.

36 Includes one bill – the Wild Rivers (Environmental Management) Bill 2011 – which was referred separately to the Standing Committee on Agriculture, Resources, Fisheries and Forestry and the Standing Committee on Social Policy and Legal Affairs.

37 Additionally, two exposure drafts of bills were examined by the Standing Committee on Legal and Constitutional Affairs during the period.

▪ Competition and Consumer Amendment Bill (No. 1) 2011*	Economics	11 May 2011
▪ National Consumer Credit Protection Amendment (Home Loans and Credit Cards) Bill 2011	Economics	11 May 2011
▪ Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011	Social Policy and Legal Affairs	11 May 2011
▪ Telecommunications Legislation Amendment (Fibre Deployment) Bill 2011	National Broadband Network (Joint)	11 May 2011
▪ Taxation of Alternative Fuels Legislation Amendment Bill 2011	Economics	12 May 2011
▪ Excise Tariff Amendment (Taxation of Alternative Fuels) Bill 2011		
▪ Customs Tariff Amendment (Taxation of Alternative Fuels) Bill 2011		
▪ Energy Grants (Cleaner Fuels) Scheme Amendment Bill 2011		
▪ Offshore Petroleum and Greenhouse Gas Storage Amendment (National Regulator) Bill 2011	Agriculture, Resources, Fisheries and Forestry	26 May 2011
▪ Offshore Petroleum and Greenhouse Gas Storage (Registration Fees) Amendment Bill 2011		
▪ Offshore Petroleum (Royalty) Amendment Bill 2011		
▪ Offshore Resources Legislation Amendment (Personal Property Securities) Bill 2011		
▪ Offshore Petroleum and Greenhouse Gas Storage Regulatory Levies Legislation Amendment (2011 Measures No. 2) Bill 2011		
▪ Navigation Amendment Bill 2011	Infrastructure and Communications	26 May 2011
▪ Family Assistance and Other Legislation Amendment Bill 2011	Social Policy and Legal Affairs	2 June 2011
▪ Cybercrime Legislation Amendment Bill 2011	Cyber-Safety (Joint Select)	23 June 2011
▪ Schools Assistance Amendment Bill 2011	Education and Employment	23 June 2011
▪ Excise Tariff Amendment (Condensate) Bill 2011	Agriculture, Resources, Fisheries and Forestry	7 July 2011
▪ Excise Legislation Amendment (Condensate) Bill 2011		
▪ Food Standards Amendment (Truth in Labelling -Palm Oil) Bill 2011	Economics	7 July 2011
▪ Tobacco Plain Packaging Bill 2011	Health and Ageing	7 July 2011
▪ Trade Marks Amendment (Tobacco Plain Packaging) Bill 2011		
▪ Extradition and Mutual Assistance in Criminal Matters Legislation Amendment Bill 2011	Social Policy and Legal Affairs	7 July 2011
▪ Legislative Instruments Amendment (Sunsetting) Bill 2011	Social Policy and Legal Affairs	7 July 2011
▪ Superannuation Legislation Amendment (Early Release of Superannuation) Bill 2011	Corporations and Financial Services (Joint)	7 July 2011
▪ Territories Self-Government Legislation Amendment (Disallowance and Amendment of Laws) Bill 2011	Social Policy and Legal Affairs	25 Aug 2011
▪ Corporations (Fees) Amendment Bill 2011	Economics	25 Aug 2011
▪ Environment Protection and Biodiversity Conservation Amendment (Mining, Petroleum and Water Resources) Bill 2011	Agriculture, Resources, Fisheries and Forestry	15 Sept 2011
▪ Wild Rivers (Environmental Management) Bill 2011	Agriculture, Resources, Fisheries and Forestry	15 Sept 2011
▪ Competition and Consumer Amendment (Horticultural Code of Conduct) Bill 2011	Agriculture, Resources, Fisheries and Forestry	22 Sept 2011
▪ Constitutional Corporations (Farm Gate to Plate) Bill 2011		

<ul style="list-style-type: none"> ▪ Offshore Petroleum and Greenhouse Gas Storage Amendment (Significant Incident Directions) Bill 2011 	Climate Change, Environment and the Arts	22 Sept 2011
<ul style="list-style-type: none"> ▪ Consumer Credit and Corporations Legislation Amendment (Enhancements) Bill 2011 	Corporations and Financial Services (Joint)	22 Sept 2011
<ul style="list-style-type: none"> ▪ Education Services for Overseas Students Legislation Amendment (Tuition Protection Service and Other Measures) Bill 2011 ▪ Education Services for Overseas Students (Registration Charges) Amendment (Tuition Protection Service) Bill 2011 ▪ Education Services for Overseas Students (TPS Levies) Bill 2011 	Education and Employment	22 Sept 2011
<ul style="list-style-type: none"> ▪ Higher Education Support Amendment Bill (No. 2) 2011 	Education and Employment	22 Sept 2011
<ul style="list-style-type: none"> ▪ Telecommunications Amendment (Enhancing Community Consultation) Bill 2011 	Infrastructure and Communications	22 Sept 2011
<ul style="list-style-type: none"> ▪ Corporations Amendment (Future of Financial Advice) Bill 2011 	Corporations and Financial Services (Joint)	13 Oct 2011
<ul style="list-style-type: none"> ▪ Tax Laws Amendment (2011 Measures No. 8) Bill 2011 ▪ Pay As You Go Withholding Non-compliance Tax Bill 2011 	Economics	13 Oct 2011
<ul style="list-style-type: none"> ▪ Superannuation Legislation Amendment (MySuper Core Provisions) Bill 2011 	Corporations and Financial Services (Joint)	3 Nov 2011
<ul style="list-style-type: none"> ▪ Defence Trade Controls Bill 2011 ▪ Customs Amendment (Military End-Use) Bill 2011 	Foreign Affairs, Defence and Trade (Joint)	3 Nov 2011
<ul style="list-style-type: none"> ▪ Telecommunications Universal Service Management Agency Bill 2011 ▪ Telecommunications Legislation Amendment (Universal Service Reform) Bill 2011 ▪ Telecommunications (Industry Levy) Bill 2011 	Infrastructure and Communications	3 Nov 2011
<ul style="list-style-type: none"> ▪ Antarctic Treaty (Environment Protection) Amendment Bill 2011 	Climate Change, Environment and the Arts	24 Nov 2011
<ul style="list-style-type: none"> ▪ Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011 	Corporations and Financial Services (Joint)	24 Nov 2011
<ul style="list-style-type: none"> ▪ Insurance Contracts Amendment Bill 2011 	Economics	24 Nov 2011
<ul style="list-style-type: none"> ▪ Tax Laws Amendment (2011 Measures No. 9) Bill 2011 	Economics	24 Nov 2011
<ul style="list-style-type: none"> ▪ Electoral and Referendum Amendment (Maintaining Address) Bill 2011 	Electoral Matters (Joint)	24 Nov 2011
<ul style="list-style-type: none"> ▪ Road Safety Remuneration Bill 2011 ▪ Road Safety Remuneration (Consequential Amendments and Related Provisions) Bill 2011 	Infrastructure and Communications	24 Nov 2011
<ul style="list-style-type: none"> ▪ Access to Justice (Federal Jurisdiction) Amendment Bill 2011 	Social Policy and Legal Affairs	24 Nov 2011
<ul style="list-style-type: none"> ▪ Crimes Legislation Amendment (Powers and Offences) Bill 2011 	Social Policy and Legal Affairs	24 Nov 2011
<ul style="list-style-type: none"> ▪ Wild Rivers (Environmental Management) Bill 2011 	Social Policy and Legal Affairs	24 Nov 2011

Notes:

* The Standing Committee on Economics resolved to consider this Bill together with the Competition and Consumer (Price Signalling) Amendment Bill 2010 which was referred to the Economics Committee on 24 November 2010.

Source: Chamber Research Office statistics, 25 November 2011.

1.32 An emerging trend has been for committees (on five occasions as at 25 November 2011) to conclude their bills inquiries by having the Chair make a statement in the House, by leave, in discharge of the committee's requirement to present an advisory report, in those cases where the committee determined that a formal report was unnecessary:

- After considering evidence to its inquiry into the Schools Assistance Amendment Bill 2011, the Standing Committee on Education and Employment agreed not to inquire further into the bill and recommended that the House pass the bill. The Chair, Ms Amanda Rishworth MP, explained:

...it was unclear to the committee why this specific proposal was referred for inquiry considering it had been unanimously supported by stakeholders. The referral of an uncontroversial bill can significantly interrupt the work program of a standing committee for little or no gain. Worse still, an unnecessary referral may unsettle stakeholders, who could form a view that the referred bill may not be proceeded with or may be delayed because of the referral.³⁸

- The Chair of the Standing Committee on Social Policy and Legal Affairs similarly made a statement to the House in discharge of its requirement to present an advisory report on the Legislative Instruments Amendment (Sunsetting) Bill 2011. The committee had determined not to hold public hearings after no submissions were received to its inquiry. It reported that it had not identified any issues regarding the bill, and recommended that the bill be passed by the House without amendment.³⁹
- The Parliamentary Joint Committee on Corporations and Financial Services, after considering evidence received for its inquiry into the Superannuation Legislation Amendment (Early Release of Superannuation) Bill 2011, agreed that no further action was required. The Chair made a statement in the House discharging the requirement to present an advisory report and noted that the bill was 'simply a formalisation of arrangements that are already in place and...thus supported by the stakeholders.'⁴⁰
- The Chair of the Joint Standing Committee on Foreign Affairs, Defence and Trade made a statement in discharge of the committee's

38 H.R. Deb. (16.8.2011) 8175.

39 H.R. Deb. (18.8.2011) 8548-49.

40 H.R. Deb. (22.8.2011) 8738.

requirement to report on the Defence Trade Controls Bill 2011 and the Customs Amendment (Military End-Use) Bill 2011, noting that the principal bill – the Defence Trade Controls Bill – had also been referred to a Senate committee for inquiry. In order to avoid needless duplication, and in response to a Government request that the bills be dealt with expeditiously, the committee agreed not to further inquire into the bills and recommended that the House pass both bills without amendment.⁴¹

- The Standing Committee on Infrastructure and Communications agreed not to further inquire into the Telecommunications Universal Service Management Agency Bill 2011; the Telecommunications Legislation Amendment (Universal Service Reform) Bill 2011; and the Telecommunications (Industry Levy) Bill 2011 after forming the view that conducting an inquiry would unnecessarily duplicate an inquiry process already being undertaken by the Senate Environment and Communications committee.⁴²

1.33 A number of Committee Chairs – while commenting favourably on the increased opportunities for House and joint committees to examine legislation – indicated support for the Procedure Committee’s recommendation that a statement of reasons be provided by the Selection Committee when referring a bill. The Hon Dick Adams MP, Chair of the Standing Committee on Agriculture, Resources, Fisheries and Forestry, stated that:

...it would be in the interest of the committees to receive a small brief from the selection committee providing some context as to why a reference of a bill was made to a committee. I think the legislation is much better when it goes through a committee. We find that, and there are more bills coming to us. It is a great idea – a great concept – and we should encourage it, but the selection committee should consider why an inquiry is appropriate and give a reason for that within a small brief.⁴³

1.34 On another occasion, Mr Bernie Ripoll MP, Chair of the Parliamentary Joint Committee on Corporations and Financial Services, commented that committees would be able to target their efforts more effectively if the referral process included an explanation as to why the bill was referred.⁴⁴

41 H.R. Deb. (21.11.2011) 12912–13.

42 H.R. Deb. (22.11.2011) 13310–11.

43 H.R. Deb. (16.8.2011) 8177.

44 H.R. Deb. (22.8.2011) 8738.

The impact of House and joint committees on legislation

- 1.35 There is extensive comment from Members, through statements in the House and in committee reports, acknowledging the value of the increased opportunities for House and joint committees to examine bills. The obvious benefit is that such scrutiny by committees can result in better legislation.
- 1.36 Unlike the case in parliaments in some overseas jurisdictions, not every bill considered by the House is referred to a committee for scrutiny. Since the Selection Committee began making these determinations, 67⁴⁵ of a possible 300 bills have been referred to committees, or around one fifth of bills considered by the House.⁴⁶
- 1.37 Most committees conducting bills inquiries facilitate input by interested parties into the legislative process by inviting public submissions and holding public hearings. For completed inquiries into bills referred by the Selection Committee in the 43rd Parliament, 429 submissions have been received and 29 public hearings held. Not all bills inquiries include public hearings – though most have at least one – and sometimes more than one bill is examined concurrently. In scrutinising bills, committees may consider the policy intent or principles of a bill, or the way in which the policy is to be implemented. Inviting public scrutiny of bills through the committee inquiry process can assist in identifying improvements and unforeseen outcomes of proposed legislation.
- 1.38 The impact of House committees on legislation in the 43rd Parliament is difficult to measure effectively. It has been common for the Minister responsible for a bill(s) to commend the inquiring committee for its work in scrutinising the bill. Most advisory reports to date have recommended that the House simply accept, or reject, the bill(s) under consideration. Some reports have recommended specific, technical amendments (see para 1.39) or have made administrative recommendations on the implementation of programs and initiatives.⁴⁷

45 While there have been 68 referrals to committees by the Selection Committee, the Wild Rivers (Environmental Management) Bill 2011 – was referred separately to both the Standing Committee on Agriculture, Resources, Fisheries and Forestry and the Standing Committee on Social Policy and Legal Affairs.

46 317 bills have been introduced in the House in the 43rd Parliament, however there were 17 bills which, at the time of the Selection Committee first meeting to consider referrals, had either passed the House or the second reading debate had resumed and thus the Selection Committee was not able to make a determination to refer.

47 Examples of reports which have made administrative recommendations include Standing Committee on Economics, *Advisory Report on the Taxation of Alternative Fuels Bills 2011*, May 2011, Parliamentary Paper No. 127/2011; and Standing Committee on Education and

- 1.39 Committee reports on bills are advisory only and there is no obligation on a Minister or the House to accept a committee's recommendations. On occasions in the 43rd Parliament when committees have recommended specific amendments to proposed legislation, these have generally been welcomed. Bills which have been amended in line with committee recommendations include the National Consumer Credit Protection Amendment (Home Loans and Credit Cards) Bill 2011,⁴⁸ the Social Security Legislation Amendment (Job Seeker Compliance) Bill 2011⁴⁹ and the Offshore Petroleum (Royalty) Amendment Bill 2011.⁵⁰ In addition, the Attorney-General thanked the Joint Select Committee on Cyber-Safety for its detailed work on the Cybercrime Legislation Amendment Bill 2011 and indicated that he was considering its recommendations and would respond in time for debate in the Senate.⁵¹
- 1.40 While the Selection Committee set a reporting date for the first four bills it referred to committees in the 43rd Parliament (all in October/November 2010), only one subsequent bill referral has included a reporting deadline. Nonetheless, because reporting times are often negotiated between a committee and the relevant Minister, bills inquiries continue to be conducted quickly. The average duration of bill inquiries in the current parliament is 43 days.⁵² On four occasions, committees have received

Employment, *Advisory report on the Social Security Legislation Amendment (Job Seeker Compliance) Bill 2011*, May 2011, Parliamentary Paper No. 104/2011.

- 48 See the Hon Bill Shorten MP's comments, H.R. Deb. (22.6.2011) 6881, i.e.: '...we have listened to the stakeholders and agreed with the House of Representatives Standing Committee on Economics recommendation that the commencement date for the obligation to provide a home loan key facts sheet be moved to 1 January next year.' Amendment moved at p. 6881.
- 49 See the Hon Kate Ellis MP's comments, H.R. Deb (11.5.2011) 3647, i.e.: 'the (House Standing Committee on Education and Employment) makes one specific recommendation regarding this legislation – that is, that we remove the word 'special' from the proposed subsection 42UA, where it is used to describe a situation in which a job seeker would not be expected to give prior notice of their inability to attend an appointment. Following discussions with the opposition... the government has no objection to this recommendation.' Amendment moved at p. 3648.
- 50 See amendments moved and the Hon Martin Ferguson MP's comments, H.R. Deb (6.6.2011) 7739–7740, i.e. '...in moving these amendments, the Australian government is responding to a recommendation of the House Standing Committee on Agriculture, Resources, Fisheries and Forestry. The committee has recommended replacing the functions of the designated authority in the Offshore Petroleum (Royalty) Act 2006 with the responsible state minister.'
- 51 H.R. Deb. (24.8.2011) 9153.
- 52 Excludes the inquiry into the Wild Rivers (Environmental Management) Bill 2010 (176 days) which considered the bill as part of a broader inquiry into indigenous economic development in Queensland; and the inquiry into the Competition and Consumer (Price Signalling) Amendment Bill 2010 and Competition and Consumer Amendment Bill (No. 1) 2011 (210 days) which were referred almost six months apart, but considered together. Also excludes the inquiry into the Family Law Legislation Amendment (Family Violence and Other

submissions and conducted at least one hearing into a bill, and presented their advisory report within three weeks of the date of referral.

- 1.41 The short duration of bills inquiries can constrain public participation and lessen the effectiveness of a committee's role in the legislative process. On occasion in the 43rd Parliament, Members have voiced their concerns over the short timeframes within which advisory reports are produced. For example, when speaking to an advisory report on the Family Assistance and Other Legislation Amendment Bill 2011, Deputy Chair of the Standing Committee on Social Policy and Legal Affairs, the Hon Judi Moylan MP, stated:

The committee system is a very important system in scrutinising bills that come to this place but in this case it has been done in unseemly haste. Frankly, with all due respect to my good colleague, whom I work cooperatively with on this committee, asking for a rubber stamping of these measures makes a complete mockery of the operation of this parliament... There was very little consideration – there simply was not time. The public cannot be expected to have any confidence in parliamentary processes that treat serious and far-reaching legislation in such a cavalier and ill-considered manner.⁵³

- 1.42 Despite House committees' increased role in the scrutiny of legislation, during the Committee's informal discussions, it was told of the potential for greater integration between the work of committees and the work of the plenary. Experience in other jurisdictions suggests that the role of House committees in considering bills could be further strengthened so that clause by clause analysis of bills takes place in the committee inquiry stage rather than during consideration in detail in the House. While the House would continue to ultimately determine the final form of any legislation it passes, strengthening the role of committees could reduce the time the House spends dealing with amendments during the consideration in detail stage of a bill.
- 1.43 In the unicameral New Zealand Parliament, for example, virtually all bills are referred to a select committee after their first reading is agreed to. When reporting to the House, the select committee presents a reprinted bill showing the recommended amendments, along with a commentary explaining the rationale for its recommended changes. Proposed amendments supported by every committee member are automatically

Measures) Bill 2011, which reported one day after the bill was referred, advising that the Committee would not be further inquiring into the bill.

53 H.R. Deb. (14.6.2011) 5878.

included in the bill if the second reading is agreed, while those that are not agreed unanimously are subject to a single vote at the end of the second reading debate.⁵⁴ Similarly in the Scottish Parliament (also unicameral) where every bill is automatically referred to a committee for scrutiny, committees can consider and amend proposals for new laws, and can also propose new laws themselves in the form of committee bills.⁵⁵

Perceived duplication of evidence

- 1.44 In its second interim report, the Committee made some observations about the potential for excessive demands on inquiry participants where the same bill is reviewed by both a House committee and a Senate committee. Members recognise the importance of the independence of each house and the fundamental right of their committees to inquire into the same bill. Where this occurs, many of the same stakeholders would be invited to contribute written submissions and appear at hearings for each committee inquiry. To relieve some of the burden on stakeholders, an increasingly common practice in the current parliament has been for a committee examining a bill which has already been reviewed by its counterpart from the other house, to use the publicly available evidence of its counterpart.
- 1.45 A suggestion made to the Committee was to formalise arrangements to enable House and Senate committees to meet together to hear evidence when they are conducting concurrent inquiries into the same bill. While House standing orders provide for a committee to confer with a similar committee of the Senate,⁵⁶ Senate standing orders provide that a committee may not confer or sit with a House committee except by order of the Senate.⁵⁷ If committees met together, members of each could question witnesses in the same session, but the committees would then reconvene and deliberate independently and report back to their respective houses.
- 1.46 The Committee is aware of previous examples of cooperation – albeit informal cooperation – between counterpart committees. In 1994, the House Legal and Constitutional Affairs Committee met informally with its Senate counterpart to discuss possible cooperation on inquiries each was

54 New Zealand Parliament website, accessed 12 October 2011, available: <<http://www.parliament.nz/en-NZ/AboutParl/HowPWorks/FactSheets/>>.

55 The Scottish Parliament, *How the Scottish Parliament Works*, p. 18, accessed 10 October 2011, available: <<http://www.scottish.parliament.uk/PublicInformationdocuments/HTSPW11-180711.pdf>>.

56 Standing order 238, 20 October 2010.

57 Senate Standing order 40(1).

conducting into aspects of section 53 of the Constitution. The House subsequently authorised the committees to formally meet together to collect and examine evidence. The resolution provided for meetings to be jointly chaired by the Chairs of both committees and for Senate privilege procedures to be followed where applicable.⁵⁸ A Senate resolution directed the Senate Legal and Constitutional Affairs Committee to confer accordingly.⁵⁹ In the end, no formal joint meeting took place, partly due to the workload of the Senate committee, but the two committees did meet together once more, informally.⁶⁰

The workload of committees in the 43rd Parliament

1.47 The increased workload of many committees supported by the Department of the House of Representatives has had some ramifications for resources, including the time of Members. The referral of bills has affected some committees more than others; most notably the Standing Committee on Economics and the Standing Committee on Agriculture, Resources, Fisheries and Forestry, which, between them, have received 27 of the 68 bills referred by the Selection Committee (see Table 1.4).

Table 1.4 Number of bills referred to committees by the House Selection Committee

Committee	No. of bills referred
Standing Committee on Economics	16
Standing Committee on Agriculture, Resources, Fisheries and Forestry	11
Standing Committee on Social Policy and Legal Affairs	8
Standing Committee on Education and Employment	7
Standing Committee on Infrastructure and Communications	7
Standing Committee on Climate Change, Environment and the Arts	6
Joint Committee on Corporations and Financial Services	5
Standing Committee on Health and Ageing	3
Joint Standing Committee on Foreign Affairs, Defence and Trade	2
Joint Select Committee on Cyber-Safety	1
Joint Committee on the National Broadband Network	1
Joint Standing Committee on Electoral Matters	1
Total	68

Source: Chamber Research Office statistics, 25 November 2011.

58 House of Representatives, *Votes and Proceedings No. 83*, 30 June 1994, p. 1165.

59 *Journals of the Senate*, No. 82, 12 May 1994.

60 House of Representatives Standing Committee on Legal and Constitutional Affairs, *The third paragraph of section 53 of the Constitution*, November 1995, pp. 2–3.

- 1.48 Not all bills inquiries conducted by House and joint committees are initiated through a referral by the Selection Committee, though most have been. Standing order 215(b) provides for bills to be referred to general purpose standing committees directly by the House or Minister.⁶¹ On 2 November 2011 the Treasurer requested the Standing Committee on Economics to inquire into and report on 11 bills relating to the proposed Minerals Resource Rent Tax. Table 1.4 also does not account for the package of 19 bills examined by the Joint Select Committee on Australia's Clean Energy Future Legislation (the Committee was established specifically to inquire into and report on the provisions of the bills),⁶² or three bills which the Senate referred to the Joint Select Committee on Gambling Reform for advisory report.⁶³
- 1.49 In proposing amendments to standing orders in line with the Agreement, the Leader of the House, the Hon Anthony Albanese MP, announced on 29 September 2010 that an external review of the House of Representatives committee office staffing would be commissioned by the Department of the House of Representatives. Such a review had been recommended by the Procedure Committee in its June 2010 report on the effectiveness of the House committee system.⁶⁴
- 1.50 In December 2010, HBA Consulting was engaged to undertake the review to determine the nature and level of staffing necessary to support the ongoing work of committees. The report of the review concluded in March 2011 and recommended that:
- the Committee Office formally adopt a structural model whereby one secretariat provides support to two committees;
 - an additional workgroup be established to allow this model to be implemented fully;
 - in response to an increase in bills inquiries by House committees, additional resources be provided initially to support this work in 2011-12, and then the level of resourcing be reviewed; and
-

61 Standing order 215(b), 20 October 2010.

62 The Committee was established under a resolution of appointment passed by the House of Representatives on 14 September 2011 and the Senate on 15 September 2011.

63 See *Journals of the Senate*, No. 7, 28 October 2010, p. 240; and *Journals of the Senate*, No. 34, 20 June 2011, p. 1037. Note: the resolution of appointment for the Joint Select Committee on Gambling Reform directs the committee to inquire into and report on 'any gambling-related legislation that has been tabled in either House, either as a first reading or exposure draft,' *Journals of the Senate*, No. 3, 30 September 2010, p. 141.

64 Standing Committee on Procedure, *Building a modern committee system: An inquiry into the effectiveness of the House committee system*, June 2010, Recommendation 7, Parliamentary Paper No. 144/2010, p. 33.

- additional budget resources be allocated specifically to enable the Committee Office to procure external expert advice for inquiries, when required and requested.⁶⁵
- 1.51 The review's recommendations were supported by the department. Additional funding allocated for 2011-12 and the three following years to support the Joint Committee on the National Broadband Network has allowed for an additional workgroup to be established and for the committee office to move to a model whereby each team of secretariat staff supports two separate committees, not three.⁶⁶ The committee understands that implementation of the final two recommendations is subject to the department securing supplementary funding in the next financial year.
- 1.52 Predominantly, committee inquiries are supported by departmental secretariat staff and, when specific technical expertise on a matter is required, the department may be able to second an officer from a relevant department or agency to provide technical advice (examples in the 43rd Parliament include the inquiries into the Murray-Darling Basin Plan and Australia's Clean Energy Future Legislation).

Conclusions

- 1.53 This review of the first year of operation of significant changes to House committees suggests that reforms have generally been embraced enthusiastically by Members. The benefits of rationalising the number of general purpose standing committees and reducing their membership have been offset to some extent by the establishment of a number of joint select committees in the 43rd Parliament. The Committee will continue to monitor this trend and its impact on the ability of Members to perform their committee roles as effectively as they would wish.
- 1.54 The ability for committees to have their membership supplemented by up to four members for specific inquiries has increased flexibility for Members to participate in inquiries relevant to them and their constituents. This provision has been used consistently throughout this parliament.

65 HBA Consulting, *House of Representatives Committee Office Review of Staffing*, March 2011, pp. 37-38.

66 Department of the House of Representatives, *Annual Report 2010-11*, pp. 36-37.

- 1.55 The Committee notes that since the House resolved to require ministerial explanations if government responses to committee reports are not received within six months, the six-month period has elapsed for 14 committee reports presented in the 43rd Parliament which require a response. Of these 14 reports, nine have received a government response (three of which were outside the six-month timeframe), while five remain outstanding.⁶⁷ It may be that the committees concerned have negotiated an extension of time for a government response.⁶⁸ The Procedure Committee will continue to monitor the timeliness of government responses in light of the resolution, and will invite feedback from Members on the effectiveness of this reform.
- 1.56 House committees have embraced their revitalised role in the scrutiny of bills in the 43rd Parliament and the opportunity to contribute to better quality legislation. Amendments to bills based on committee recommendations are a measure of the success of this reform. The committees most affected by bills inquiries appear to have coped well, although some Chairs and Deputy Chairs have drawn attention to the need for adequate support to committees to enable them to perform their duties effectively. The Committee notes that committee support is not simply about staff numbers. It is about adequate numbers of appropriately trained staff and adequate time for Members and staff to undertake their roles.
- 1.57 Notwithstanding resource considerations, there may be some scope for a further strengthening of the role of House and joint committees in scrutinising bills. If committees were allocated a longer period of time to conduct bills inquiries and provided additional resources, their capacity to scrutinise and influence legislation could be considerably enhanced. A strengthening of the committee inquiry stage of bills could potentially reduce the time the House spends dealing with proposed detailed amendments as a plenary. However, in addition to a further cultural shift, this would require that committees are resourced accordingly, including with access to specialist expertise in drafting legislative amendments. A further consideration would be to ensure that those Members with

67 See Speaker's schedule of outstanding government responses to reports of House of Representatives and joint committees. Available online: <http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=info/govr esp.htm>, accessed 6 February 2012.

68 For example, the Speaker's schedule of outstanding government responses indicates that in the case of the Joint Committee of Public Accounts and Audit's Report 418: Review of Auditor-General's Reports Nos. 04 to 38 (2009/10), the Committee had received a partial response, but had given until the end of the calendar year for the full government response.

relevant interest in a bill and who wish to contribute to an inquiry can be accommodated. One option may be to expand the provision for appointment of supplementary Members. At this stage the Committee does not make a recommendation on this issue but flags it as a matter for future consideration.

- 1.58 If the current trend continues, there will likely be occasions when House committees and their Senate counterparts will each be asked to examine the same bill. Members recognise the importance of the independence of both houses of the Parliament, including the capacity for committees of each to inquire into the same bill.⁶⁹ In the longer term, however, it may be constructive for the two houses to reduce some duplication in their work and agree to a standard approach whereby committees may meet together, at least to collect evidence, if not to consider it further. This would also relieve some of the burden on stakeholders who currently may be asked to provide evidence to two similar inquiries and, over time, may suffer from 'inquiry fatigue'. As committees of both houses not only seek, but also rely heavily on input from those outside parliament to add value to their inquiries, such an initiative could be expected to enhance the quality of committee reports to parliament and the legislative process as a whole. The Committee would be pleased if the Liaison Committee of Chairs and Deputy Chairs were asked to consider this issue and to report its views to the Speaker.
- 1.59 The Procedure Committee will continue to seek the views of Members on this matter – and in general, on the ability of Members to contribute as effectively as they wish to committee work – as part of its ongoing inquiry into the procedural reforms. The Committee also looks forward to receiving a response to the recommendations in its two previous interim reports on the reforms.⁷⁰

JULIE OWENS MP
Chair

16 February 2012

69 See, for example, House Standing Committee on Social Policy and Legal Affairs, *Advisory report: Territories Self-Government Legislation Amendment (Disallowance and Amendment of Laws) Bill 2011*, September 2011, p. 4.

70 A list of previous Procedure Committee recommendations in the 43rd Parliament is at Appendix A.



A

Appendix A – Procedure Committee recommendations in the 43rd Parliament

Interim Report: Monitoring and review of procedural changes implemented in the 43rd Parliament (presented 13 May 2011)

Recommendation 1 (para 3.27)

The Committee recommends that the Selection Committee be encouraged to implement the 'General principles relating to the selection of private Members' business' and exercise the flexibility that is available to it pursuant to standing order 222 and the principles, particularly in relation to the length of debates and speaking times allocated.

Recommendation 2 (para 3.30)

The Committee recommends that the House take up the Selection Committee's recommendation that it consider adopting the 'General principles relating to the selection of private Members' business' (contained in Report No. 3 of the Selection Committee of 21 October 2010).

Recommendation 3 (para 5.24)

The Committee recommends that the House considers measures to manage the workload of Members during sitting weeks, having regard to the health and wellbeing of Members, their staff and parliamentary staff, including but not limited to:

- a) commencing at 12.00 noon on Mondays in the House and 12.30 pm in the Main Committee;
- b) commencing at 12.00 noon on Tuesdays in the House;

- c) offsetting the reduction in sitting hours resulting from a) and b) by reducing the time allocated to private Members' business each week by three hours;
- d) providing that divisions called for after 8.30 pm on Mondays and Tuesdays be deferred until the following day; and
- e) reducing the time allocated for adjournment debate by half an hour on one evening.

Recommendation 4 (para 5.55)

The Committee recommends that draft amendments to standing orders which enhance the operations of the House and correct oversights and inconsistencies be prepared and proposed for consideration by the House.

Interim Report no. 2: Monitoring and review of procedural changes implemented in the 43rd Parliament—Referral of bills to committees by the House Selection Committee (presented 4 July 2011)

Recommendation 1 (para 1.31)

The Committee recommends that standing order 222(a)(iii) be amended to remove the provision that one member of the Selection Committee is sufficient to select a bill for referral to a House or joint committee for advisory report – thereby requiring a majority decision of the Committee – and to require that the Committee provide reasons for the referral of bills to committees.