



Review of Standing Orders 2023

Report of the Standing Orders Committee

Fifty-third Parliament
(Rt Hon Adrian Rurawhe, Chairperson)
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Presented to the House of Representatives

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Contents

Part 1	5
Recommendation to the House.....	5
Recommendation to select committee	5
Recommendation to the Government.....	5
Introduction.....	5
Themes.....	6
Key proposals.....	7
1 General provisions and office-holders	9
Definition of working day—Te Rā Aro ki a Matariki.....	9
Official coverage of select committee proceedings.....	9
Presiding officers	11
Recognition of component parties.....	12
Simplifying parliamentary terminology.....	13
Leader of the Opposition.....	13
2 Sittings of the House	15
Remote participation	15
Lobbying	15
Adjusting sitting hours.....	16
Sitting programme.....	16
3 General procedures	18
Reading speeches	18
Personal votes	18
4 Select committees	20
Select committee structure and membership	20
Scrutiny function of subject select committees	21
Chairpersons and deputy chairpersons.....	22
Advice.....	23
Making select committees more accessible to engage with.....	24
Other matters relevant to select committees covered elsewhere in this report	26
5 Legislative procedures	27
Preliminary procedures for local bills and private bills	27
Order of business of members' bills	29

Postponement of members' bills	29
First readings of bills	30
Departmental disclosure statements	31
Select committee consideration of bills	32
Proposals for entrenchment	32
New Zealand Bill of Rights Act 1990	33
Post-legislative scrutiny of bills passed under urgency	35
Declarations of inconsistency	35
Secondary legislation	36
6 Financial procedures	40
Substantial changes to select committee scrutiny procedures	40
Scrutiny weeks	42
Purpose of scrutiny	43
Scrutiny plans	44
In-depth reviews	47
Broader scope for annual reviews	49
Review briefings	50
Examination of Estimates	50
Introductory remarks by witnesses	51
Facilitating sustained questioning	52
Encouraging follow-up scrutiny	52
Scrutiny activities reports	53
Extending deadline for examination of certain economic and fiscal reports	53
Proposed inquiry into public finance performance reporting	54
7 Non-legislative procedures	56
Petition 2020/154 of Michael Gibson	56
Questions to Ministers and members	56
Urgent debates	57
Special debates	58
Petitions Committee	58
Appointment and removal of statutory office holders	59
International treaties	59

8 Pecuniary and other specified interests..... 61
Real property 61
Review of Appendix B in next Parliament..... 62
Part 2—Recommended amendments to the Standing Orders..... 63
Appendix A—Committee procedure and membership 103
Appendix B—List of submitters..... 104
**Appendix C—Time committed by select committees to annual review and Estimates hearings
in 53rd Parliament 105**

Review of Standing Orders 2023

Part 1

Recommendation to the House

We recommend to the House that the amendments to the Standing Orders set out in Part 2 of this report be adopted, with effect from the day after the dissolution or expiration of the present Parliament.

We recommend to the House that, after the opening of the next Parliament, it adopt a sessional order to provide that a local bill or a private bill for which preliminary procedures were carried out before 1 January 2024, and in respect of which the Standing Orders as they applied before the dissolution of the 53rd Parliament were complied with, be deemed to comply with the Standing Orders despite any inconsistency with them as they will now apply.

We recommend to the House that it establish an ad hoc select committee in the next term of Parliament to conduct an inquiry into performance reporting and the provision of information by the Government through which it is held accountable by the House.

Recommendation to select committee

We recommend to the Foreign Affairs, Defence and Trade Committee that it conduct an inquiry into how treaties are made and the parliamentary procedure for examining them.

Recommendation to the Government

We recommend to the Government that the Public Service Commission, in conjunction with the Office of the Clerk, review the guidance for public servants who provide advice to select committees.

Introduction

Reviewing the Standing Orders, procedures, and practices of the House is the central function of the Standing Orders Committee.¹ This report sets out our unanimously recommended amendments to the Standing Orders, and our explanations and guidance for how practices should operate.

¹ The functions of the committee are set out in Standing Order 7.

The Standing Orders of the House of Representatives are reviewed in each term of Parliament. The regular examination and amendment of the House's rules and practices is important to maintain the relevance and effectiveness of Parliament. The review is conducted on the basis of overwhelming support, as is appropriate for determining rules of a constitutional nature, such as how laws are made, and how the Government is held to account. Achieving broad support across parties for the recommended changes bolsters the legitimacy of the Standing Orders and the vital parliamentary functions they underpin.

Another significant feature of the Review of Standing Orders is that it commences with a call for submissions, through which members of the public can suggest changes to how Parliament works. As usual, we received a variety of interesting ideas, and we thank all submitters who contributed to this important process. A distinctive feature of this review was that a second round of submissions was sought, on the particular issue of proposals for entrenchment. Again, we appreciate the highly thoughtful input that submitters made on this topic.

During our review we received various proposals for changes to select committee practice or services available to support select committees. We have avoided making recommendations that would require significant funding to implement. The committee recognises the concern of submitters and the importance of funding Parliament so it can most effectively discharge its functions.

Themes

Reviewing the Standing Orders involves a mix of fine-tuning and updating the House's rules, on the one hand, and considering broader topics related to the effectiveness with which Parliament carries out its functions. In this review, we have considered how to improve the performance of the House's fundamental role of scrutinising the executive, especially as it occurs through the select committee system.

At the outset of our work on this review, we reached a collective view that select committee scrutiny of the executive is not consistently effective. Individual members engage with the process and use the sporadic opportunities afforded to them, but committee dynamics and priorities often do not permit an in-depth examination. Scrutiny is not systematically, reliably robust. Meaningful scrutiny by select committees should be a given, and should drive better governance. At present, scrutiny could not realistically be described in these terms.

We have discussed reforming the structure of the select committee system, but have not reached agreement on a model that would empower scrutiny without potentially disrupting the constructive examination of legislation by committees, which is a key feature of New Zealand's law-making process. Instead, we propose a more structured approach to select committee scrutiny activities, to ensure there are regular occasions for sustained and systematic examinations of Government intentions and performance. A complaint we heard about the current state of scrutiny is that Governments can frustrate scrutiny through the weight of numbers on committees. Our recommendation is to codify a robust level of scrutiny activity in the House's rules, so there is a strong expectation that the Government and its organisations will be held to account regularly by committees through the whole term of Parliament.

Improving law-making has also emerged as a theme of this review, with some important changes relating to the examination of legislative quality matters. As agreed across the House in 2022, the procedure for considering declarations of inconsistency with the rights and freedoms safeguarded under the New Zealand Bill of Rights Act 1990 (NZBORA) is to become a permanent feature of the House's rules. We have also discussed how amendments to bills may be examined in terms of their effects on NZBORA consistency. As noted above, we have considered the topic of proposals for entrenchment, and have recommended more rigorous procedural requirements for such proposals in future.

Key proposals

Our main proposals include:

- **Purpose of scrutiny**—adding a purpose statement to guide committees and chairpersons in conducting scrutiny of the executive branch.
- **Scrutiny plans and scrutiny activities reports**—requirements for subject select committees to adopt scrutiny plans for how they will conduct scrutiny activities during the term of Parliament, and for them to report on their implementation of those plans.
- **More time for scrutiny hearings**—two “scrutiny weeks” each year, with committee hearings on Estimates and annual reviews taking place instead of the House sitting, and members, Ministers, and public sector leaders expected to prioritise these hearings.
- **Detailed annual review procedures**—introducing particular rules about designating some agencies for in-depth reviews, with three-hour examinations conducted on a thematic basis.
- **Review briefings**—planning for committees to carry out reviews of some organisations outside the annual review procedure, with an expectation that robust examinations of all organisations will occur at least once each term, while freeing up time during annual reviews to focus on priority organisations.
- **Inquiry into public finance performance reporting**—recommending that a special select committee be established in the next term, for the purpose of inquiring into how the reporting by the Government and its organisations could be made more meaningful.
- **First reading debates shortened**—reducing speaking time on the first reading of Government bills, to balance replacing two sitting weeks each year with scrutiny weeks.
- **Proposals for entrenchment**—prohibiting any proposals for entrenchment being considered in a committee of the whole House without first being considered by a select committee, which must call for submissions and report on the proposal.
- **Inquiry into international treaties**—recommending that the Foreign Affairs, Defence and Trade Committee inquire into how international treaties are made, analysed, and examined by select committees.
- **Official coverage of select committees**—clearer provision for the Clerk, as broadcaster of official coverage, to delay or alter coverage of select committee proceedings if warranted in exceptional circumstances.

- **Parliamentary terminology**—making some parliamentary jargon more understandable, for example by adjusting the wording of the closure motion, and recommending that the term “Supplementary Order Paper” be phased out.
- **Sitting hours**—embedding the recent change to sitting hours, to lengthen the dinner break and finish at 6pm on Thursdays, while providing greater flexibility for members to leave the precincts from 5pm to return homewards.
- **Personal votes**—permanently changing the procedure so votes will be administered by the Clerk without members being appointed as tellers.
- **Secondary legislation**—updating provisions for the examination of secondary legislation, to align them with the Legislation Act 2019, while retaining the broad remit of the Regulations Review Committee.
- **Private bills and local bills**—updating the preliminary procedures for these bills, including changes so not all private bills need to be advertised in a newspaper.

1 General provisions and office-holders

Definition of working day—Te Rā Aro ki a Matariki

In 2022, section 5 of Te Ture mō te Hararei Tūmatanui o te Kāhui o Matariki 2022 | Te Kāhui o Matariki Public Holiday Act 2022 made Te Rā Aro ki a Matariki | Matariki Observance Day a public holiday. The House has also recognised this new public holiday through a sessional order.² We recommend permanently adding Te Rā Aro ki a Matariki | Matariki Observance Day to the list of public holidays in the Standing Orders, so it is clear that parliamentary business cannot take place on that day.

Amendment 1 Definition of working day

Amend the list of public holidays in the definition of working day to include Te Rā Aro ki a Matariki | Matariki Observance Day.

Official coverage of select committee proceedings

Videos of public hearings held by select committees are made available on the internet, unless the committee resolves to prohibit the making of images and recordings under clause 2 of Appendix D of the Standing Orders. Webcasts of select committee proceedings constitute official coverage under Standing Order 8(1). Official coverage of hearings is made publicly available on Facebook, Vimeo, and the Parliament website, both for live webcast and as video-on-demand.

Official coverage of select committee proceedings is now very important for the accessibility of parliamentary proceedings. Practices around official coverage of select committee proceedings have developed in ways that should be reflected in the Standing Orders.

We agree that the following principles should apply:

- Official coverage of public proceedings of select committees should be made available, with few exceptions.
- Select committees and submitters to select committees must have confidence in the system for broadcasting.
- The availability of proceedings must balance the need for transparency with the mitigation of serious risks to reputation and the safety of individuals.
- The Clerk is independent in their role as broadcaster of official coverage.
- Alterations to official coverage should be exceptionally rare.

² Sessional Order of 22 June 2022.

Alteration of on-demand official coverage

From time to time on-demand official coverage contains material that raises significant concerns. For example, coverage has contained the disclosure of children’s sensitive personal details, allegations that may seriously damage a person’s reputation in a way that is not relevant or necessary, and references to matters suppressed by court order. The coverage has been altered, redacted or taken down to mitigate the harm that its availability could cause.

Actions to alter the availability of coverage have been prompted by committees themselves, and by submitters or other people affected by the coverage. Adjustments may involve simply muting the relevant part of the recording. In particularly severe cases, a person’s entire oral submission may be removed from the video of the hearing. It is important to note that such alterations do not affect the status of the proceedings themselves; the relevant hearings are still public hearings to which no confidentiality attaches. It affects only the communication of those proceedings to the public.

The decision about whether to alter official coverage of select committees sits with the Clerk, as broadcaster. Alterations are made only when warranted by extraordinary circumstances. We expect the Clerk to consult the select committee before making a final decision in respect of a request for alteration and to advise the Speaker after making a decision. We note that the Clerk may, at times, need to make a decision quickly. In these cases, the Clerk may make an interim decision—altering the footage immediately, before consulting the committee on how the footage should be treated thereafter.

Amendment 2 Alteration of on-demand official coverage

Amend Standing Order 8 to clarify that the Clerk, as the provider of official coverage, may alter the coverage of select committees when warranted (including on an interim basis), and require the Clerk to take account of the views of the committee concerned and to advise the Speaker of their decision.

Committee request to delay or alter availability of official coverage

A practice has emerged in which select committees occasionally agree to hear from a witness in public, but request that the official coverage be made available through on-demand viewing only, rather than live. This allows the committee to address any procedural issues arising in the evidence, such as those that may lead to a request for the Clerk to alter the coverage. This approach operates as an alternative to simply hearing from the relevant witness in private, which is never broadcast.

This practice strikes a good balance between the presumption of hearings being open to the public and mitigating some of the uncertainty that can accompany hearing from members of the public—particularly on contentious or sensitive issues. When this process is used, we expect the coverage to be made available as soon as practicable, after any procedural issues are dealt with.

Following from this, if after hearing evidence a committee decides that the evidence gives rise to serious risk to the reputation or safety of individuals, the committee may wish to make

a request for the Clerk to alter the availability of the official coverage of that evidence. We recommend that the Standing Orders provide for committee requests to this effect.

Amendment 3 Committee request to delay or alter availability of official coverage

Amend Standing Order 8 to clarify that a select committee may request that the Clerk delay broadcasting, transmitting, or otherwise making available official coverage of particular proceedings by such time as is necessary to resolve any procedural issues arising in those proceedings, and that they may request the alteration of available official coverage in exceptional circumstances.

Requiring leave to prohibit permitted persons from making recordings

The Standing Orders authorise permitted persons—including the Clerk and the press gallery—to make images and recordings of public select committee hearings. Despite this standing authorisation, a committee may prohibit permitted persons from making images or recordings during particular proceedings of the committee. This is subject to a resolution by a simple majority of the committee. This gives committees the ability to prohibit official coverage of public proceedings, and could allow a majority of members from parties in Government to prohibit official and media coverage of hearings of evidence that involve scrutiny of the executive.

There is a strong expectation that public hearings should be covered by official coverage. There may still be some circumstances in which a committee may wish to restrict the making of images and public recordings of public proceedings, and allowing it to do so is consistent with the principle that a committee controls its proceedings.

However, we believe that this decision should only be made by leave, rather than by simple majority. This would be aligned with the level of agreement required to hear evidence in private or secret. Requiring leave would reflect the House's view that committees should be unanimous in departing from the strong presumption that proceedings may be covered.

Amendment 4 Prohibiting permitted persons from making recordings

Amend clause 2 of Appendix D to allow a select committee, by leave, to prohibit the making of images or recordings by permitted persons.

Presiding officers

Election of Speaker

The Speaker must have the confidence of Parliament and act, and be seen to act, impartially. There is a strong tradition in New Zealand that, once they are elected, the position and decisions of the Speaker are not challenged by members except by a formal motion.

Some submitters raised concerns about the actual or perceived impartiality of Speakers of the House of Representatives. They suggested that the political nature of the election of the

Speaker may compromise the reputation of the Speaker, and suggested possible changes to the appointment process. One suggestion was conducting elections for Speaker by secret ballot, so that members could vote according to their conscience without any fear of repercussion from their party.

We considered adopting secret voting but did not reach agreement. A secret ballot would reduce the accountability of members to the public for how they vote for the Speaker. Some of us were not convinced that there would be any radical effect on the political character of the process for electing a Speaker. The level of change would not seem to outweigh the value of transparency and the public's right to know how members have voted.

Number of Assistant Speakers

On a number of occasions in the 53rd Parliament, the House appointed additional Assistant Speakers on a short-term basis to ensure there was always a presiding officer in the Chair. While this need partially emerged as a result of the pandemic, it also reflects demands on the time of presiding officers.

Presiding officers play an important role as leaders in Parliament. Their duties are not limited to their House responsibilities, with many presiding officers taking on key roles developing parliamentary culture, representing the House to the public and other parliaments, and chairing select committees. We recommend increasing the number of Assistant Speakers by one, to allow for more flexibility for presiding officers to attend to their full range of duties.

Amendment 5 Number of Assistant Speakers

Amend Standing Order 29 to allow the House to appoint up to three members to be Assistant Speakers.

Recognition of component parties

Parties may jointly contest elections as component parties of a single registered umbrella party. These component parties may be registered or unregistered, but only the umbrella party contests the party vote at an election. The registration of parties carries important transparency requirements, such as the need to make annual returns disclosing donations and loans. We recommend amending Standing Order 35(2)(c) to require that, for a component party to be recognised, it must be registered under the Electoral Act 1993. We also recommend that it be clarified that members cannot be recognised as a member of two parties at once.

Members should note that the Electoral Act 1993 sets out circumstances in which the seat of a member becomes vacant if they cease to be a parliamentary member of the political party for which they were elected (sections 55A to 55E).

Amendment 6 Recognition of component parties

Amend Standing Order 35 to provide that component parties may only be recognised for parliamentary purposes if they are registered under the Electoral Act 1993, and that a member may be recognised as a member of only one party at a time.

Simplifying parliamentary terminology

Some parliamentary terminology is difficult for members of the public to understand. We recommend changing some of the terms currently used in the Standing Orders (see amendment 7).

Notably, we propose that the wording of the closure motion (currently “That the question be now put”) be adjusted to “That debate on this question now close”. This formula better reflects the effect of the motion, which is to end the debate then in progress. Standing Order 140 already provides that the question being debated is automatically put to the vote when the debate concludes, and we recommend that this Standing Order be amended to reflect the new terminology.

Other terms could be modernised to make them more accessible. We propose that “cognate bills” be renamed “associated bills” to reflect the fact that two or more bills are connected to each other by a decision of the House or a determination of the Business Committee. Similarly, the archaic term “forthwith” should be replaced with “immediately”, and “negatived” with “not agreed”.

We would also like to replace the term “Supplementary Order Paper” with “Amendment Paper”. Supplementary Order Papers are an important mechanism in the legislative process and should have a name that is easily understandable to the public. Amendments are published and circulated independently and not as a supplement to the Order Paper, and this has been the case for many years. Implementing this change would require a period of transition, to allow for updates in parliamentary and government systems, not least the Legislation website. We therefore recommend that this transition be implemented during the next term of Parliament. When this recommendation is effected, a consequential change will be needed, to allow for motions to divide bills (which are published on Supplementary Order Papers but are not amendments) to be circulated under Standing Order 317 without needing to be on an “Amendment Paper”.

Amendment 7 Simplifying parliamentary terminology		
Replace...	With...	Relevant SOs
cognate bills	associated bills	SO 274
negatived	not agreed	SO 136
“That the question be now put”	“That debate on this question now close”	SOs 137, 139 and 140
forthwith	immediately	SOs 92, 169, 271, 276, 333, 339, 341, 351, 358, 410.

Leader of the Opposition

We discussed whether the term “Leader of the Opposition” should continue to be used in the Standing Orders. We accept that the “Leader of the Opposition” does not serve as the leader

of all Opposition members. Each party appoints its own leaders. There should be no assumed allegiance between parties that are not in Government.

Some of us consider the title has continuing importance, however. The term has a long history and significance in the Westminster model of Parliament, recognising that the person who leads the largest Opposition party is the symbolic contender for the role of Prime Minister. There are a number of references to the Leader of the Opposition in legislation. We did not reach agreement on any amendment to alter or omit the title.

2 Sittings of the House

Remote participation

In February 2022, the House passed a sessional order allowing for members to attend and participate in a sitting of the House remotely in particular situations, by joining via video conference software. The sessional order empowered the Business Committee to determine that a sitting may be held with members attending remotely to limit the risk of the spread of COVID-19 and to avoid undue health risks for the public, members, and staff. Remote participation allowed members to attend sittings remotely when they might otherwise not have been able to due to travel restrictions, isolation requirements, vulnerability, or illness.

Remote participation has been a valuable tool in the continuing operation of the House. We would like the House to retain the ability to use the process in situations where it is necessary for public health or where an emergency occurs which makes it impracticable for all members to travel to Wellington. For this reason, we recommend empowering the Business Committee to allow remote participation.

We suggest that the Business Committee apply a reasonably high threshold to its decisions about the use of remote participation. We do not endorse remote participation being always available. Members should attend in person. Having all members present in Wellington facilitates cooperation and development for all members.

The Office of the Clerk and the Parliamentary Service will retain the capability to facilitate remote participation in sittings as a contingency measure. However, on-call readiness for hybrid sittings is not practicable because of the cost involved. Before remote participation is activated, there will need to be a reasonable lead-in time to make arrangements.

Amendment 8 Remote participation

Provide for the Business Committee to have authority to determine that remote participation may be used for a sitting of the House, and to make rules and conditions for its use.

Lobbying

Some submitters were concerned about the level of influence of lobbyists and suggested increasing transparency around lobbying. A regime for regulating lobbying would be beyond the scope of the review of Standing Orders, but we note that changes affecting lobbyists have occurred separately from our review. The Speaker has restricted the provision of swipe-card access to Parliament, and the Government also announced that work would be done to establish a voluntary code of conduct for lobbyists and to look at policy options to regulate lobbying.

Adjusting sitting hours

In its 2020 review of the Standing Orders, the Standing Orders Committee considered ways to make the House more family friendly. A key issue identified for members who are not based in Wellington was whether they had the ability to return home to their families in a timely way once the sitting week ends. An earlier end time on Thursdays improved the opportunity for members to return that evening to their communities around the country. In order to retain the same number of sitting hours, the dinner break on Tuesdays and Wednesdays was reduced from 1.5 hours to 1 hour.

In practice, shortening the dinner break has led to problems for members. Members whose families are based in Wellington have found the change to be less family-friendly, as it can be difficult to have dinner with their families and return to the precincts by 7pm. Attendance at meetings, training, and functions during dinner breaks has also been adversely affected.

We recommend that the House adopt the sitting hours that applied until 2020, with a dinner break of 1.5 hours on Tuesdays and Wednesdays, and a 6pm finish time on Thursdays. To assist members in their homeward travel arrangements, we recommend waiving the limit on proxy votes during party votes after 5pm on a Thursday.

We also considered other changes to the sitting hours. We discussed modifying the sitting calendar to allow sitting days to end earlier or increasing the number of days in a sitting week to reduce the total number of weeks members need to travel to Wellington. We also looked at how time spent on the House's business could be shortened to reduce sitting hours. Ultimately, however, we were unable to arrive at a package that could balance the diverse situations of members, maintain the legislative capacity of Parliament, and ensure the House meets frequently to hold the Government to account.

Amendment 9 Sitting hours

Modify the standing sitting hours of the House, laid out in Standing Order 46, so that the Tuesday and Wednesday dinner break runs from 6pm to 7.30pm, and the House rises on Thursdays at 6pm, with consequential changes to the rules for extended sittings and urgency.

Modify Standing Orders 144 and 146 to allow members to leave the precincts after 5pm on a Thursday without affecting their party vote, except when the House is sitting under urgency or extended hours.

Sitting programme

We are recommending that the Standing Orders require the designation of two "scrutiny weeks" each calendar year, in which select committees will be expected to conduct hearings on Estimates and annual reviews. This is discussed in more detail in section 6 of this report. Scrutiny weeks would be designated by the Business Committee when it recommends the sitting programme for the House to adopt for the next year. We expect members to attend hearings during this time in person. However, we do not believe these scrutiny weeks should

come at the expense of time members spend in their electorates. For this reason, we recommend reducing the number of sitting weeks by two.

We are recommending further changes to allow the House to get through its programme. They include:

- reducing the length of debates on first readings of Government bills
- allowing members to relinquish calls in debates on first readings of Government bills
- reducing the length of urgent debates.

These recommended changes are discussed in detail below.

3 General procedures

Reading speeches

The House is a forum for debate, and proceedings are enlivened when members participate and engage with each other. For this reason, previous Speakers and Standing Orders Committees have discouraged members from reading their speeches in the House.

In some circumstances, it may be desirable for members to read parts of their speeches to ensure their opinions on a matter are delivered in a considered manner, particularly when the legislation is of a highly technical nature. We also note that not allowing members to read speeches may present a barrier for people considering running for Parliament.

We continue to endorse the position that debate is best served by members engaging with the points brought up in other member's speeches, and that some level of improvisation is needed for members to respond to points made in the debate. However, we believe the Speaker should apply more discretion in determining whether to enforce this convention. Members may wish to discuss with the Speaker in advance whether it is appropriate to read a speech.

Personal votes

Nearly all decisions of the House are determined by voice or party vote, which are highly efficient methods for voting. On occasion, a matter is treated as a conscience issue, in which case the Speaker may allow a personal vote to be held. While personal votes are infrequent, when they do occur it is a significantly slower process than votes by voice or party.

During this term of Parliament, conscience issues were at times dealt with through split-party votes, to support social distancing in the House. Split-party votes are cast by a party's whip, who indicates how many votes are cast for each side and delivers to the Clerk a hardcopy list of which ways members voted. While this is more efficient than the personal vote process, we do not support adopting this practice permanently instead of personal votes, as this would inappropriately place responsibility on party whips to deliver members' votes on conscience issues.

Towards the end of the Parliament, the House passed a sessional order removing the requirement for members to act as tellers in a personal vote. We recommend making this sessional order permanent. As personal votes are infrequent, members acting as tellers may not be familiar with the procedure. Instead, all votes will be conducted by the Clerk.

Amendment 10 Personal votes

Incorporate into the Standing Orders the rules for personal votes set out in the sessional order of 10 May 2023, with the effect that members will no longer be appointed as tellers.

4 Select committees

Select committee structure and membership

We gave serious consideration to the current structure of the select committee system, and the way that the membership of select committees is determined. Much of this consideration was focused on the control that parties in Government can exert over select committees under the current system.

The ACT Party and the Green Party both suggested making the membership of select committees proportional to the non-executive membership of the House. The effects of that approach would vary depending on the make-up of Governments, but overall, it would generally result in parties not in Government having a majority on most or all subject select committees. Arguments were put forward both for and against this approach. It was argued that non-Government majorities on select committees would improve legislative and financial scrutiny. We also considered the reverse—that select committees with non-Government majorities might undermine the system’s performance of its legislative function, which is widely considered a strength of the current system.

We also considered a proposal from Chris Penk MP for the membership of all select committees to be evenly split between parties in Government and not in Government, as well as a proposal from the Clerk to fundamentally restructure select committees into a system of paired legislation and scrutiny committees under which governing parties would have a majority for the consideration of legislation, and parties not in Government would have a majority for scrutiny of the executive.

We did not reach agreement on any of these proposals. We are, however, proposing a significant reform of the procedures for select committee scrutiny of the executive, which we discuss briefly below, and in more detail in section 6 (Financial procedures) of this report.

Petition 2020/153 of Kylie Whelan

Before we started our review we received a petition in the name of Kylie Whelan, which requests “That the House of Representatives establish a subject select committee that considers business related to all New Zealand children’s rights, care, and wellbeing.” We resolved to consider and report on Kylie Whelan’s petition as part of our review of Standing Orders.

Proposals for new committees

We received submissions arguing for the creation of various new committees, including a Human Rights Committee, an Education Committee, and a Children’s Committee. Each of these proposals has some merit. The principal challenge in creating new committees is the scarcity of members’ time within the current configuration of the select committee system. Many members have multiple committee commitments already, and the potential

advantages of creating new committees needs to be carefully considered and balanced against the overall operation of the select committee system. Our consideration in this review has focused primarily on the balance of power between parties in Government and not in Government, and the system's performance of its scrutiny of the executive function.

The proposal for a Human Rights Committee is one that recurs regularly. The position of previous Standing Orders Committees has been that all select committees are expected to consider fundamental rights issues within their subject areas and as is relevant to legislation before them. We agree that all committees have this duty. However, there may be merit in a future Standing Orders Committee giving consideration to a specialist committee focused on technical scrutiny of primary legislation, similar in nature to how the Regulations Review Committee scrutinises secondary legislation. Such a committee would not remove other select committees' responsibility to consider significant legislative design matters when considering bills, but could instead support them by being a source of expertise and non-partisan guidance.

Scrutiny function of subject select committees

We cover amendments and guidance related to subject select committees' scrutiny function (understood here as referring to scrutiny of the executive, as distinct from their legislative function) in section 6 of this report.

Shortly before concluding our work on this review, we received a letter from the Governance and Administration Committee drawing to our attention its report on its visit to Australian Parliaments as part of the reciprocal select committee exchange programme.³ The committee's visit was focused on public governance, and the role of select committees in contributing to good public governance. In its letter, the committee highlighted some of its key findings and encouraged us to consider them.

Many of the Governance and Administration Committee's findings touch on matters we have considered in the course of this review. Most of these are discussed in section 6 of this report. Some of the findings we have not had the opportunity to give specific consideration to as part of this review. In light of this, we wish to record the Governance and Administration Committee's findings here. The next Standing Orders Committee may wish to consider these matters in the next review of Standing Orders.

The Governance and Administration Committee's key findings were that:

- The Australian parliamentary committees it met with emphasised the importance of committee scrutiny in achieving accountability and effecting positive change for those they represent.
- Good chairing and bipartisan involvement in select committee inquiries can lead to recommendations that improve government services. The Governance and

³ Governance and Administration Committee, *Briefing about the select committee exchange to Australia* (report, 21 August 2023).

Administration Committee encouraged select committees to consider spending more of their time inquiring into matters of public importance.

- The committee system in the Australian Senate (specifically, the paired “references” and “legislation” committees) appears to operate in a way which enables both scrutiny of the Government and legislative work to take place.
- The scrutiny of budget estimates carried out by the Australian Senate can involve days-long hearings of evidence. The Governance and Administration Committee considered that New Zealand select committees could consider finding a balance between the status quo and the Australian approach.
- The current approach to the scope of questions for Estimates and annual reviews in the New Zealand Parliament could be improved to enhance scrutiny.
- New Zealand select committees should consider how they can best use the expertise of the Office of the Auditor-General when they are planning their scrutiny of government entities.
- Select committees should be empowered to meet while the House is sitting, to better utilise members’ time.
- The Government should look at international examples of how governments are planning for the future, and involving the public in the planning.

Chairpersons and deputy chairpersons

More collaborative leadership of select committees

As part of our consideration of the balance of power between Government and non-Government parties, we considered the distribution of chairpersonships. Currently, chairpersons are elected by committees, although in practice their distribution is subject to discussion and negotiation among parties at the start of the parliamentary term.

We discussed prescribing that the chairperson and deputy chairperson of a select committee must be from opposite sides of the House—that is, if a committee had a chairperson from a party in Government, the deputy chairperson would need to be from a non-Government party. It has been the established practice over past Parliaments to allocate a significant number of deputy chairpersonships to parties not in Government. However, we do not favour creating a rigid requirement for this to occur. There are practical reasons why giving effect to such a requirement may prove cumbersome, and the process of political negotiation can deliver similar results.

Moreover, we believe that greater collaboration in the leadership of select committees is possible even if both presiding officers are from a party or parties in Government. Committee staff brief committee presiding officers before each committee meeting, discussing the arrangement of the agenda and the procedural and logistical issues that are expected to arise. Where both presiding officers of a committee are from the same side of the House, a senior member of the committee from the other side of the House should be invited to regularly attend the chairperson’s briefing. There is considerable benefit in Government and

non-Government sides of the committee participating in the briefing. It provides an opportunity for all sides' perspectives about the arrangement of business to be shared and discussed, and helps to ensure the committee is well prepared to discuss matters in the committee room. It is a non-partisan meeting, and there is no reason one senior member from the other side of the committee should not attend.

We discussed the fact that restricting our guidance to one additional member attending could reinforce a “bipartisan” or “first-past-the-post” logic in the management of select committees. We are in agreement, however, that having any more than three members present for a pre-meeting briefing would be unwieldy, and could quickly lead to the meeting resembling a committee meeting rather than an informal briefing. We encourage members to work together to decide who is best placed to make the regular commitment to attending briefings.

Training and development for chairpersons and deputy chairpersons

The Standing Orders Committee of the previous Parliament recommended that a programme of training and development be provided for chairpersons and deputy chairpersons by the Office of the Clerk.⁴ We note that a programme was delivered over the course of the current Parliament, and that it was well attended by both chairpersons and deputy chairpersons. We encourage this programme to continue, and to be made available to a senior member of each committee who is not a presiding officer.

Advice

Standards for departmental advice

Over many years, countless public servants have worked very hard to support select committee consideration of bills by summarising and analysing submissions. This work has become increasingly demanding as the volume and extent of submissions have increased and as legislation and public policy issues have become more complex. Through this huge effort, departmental advisers have contributed considerably to our democratic institutions.

We received submissions that highlighted the potential conflict that may arise when Government officials summarise submissions on Government bills. We wish to reiterate that there is a very strong expectation that all matters raised in submissions will be conveyed in good faith in summaries provided to committees, whether or not those matters align with Government policy. Failure to do so could be treated as a contempt, and more generally could undermine the legitimacy of legislative outcomes.

The parliamentary agencies do not have sufficient capacity and capability to undertake the summarising of submissions on all bills, nor would it be an effective use of public money to engage independent advisers to do this work on a routine basis. The summary and analysis of submissions therefore must continue to be carried out by departmental officials.

⁴ Standing Orders Committee *Review of Standing Orders 2020* (3 August 2020) [2017–2020] 61 AJHR I.18A, p 28.

We note that online guidance to public servants advising select committees was last updated in 2007. We therefore recommend to the Government that the Public Service Commission, in conjunction with the Office of the Clerk, review the guidance provided to public servants who provide advice to select committees. This review would need to take account of recent developments, such as the potential for greater use of out-sourced services or artificial intelligence applications for summarising submissions. We also recommend that the guidance include relevant principles for summarising submissions, such as good faith, transparency, comprehensiveness, relevancy, and impartiality.

Recommendation to the Government—departmental advice to select committees

That the Public Service Commission, in conjunction with the Office of the Clerk, review the guidance for public servants who provide advice to select committees.

Obtaining public feedback on advice about matters raised in submissions

We have also considered how the earlier release of departmental advice could provide a check on the summaries of submissions prepared by government departments. We have recommended adjustments to the Standing Orders to allow for committees to release advice for this purpose. In doing so, committees must be careful not to disclose the contents of their own draft reports and reports before they are presented to the House. The principled basis for the confidentiality of select committee proceedings, as outlined by the Standing Orders Committee in 2003, is still fully applicable. Committees that wish to seek further public submissions on their proposals should do so by way of an interim report. Such interim reports do not occur frequently, and we would encourage them as the most appropriate method for committees to use if they wish to re-engage with the public about policy proposals as they develop.

Amendment 11—departmental advice to select committees

Amend the Standing Orders to enable committees to release advice for the purpose of receiving public feedback on summaries of submissions, provided that committees must not disclose the contents of draft reports or reports before they are presented to the House.

Making select committees more accessible to engage with

A number of submitters raised issues related to the accessibility of select committees, and the submissions process in particular. As part of our review, we received an update from the Office of the Clerk regarding work in progress and practices adopted by committees relevant to the issue of accessibility. We wish to note these initiatives and encourage their continued development.

New submissions system

The Office of the Clerk has a project to gather requirements and examine alternative solutions to the existing public submissions system. This includes the possible facilitation of video submissions, submissions on petitions via the website, guided submissions, and support for New Zealand Sign Language (NZSL). Implementation of any changes or enhancements will be dependent on available budget.

Experiences of making a submission to a select committee

To gain a qualitative assessment of submitters' experiences when engaging with a select committee, the Office of the Clerk has commissioned research to be conducted by Kantar Public. The research includes qualitative interviews of up to 1.5 hours with people who have made a written or oral submission to a select committee. The sample includes people across the country. The research will help the Office of the Clerk understand what works well about the process from the perspective of the submitters, and where there could be improvements. A final report is due in August 2023. Insights will inform the initiative above, as well as future business planning. Implementation of any changes or enhancement will be dependent on available budget.

Alternative engagement practices

From time to time, committees have opted to use alternative engagement processes targeted at improving accessibility for submitters on a particular bill, including:

- publishing media releases and calls for submissions in alternative formats, such as Braille, Easy Read, audio, NZSL video, and large print
- publishing reports and advice in alternative formats
- giving additional time for oral submissions
- allowing people to provide an oral submission without first providing a written submission
- providing extensive information when booking oral submissions about the committee process and available support
- providing NZSL interpretation for submitters who wanted it when making oral submissions
- hearing submissions on a bill at a variety of times of day, to ensure people who want to make an oral submission have the opportunity to do so
- making a video with detailed information about a committee, what a bill aims to achieve, and how to make a submission, and publishing it on the committee's Facebook page.

We encourage select committees to note the above practices and consider adopting them as appropriate to the business under consideration.

Other matters relevant to select committees covered elsewhere in this report

We have made a number of recommendations in other parts of this report that substantially affect the conduct of select committee business. Relevant topics include the following:

- Official coverage of select committees (pp 9–11)
- Select committee consideration of bills (p 32)
- Encouraging post-legislative scrutiny by select committees (p 35)
- Secondary legislation and the Regulations Review Committee (p 36–39)
- Substantial changes to procedures for select committee scrutiny of the executive (pp 40–53)
- Proposed inquiry into public finance performance reporting and parliamentary accountability (pp 54–55)
- Petitions Committee (p 58–59)
- Proposed inquiry into parliamentary examination of international treaties (pp 59–60).

5 Legislative procedures

Preliminary procedures for local bills and private bills

Notification requirements

Appendix C of the Standing Orders requires the promoter of a local or private bill to publish notice on a website and in newspapers. There is a separate obligation for notice to be given to every person who, to the knowledge of the promoter, has a direct interest in the subject matter of the bill or in the exercise of any power proposed to be given by the bill.

We recommend that the requirement for public notices in newspapers be limited to local bills, and private bills that affect land. Not all private bills have nationwide effect, and the requirement to publish notices in newspapers for Auckland, Hamilton, Wellington, Christchurch, and Dunedin appears excessive. Where a private bill affects land, notice will need to be published in a newspaper in the local area, and this will still be the case for all local bills.

Other changes to Appendix C are recommended to simplify and align provisions relating to the publication of notices and the public availability of proposed bills, and to allow for the certification of bills without writing directly on physical copies. Consequential changes are also recommended for the declaration required for a private bill or local bill.

The Attorney-General is required to report to the House to bring to the attention of the House any provisions in a bill that appear to be inconsistent with any of the rights and freedoms contained in the New Zealand Bill of Rights Act 1990. In order to facilitate earlier presentation of any section 7 report, we recommend requiring the promoter of any private or local bill to notify the Secretary for Justice of the intention to introduce a bill. We also recommend that notice of all private bills and local bills be required to be delivered to the Clerk of the House for administrative purposes.

Amendment 12 Notification requirements for private and local bills

Remove the requirement for a promoter of a private bill to publish a notice in a national daily newspaper, with notification still required in local newspapers for private bills dealing with land.

Simplify and align provisions relating to the publication of notices and availability of proposed bills.

Require the promoter of any private or local bill to notify the Secretary for Justice and the Clerk of the House.

Preamble

A promoter of a private bill completes a declaration that must state whether the objects of the bill can be attained otherwise than by legislation, and, if they can, why legislation is

preferred. This declaration is not examined by the select committee considering the bill, which focuses on the bill's contents and not the pre-introductory documentation.

We recommend that the preamble for all private bills directly address the question of why, if the objects of the bill can be attained otherwise than by legislation, the legislative approach is being taken. The select committee must be satisfied that statements in the preamble are proven, and therefore the committee would need to be convinced that legislation is warranted before recommending that a private bill be passed.

Amendment 13 Preamble

Require the promoter of a private bill to include in the preamble a statement about whether the objects of a bill can be attained otherwise than by legislation and, if so, why legislation is warranted.

Transitional period for new local and private bills

Promoters of proposed local bills and private bills may have given notice of these bills without yet delivering them to the Clerk for examination and certification. It would be unfair for them to be required to start again when they may have complied with the rules as they applied at the time. If adopted, the amendments to the Standing Orders will take effect from the day after this Parliament is dissolved, but we would like to allow a reasonable period for local authorities and potential promoters of private bills to become aware of the adjusted requirements for notice and for preambles (if applicable). We therefore recommend that the House, after the opening of Parliament, adopt a sessional order allowing a transitional period, which we suggest should run to the end of 2023.

Recommendation to the House—transitional period for new local bills and private bills

We recommend to the House that, after the opening of the next Parliament, it adopt a sessional order to provide that a local bill or a private bill for which preliminary procedures were carried out before 1 January 2024, and in respect of which the Standing Orders as they applied before the dissolution of the 53rd Parliament were complied with, be deemed to comply with the Standing Orders despite any inconsistency with them as they will now apply.

Local Legislation Bills

The Standing Orders provide for the Minister of Local Government to introduce a Local Legislation Bill, which is an omnibus bill containing miscellaneous amendments to local Acts. Local authorities may apply to the Minister for a provision to be included in such a bill, and notification procedures must be followed.

Under clause 17 of Appendix B, the Minister is empowered to add to a Local Legislation Bill a clause or clauses repealing any spent local Act, any spent Local Legislation Act, or any spent provisions contained in a Local Legislation Act. This power sits with the Minister because there is no incentive for a local authority to initiate a clause for these purposes and

there is a public interest in tidying up the statute book. In some cases, the public authority that promoted the legislation may no longer exist. If the authority still exists, there is an expectation that the Minister will consult the authority.

No Local Legislation Bill has been initiated since 1991. Evidently, local authorities have not recently made applications for provisions to be included in Local Legislation Bills, so the process has not been triggered. Therefore, there has been no opportunity for the Minister to exercise their power to include provisions repealing spent local Acts in a Local Legislation Bill.

We recommend amending the Standing Orders so it is explicit that the Minister of Local Government may initiate the process for a Local Legislation Bill. In general, this would involve inviting applications from local authorities. We also propose that the Minister be empowered to prepare bills to repeal spent local legislation, or to include repeals of spent legislation in Local Legislation Bills. In doing so, the Minister must consult whichever local authorities are affected. This power should only be used following consultation with the relevant local authority, if it still exists, and should only be used for non-controversial matters. On this basis, the Business Committee may wish to consider an expedited process for bills dealing with spent local legislation.

Amendment 14 Local Legislation Bills

Allow the Minister of Local Government to self-initiate Local Legislation Bills and introduce bills that focus on the repeal of spent local legislation.

Order of business of members' bills

Under the current rules, it is possible for an interrupted debate on the first reading of a member's bill to be delayed for a lengthy period while a contentious member's bill is passed through its latter stages. First reading debates on members' bills are relatively short, and dealing with an interrupted first reading of a bill will enable select committee consideration to commence promptly.

Amendment 15 Priority for interrupted first reading of member's bill

Amend Standing Order 72 to provide that, where the debate on the first reading of a member's bill has been interrupted, the bill is taken ahead of other members' bills.

Postponement of members' bills

Standing Order 74(3) restricts the postponement of an order of the day for the first reading of a member's bill. Such an order of the day cannot be postponed unilaterally by the member in charge, unlike other orders of the day. This restriction is designed to ensure the House has first readings of members' bills to consider on members' days.

The Business Committee may postpone an order of the day for the first reading of a member's bill. The Business Committee may specify which order of the day the bill will be,

after the end of the postponement. The Standing Orders are silent on where on the Order Paper it will be if not specified by the Business Committee.

We recommend that the Standing Orders specify a default that, if the Business Committee postpones the first reading of a member's bill, the order of the day becomes available, after the postponement as the last order of the day for the first reading of a member's bill, unless the Business Committee determines otherwise. If the Business Committee decision to postpone a bill does not specify the date when the bill will become available, the bill will be unavailable for the next members' day and then would return to the back of the queue.

Amendment 16 Postponement of first reading of member's bill

Amend Standing Order 74(3) to provide that, if the Business Committee postpones the first reading of a member's bill, the order of the day becomes available, after the postponement, as the last order of the day for the first reading of a member's bill, unless the Business Committee determines otherwise.

First readings of bills

The first reading debate is the House's first opportunity to debate a legislative proposal that has been put before it. The House may decide that it does not wish to spend any more time considering the proposal and reject it. However, most bills (especially Government bills) are not rejected at the first hurdle, and the first reading is looked upon as a prelude to sending the bill for detailed examination by a select committee.

The debate is an opportunity for members and parties to put their position on the proposal on the record. Parties may also agree to refer a bill to select committee to confirm their positions on the bill only once they have benefited from information gleaned during the select committee's consideration or seen any amendments recommended by the committee. It is also an opportunity to debate the appropriateness of the committee nominated to consider the bill.

First reading after three working days, not sitting days

If a bill is introduced on a non-sitting day, it is set down for first reading on the third sitting day following. This gives members at least one week to come to terms with a bill before it is debated in the House. We think this period of delay is not necessary, as bills are made available on the Legislation website upon introduction. We recommend changing this, so that a bill is set down for first reading after three working days, rather than three sitting days. This would align it with the process for second readings and mean that a bill would not be delayed by a full sitting week after its introduction.

For members' bills, this change will not normally affect their availability for debate, because members' days generally occur on every second Wednesday that the House sits. However, occasionally a members' bill ballot is held fewer than three sitting days before the next members' day (for example, because the order of the day for the first reading of a member's bill is discharged, a members' day is held out of sequence, or members' bills are dealt with

during an extended sitting). This amendment will allow for bills drawn in ballots to be available in most such situations.

Amendment 17 Time before first reading of bills

Amend Standing Order 293(1) to provide that, after its introduction, a bill is set down for first reading on the third working day following.

Shortened debate on first reading of Government bills

Currently, debates on all readings of Government bills are limited to twelve 10-minute calls. We recommend shortening debates on the first reading of a Government bill. The time savings from doing so will mitigate the House time lost by designating two weeks as scrutiny weeks where the House is not expected to sit (see section 6 of this report).

The 10-minute call will be preserved for the Minister in charge of a bill, to reflect the importance of the Minister's speech on the first reading of a bill. This speech is an opportunity for the Minister to explain why the Government has introduced a bill, and to give a brief summary of its provisions.

We also recommend that parties be allowed to relinquish calls assigned to them during the first reading of a Government bill, without giving any other member the right to take an unused call. Speaking slots could still be transferred to other parties with agreement. To facilitate this approach, we suggest adopting a practice for all parties to speak once during a first reading debate, before parties with further calls can use or relinquish them. We decided on balance that these changes would not reduce the quality of debate but would facilitate our proposals for more scrutiny.

It may be desirable for some debates to be longer than 1 hour—for example, bills relating to matters of significant public interest, or unusually large and complex bills. In these circumstances, we encourage the Business Committee to use its powers under Standing Order 79 to increase the length of time for each member to speak on the bill.

Amendment 18 Shortened debate for first reading of Government bills

Amend Appendix A to provide that the debate on the first reading of a Government bill will consist of a 10-minute speech for the Minister in charge of the bill and ten 5-minute speeches by other members.

Permit parties to relinquish calls allocated to them during the first reading of a Government bill.

Departmental disclosure statements

Part 4 of the Legislation Act 2019 requires that departments prepare disclosure statements in respect of Government bills and Government amendments, apart from when specified exceptions apply. Implementing this process will be supported by a rule or practice of the House that determines what a Government amendment is for this purpose. We agree to this

in principle. However, we have been advised that Part 4 of the Legislation Act 2019 is not expected to come into force this year. On this basis, we consider that a preferable approach would be to implement the change through a sessional order when Part 4 comes into force. We propose that the Standing Orders Committee in the next Parliament consider this matter closer to the time, with a view to considering how disclosure statements should be provided for in the rules and practice of the House. This could include their possible referral to select committees for consideration along with the bills to which they relate.

Select committee consideration of bills

Standing Order 299 indicates that a select committee to which any bill is referred:

- must determine whether to recommend that a bill be passed
- may recommend amendments to the bill.

On contentious matters, a committee may not be able to agree on whether a bill should or should not be passed. If an impasse is reached in select committee, the committee should report back noting members' differing positions, and should still recommend amendments to improve the bill. Committees considering conscience issues have expressed discomfort at the prospect of recommending the passing of the bills concerned. We recommend that the strict requirement to determine whether to recommend that a bill be passed be softened.

Amendment 19 Select committee consideration of bills

Amend Standing Order 299 so that a select committee "may" determine whether to recommend that a bill be passed.

Proposals for entrenchment

A proposal for entrenchment is a provision or provisions in a bill that, if enacted, would restrict the manner in which Parliament may amend or repeal a provision in an Act. The House has adopted a rule that, where any proposal for entrenchment would prevent a provision being amended or repealed except by a majority of more than 50 percent plus one of all of the members of the House, that proposal must itself be carried by that same special majority. This requirement applies only when the proposal for entrenchment is considered in a committee of the whole House.

Submissions about proposals for entrenchment

We are grateful for the submissions we received on the topic of proposals for entrenchment. Submissions made a number of observations about conventions and principles that should be taken into account when considering how the House should approach such proposals. Overall, submissions called for the House to ensure that any future entrenchment of provisions in New Zealand law is properly justified. They noted that, aside from any legal effects, entrenchment conveys a strong conventional imperative to uphold the legitimacy of representative democracy. A proposal that seeks to bind Parliament must be grounded in clear principles and process, so that a future Parliament will be obliged to follow it.

Submissions also generally called for entrenchment to be used only to protect constitutional values in a way that is proportionate and justified, and where there is broad political consensus across the House.

Procedural requirements for proposals for entrenchment

Proposals for entrenchment should be subject to due notice and measured consideration, including public consultation. A proposal for entrenchment is a matter of constitutional importance, as it effectively regulates how a future Parliament may make law. We would expect proposals for entrenchment to be subject to comprehensive parliamentary scrutiny.

We recommend amending the Standing Orders so that a proposal for entrenchment cannot be considered in a committee of the whole House without being subjected to a select committee process, including a call for submissions.

We also recommend that a proposal for entrenchment not be able to be accorded urgency when it is considered at the committee of the whole House stage.

What type of provision is appropriate for entrenchment?

The current reserved provisions in section 268 of the Electoral Act 1993 essentially deal with the same topics as were originally entrenched in 1956. Our consideration of this issue does not mean we wish to encourage the entrenchment of further matters, except where there is broad agreement that entrenchment is necessary. Proposals for entrenchment should be rare.

The current reserved provisions set out matters of constitutional importance, and any limits placed on Parliament's future ability to make law should be restricted to such subject matter. However, different people may come to different conclusions about what is constitutional in nature. We are satisfied that the procedural changes described above will be sufficient to ensure the House turns its mind to the appropriateness of each proposal for entrenchment.

Amendment 20 Proposals for entrenchment

Amend the Standing Orders to require that, for a proposal for entrenchment to be considered in a committee of the whole House, the proposal:

- must have been considered by a select committee, which has called for submissions and reported on the proposal, and
- is not considered under urgency.

New Zealand Bill of Rights Act 1990

Scrutinising proposed amendments to bills for consistency with the New Zealand Bill of Rights Act 1990

The legislature is required to exercise its powers in such a way that the rights and freedoms set out in the New Zealand Bill of Rights Act 1990 (NZBORA) are subject "only to such reasonable limits prescribed by law as can be demonstrably justified in a free and

democratic society.”⁵ As in previous reviews of the Standing Orders, submitters have raised concerns about the lack of formal procedure for identifying and addressing apparent NZBORA inconsistencies that may arise from amendments to bills during the legislative process. In 2017, the Standing Orders Committee reported on this topic⁶ and its consultation with the then Attorney-General, Hon Christopher Finlayson. He agreed that no law, procedure, or constitutional convention prevents the Attorney-General from informing the House, after a bill has been introduced, about provisions contained in the bill that appear to be inconsistent with the NZBORA. In particular, section 7 does not constrain such reporting, and it is appropriate that the NZBORA does not set out the House’s procedure for considering NZBORA matters during its legislative process. The House itself should determine how it observes section 5 of the NZBORA.

We recommend that the Standing Orders expressly recognise that the Attorney-General may report on the NZBORA consistency of bills during the legislative process. We do not consider it necessary or practical to require the Attorney-General to report on every amendment proposed or adopted in the House. This would have considerable compliance costs and could result in substantial delays to business before the House. For example, technical amendments are often identified late in the process, and it can be important that once identified they can be progressed without delaying the legislation. However, we do expect the Attorney-General to report to the House on any apparent inconsistency that is identified. It is at the discretion of the Attorney-General to decide whether any additional scrutiny of amendments should be carried out by the Ministry of Justice. We also expect the Attorney-General to work with a select committee if the committee requests assistance.

We have consulted the Attorney-General, Hon David Parker, on this matter and he agreed that it would be useful to recognise in the Standing Orders that the Attorney-General may present a paper relating to the NZBORA consistency of a bill as amended. This would reflect the Attorney-General’s current discretion to present such a paper, rather than creating a new requirement to do so. The Attorney-General suggested that the following circumstances may warrant the assessment of the NZBORA consistency of proposed amendments to bills:

- A bill is being amended that was subject to a report under section 7 of the NZBORA when the bill was introduced.
- A bill is introduced with the expectation of requiring substantial amendment during the legislative process.
- A proposed amendment has clear NZBORA implications.

We agree with these suggestions. The Attorney-General indicated that he would consider whether there is a role for additional guidance as to when and how the NZBORA consistency of amendments to bills should be considered.

⁵ New Zealand Bill of Rights Act 1990, ss 3 and 5.

⁶ Standing Orders Committee, *Review of Standing Orders*, I.18A, July 2017, pp 25–27.

Amendment 21 Reporting on NZBORA consistency of bills

Amend Standing Order 269 to provide expressly that the Attorney-General may present a paper concerning the consistency of a bill, as amended or proposed to be amended, with the rights and freedoms contained in the New Zealand Bill of Rights Act 1990.

Post-legislative scrutiny of bills passed under urgency

The use of urgency can affect the quality of legislation and the sense of legitimacy surrounding the legislative process. Bypassing select committee consideration is particularly concerning. The select committee stage of the legislative process gives Parliament the opportunity to consider the detail of legislation and undertake public consultation. Select committees can tailor this stage to suit the scrutiny they feel is necessary. Legislation that bypasses the select committee process may not undergo detailed scrutiny or public contribution, so potential issues may not be identified or addressed.

Legislation that is passed by the House without undergoing select committee consideration, whether as a result of urgency or another truncated process, may benefit from post-legislative scrutiny by a select committee. This would give the committee an opportunity to examine the Act to see whether it requires further amendment, and to consult the public.

We considered requiring post-legislative scrutiny for bills passed under urgency without being considered by a select committee, but were unable to reach agreement. We note that any select committee may initiate an inquiry or briefing about enacted legislation and we encourage them to do so.

Declarations of inconsistency

The New Zealand Bill of Rights (Declarations of Inconsistency) Amendment Act 2022 established a mechanism by which the Attorney-General may inform the House of a declaration of inconsistency made under section 92J of the Human Rights Act 1993, or to which section 7A(1) of the New Zealand Bill of Rights Act 1990 applies. In the Privileges Committee's report on the bill, it recommended adopting parliamentary rules for considering declarations of inconsistency. A sessional order was adopted by the House on 23 August 2022, and one declaration of inconsistency has gone through the process since then.⁷ We recommend incorporating this sessional order into the House's permanent rules. Commentary on the procedure can be found in the Privileges Committee's report.⁸

⁷ (2 March 2023) Declaration of inconsistency: Voting age in the Electoral Act 1993 and the Local Electoral Act 2001, J.19.

⁸ New Zealand Bill of Rights (Declarations of Inconsistency) Amendment (230–2) (commentary, 30 September 2021), pp 4–8.

Amendment 22 Declarations of inconsistency

Permanently incorporate the sessional order of 23 August 2023, concerning parliamentary rules for considering declarations of inconsistency, into the Standing Orders.

Secondary legislation

The Legislation Act 2019 uses the term “secondary legislation” instead of the previous broad range of overlapping terms including “legislative instruments”, “delegated legislation”, “regulations”, “disallowable instruments”, “non-disallowable instruments”, and “bylaws”. This consolidation of terminology was intended to make secondary legislation more accessible to the public. We recommend aligning the Standing Orders with the terminology in the Legislation Act 2019 by replacing most references to “regulations” or “delegated legislation” in the Standing Orders with “secondary legislation”.

We have consulted the Regulations Review Committee about its name. The committee unanimously agreed that the name should not be changed, and we support their position. It is for the House to decide what the committee is called, and this need not reflect legislative terminology. The committee has an established identity as an important feature of our constitutional landscape.

Definition of “secondary legislation”

We recommend adopting a definition for “secondary legislation”. This definition is not identical to the definition in the Legislation Act 2019, as adopting that definition would limit the remit of the Regulations Review Committee.

The Regulations Review Committee will retain its broad remit to examine all secondary legislation, and continue to have discretion about how it exercises the function. The proposed new definition of secondary legislation includes:

- secondary legislation as defined in the Legislation Act 2019
- any other instrument that, in the opinion of the Regulations Review Committee, has significant legislative effect.

The first category captures all secondary legislation for Legislation Act purposes, as follows:

- an instrument made under an Act if the Act (or any other legislation) states that the instrument is secondary legislation—this includes both:
 - all instruments made under empowering provisions that have been “tagged” by a provision stating that they are secondary legislation, and
 - all local authority secondary legislation
- an instrument that is made under the Royal prerogative if covered by Schedule 1A of the Legislation Act 2019.

If the definition of “secondary legislation” in the Standing Orders referred only to the definition in the Legislation Act 2019, the committee’s remit could be unduly limited to

instruments made under empowering provisions that in each case tag the instrument concerned as secondary legislation.

The second category (significant legislative effect) gives the committee flexibility to consider instruments that are not tagged as being secondary legislation under their empowering provisions, but which the committee considers should be examined on account of their significant legislative effect. It also reflects the committee's remit to review empowering provisions and to recommend that instruments not tagged as being secondary legislation should be placed in that category.

In assessing whether an instrument has legislative effect, the committee may wish to take account of the following principles, which are derived from the Legislation Design and Advisory Committee's *Legislation Guidelines*:

- Whether an instrument has legislative effect depends on the nature and scope of the power under which it is made. It does not turn on the description of form of the instrument, who the decision-maker is, or the importance of the instrument.
- The committee should consider whether, taken as a whole and considering how the power has been exercised, Parliament has delegated a power to make the law or alter its content.
- Some instruments clearly have legislative effects (for example, those setting criminal offences). In other cases, it is necessary to look at the scope of application of the instrument, scope of the discretion and nature of the power to make it, and the impact on the empowering Act.
- An instrument is likely to have legislative effect if it sets legal rules that apply generally on a class basis or set a framework to be applied again and again, but not if it is only exercised in relation to one or more named persons at a time.

Secondary legislation made under the Royal prerogative

In practice, the Regulations Review Committee does not consider instruments made under the Royal prerogative as these instruments are not made under a power delegated from Parliament. However, we do not consider that the committee should expressly be excluded from examining these instruments. In principle, the model of constitutional monarchy entails that the House maintain a respectful interest in the Crown's exercise of its powers. On the other hand, the committee should continue to refrain from actively reviewing prerogative legislation under normal circumstances.

Secondary legislation exempted from presentation or disallowance

In our view, the Regulations Review Committee should not be expressly excluded from considering secondary legislation that Parliament has exempted from presentation, disallowance, or both. Although it may be exempted from presentation or disallowance, this secondary legislation is made under delegated authority from Parliament, and the House should retain some ability to oversee it.

In practice, the committee will not normally consider exempted secondary legislation, on account of the compelling reasons that have given rise to the exemptions in the first place, such as

constitutional conventions or national security interests. Even if the committee decided that such secondary legislation should be examined, this would not create any duty to present, or power to disallow, secondary legislation, other than as provided for under the Legislation Act 2019.

Amendment 23 Secondary legislation

- Replace references to “regulations” and “delegated legislation” in the Standing Orders with “secondary legislation”.
- Adopt a new definition for “secondary legislation”

Parliamentary Counsel Office annual report on legislative practices

Under the Legislation Act 2019, most secondary legislation is required to be presented to the House. However, there are a number of exemptions to these presentation requirements. Exemption grounds include that presentation is inappropriate for reasons of security or commercial confidentiality, or that the instrument is made by the House. Schedule 3 of the Act lists empowering provisions to which these exemptions apply.

As a safeguard for the use of these exemptions, section 83A of the Legislation Act 2019 requires the Chief Parliamentary Counsel to prepare a report to the Attorney-General. This report must cover the extent to which makers of secondary legislation have relied on presentation exemptions during the previous financial year. The report may also cover any other practices relating to the design, drafting, and publication of legislation that the Chief Parliamentary Counsel thinks fit. After receiving the report, the Attorney-General must present it to the House (s 83A(2)).

On 12 December 2022, the Parliamentary Counsel Office published the first Annual Report on Legislative Practices. This includes a section on the reliance on presentation exemptions during the 2021/22 financial year.

The addition of section 83A into the Act was recommended by the Regulations Review Committee when it considered the Secondary Legislation Bill in 2021. In its commentary on the bill, the committee also recommended that the Standing Orders Committee consider recommending that the Standing Orders provide for a procedure where the report of the Chief Parliamentary Counsel is referred to the Regulations Review Committee for consideration after it is presented.

The Regulations Review Committee considered that the report would give it a mechanism to have oversight of the use of these exemptions. Having the report referred would allow the committee to make further enquiries of agencies responsible for the instruments subject to presentation exemptions. This would help the committee consider whether the exemptions remain appropriate.

We recommend amending Appendix E of the Standing Orders to include the Parliamentary Counsel Office’s annual report made under section 83A of the Legislation Act 2019, so that the report would automatically be referred to the Regulations Review Committee for consideration. The committee would have 60 working days to consider the report.

Amendment 24 Annual report on legislative practices

Provide in Appendix E that the Parliamentary Counsel Office Annual Report on Legislative Practices be referred to the Regulations Review Committee, and require that committee to report within 60 working days.

Timing of presentation of secondary legislation

Section 114 of the Legislation Act 2019 requires the relevant Minister to present secondary legislation to the House in accordance with the House's rules and practice. A sessional order was agreed on 19 October 2021 to require the relevant Minister to present secondary legislation to the House within 16 sitting days.

We heard from the Regulations Review Committee that it is common for agencies to present secondary legislation late or not at all. One suggestion from the committee was that the measurement of time in "sitting days" is not well understood by those not closely involved in the parliamentary context. It is also subject to wide variation, depending on the placement of sitting weeks and the use of urgency. We agree that "working days" are better understood by those outside Parliament.

We recommend a new Standing Order that provides that the relevant Minister must present secondary legislation within 20 working days. The period between terms of Parliament is excluded, as presentation cannot occur then.

Amendment 25 Timing of presentation of secondary legislation

Require the relevant Minister to present secondary legislation to the House within 20 working days after the secondary legislation is made.

6 Financial procedures

Substantial changes to select committee scrutiny procedures

Scrutiny of the executive is one of the fundamental constitutional functions of the House. The House relies substantially on its select committees for the conduct of detailed and regular scrutiny. A major component of this regular scrutiny activity is select committees' examination of the Estimates and the performance of departments and other public bodies.

During our review we received a number of submissions about the need to improve select committee scrutiny of the executive. The general sense of dissatisfaction expressed by submitters is not entirely new—two recent reports found similar views among members and former members, among others, too.⁹ We agree that the select committee system is not performing its scrutiny function as well as it should be. Scrutiny of the executive is often cursory, particularly when viewed against the magnitude and complexity of government activity and spending under review. We therefore devoted a considerable portion of our time during this review to considering how to improve select committee scrutiny.

Several submissions, including from members, emphasised that Government party control of the select committee system is a significant factor in explaining the status quo. Under the proportional allocation of members across select committees, parties in Government have a majority or an effective veto (when membership is evenly split between Government and non-Government parties) over scrutiny activities. This has contributed, over the course of decades, to a culture in which scrutiny of the executive is not prioritised or valued as much as it should be. We considered a proposal to restructure select committees into a system of paired legislation and scrutiny committees, with parties not in Government having a majority on scrutiny business. We were unable to agree on the desirability of this approach, which would have represented a major overhaul of the current select committee system.

Instead, we have reached agreement on a package of changes that we believe will lead to meaningful improvement in the standards and culture of scrutiny over time. The changes we recommend would see a substantial increase in the time spent by select committees on scrutiny activities, a more systematic approach to planning and reporting on scrutiny work, and greater opportunity for members to engage in sustained questioning. Our hope is that these changes can serve as a reset of sorts, and spur the development of a more vigorous culture of scrutiny supported by all parties and members of the House.

Scrutiny of the executive is ultimately about contributing to the quality of government, and enhancing public trust in democratic institutions. This can involve holding Ministers

⁹ MartinJenkins & Associates Limited, *Review of select committee operating model* (May 2019); Jonathan Boston, David Bagnall, Anna Barry, *Foresight, insight and oversight: Enhancing long-term governance through better parliamentary scrutiny* (June 2019), Victoria University of Wellington Te Herenga Waka, Institute for Governance and Policy Studies.

accountable, which is the cornerstone of our constitutional system of responsible government. It also includes the regular and detailed examination of how public organisations, and departments in particular, are performing. We rightfully expect a lot from our public sector, and Parliament has a crucial role to play in securing its effectiveness.

Before discussing our proposed changes, we wish to record the historical context for them. The current system of multi-functional subject-based select committees that consider legislation and conduct scrutiny, among other functions, was recommended by the Standing Orders Committee in 1985. In 1995, the Standing Orders Committee described the rationale for the changes as follows:¹⁰

The present select committee structure was adopted in 1985 and had as its rationale the strengthening of the accountability of the Government to Parliament. This was seen as highly desirable given the growth in the range and complexity of government activity and the demand for efficiency, economy and effectiveness in the use of public resources.

There was a strong case put for more systematic, comprehensive scrutiny of government activity. It was felt that departments and other government bodies should be subject to a more uniform incidence of select committee investigations.

The same could be said today. The range and complexity of government activity has continued to grow over the past 30 years. We consider it is time for Parliament's scrutiny procedures to change too, in pursuit of the same goal that previous iterations of this committee had.

Overview of proposed changes

We recommend a package of changes to the rules and practices governing the conduct of regular financial scrutiny work by select committees, including:

- **Scrutiny weeks**—a requirement for the annual sitting calendar to include two dedicated select committee scrutiny weeks (one for annual reviews and one for Estimates), during which the House would not sit and members would be required to attend committee meetings in person, and witnesses would be expected to make themselves available. Correspondingly, the number of sitting weeks would be reduced from 30 to 28.
- **Scrutiny plans**—a requirement for committees to devise and report plans at the start of the Parliament, covering their planned scrutiny activities for the rest of the term.
- **In-depth annual reviews**—the creation of a new procedure for reviewing public organisations involving structured hearings of at least three hours.
- **Broader scope for annual reviews**—incorporation of organisations' strategic documents in the annual review procedure to enable questioning focused on progress against strategic objectives, and future plans for further progress.
- **Review briefings**—a new procedural category for short-form scrutiny with smaller organisations that could take place outside the congested annual review period.

¹⁰ Standing Orders Committee *Review of Standing Orders* (13 December 1995) [1993–1996] AJHR I.18A, p 31.

- **Estimates**—guidance for committees to significantly increase time spent scrutinising spending plans.
- **Sustained questioning**—guidance for chairpersons to facilitate more sustained questioning by members.
- **Introductory remarks**—guidance for witnesses and chairpersons to keep introductory remarks very brief.
- **Follow-up scrutiny**—encouragement for committees to be more open to agreeing to follow-up scrutiny of matters arising during regular annual activities.
- **Scrutiny activities reports**—a requirement for committees to make at least two reports during a parliamentary term covering implementation of scrutiny plans, to enable monitoring of changes and to provide focus for committees.

The House has tended to avoid prescribing how committees are to go about the business referred to them. Committees themselves are generally best placed to judge how to conduct their work. Our proposed changes would involve a limited departure from this approach. We have sought to develop procedural changes that provide greater structure to scrutiny work, and a higher standard of scrutiny in some instances, without prescribing all the details of what improved scrutiny will look like, or creating rigid, one-size-fits-all requirements. The requirements to make scrutiny plans and activities reports reflect that we want committee members to drive what good scrutiny looks like. We encourage committees to approach the new procedures with a spirit of openness and innovation, and to make them work within the context of their subject areas.

Scrutiny weeks

One of the primary challenges in improving scrutiny is creating capacity in the already heavy workloads of select committees and members for longer hearings, which we consider an essential part of improving scrutiny. To achieve this, we recommend the creation of two dedicated weeks for select committee scrutiny—one for annual reviews, and one for Estimates. Scrutiny weeks would be included in the annual sitting programme recommended by the Business Committee and adopted by the House. The number of House sitting weeks would be reduced from approximately 30 a year to 28, which we discuss above (see p 16).

Members would be required to attend committee meetings in person during scrutiny weeks, with remote participation limited to extraordinary circumstances, such as a family emergency. Authority to participate remotely would be granted by a member's party whip or leader, or by the Speaker in the case of Independent members.

We envisage that members will be in Wellington for scrutiny hearings from Tuesday to Thursday, much like a regular sitting week. Committees that meet on Wednesdays of sitting weeks would hold hearings between 9am and 1pm on Tuesdays, and between 9am and 6pm on Wednesdays; Thursday committees would have between 2pm and 6pm on Tuesdays, and 9am and 6pm on Thursdays. A committee could meet on Monday or Friday of a scrutiny week—as they can in a regular non-sitting week—although this should be

notified to members well in advance given they will need to make appropriate travel arrangements and arrange their calendars accordingly.

Another challenge for some committees in recent years has been the scheduling of witnesses—both Ministers and public sector leaders—for hearings. Our expectation is that both Ministers and public sector leaders will make themselves unreservedly available during the above times in scrutiny weeks. We encourage the Speaker of the House, as chairperson of the Business Committee, to write to the Public Service Commission notifying it of the annual review scrutiny week once it is determined. In the event that a committee cannot conduct its scrutiny as it has planned to due to the unavailability of witnesses, we expect the committee to report this to the House in its report on the relevant business as well as in its next scrutiny activities report.

Select committees are not expected to hold all of their annual review hearings in the annual review scrutiny week. Indeed this will not be possible, because some entities' annual reports may not be available by the time of the allocated week, and committees may not be able to accommodate all the hearings they plan to conduct within the hours available in a scrutiny week.

We expect the annual review scrutiny week to generally be scheduled in December. This will allow most public service departments to be reviewed before the end of the calendar year, and avoid a bottleneck of hearings and in the preparation of reports in the busy February–March months. Similarly, we consider June to be the optimal time for an Estimates week. Estimates hearings should take place a few weeks after the presentation of the Budget, so that members have time to familiarise themselves with its contents and the Office of the Auditor-General has time to prepare advice to committees.

In the event that the House did sit during a scrutiny week, select committees would be empowered to meet while the House was sitting.

Amendment 26 Scrutiny weeks

Require the designation of two scrutiny weeks each year when the House is not scheduled to meet, and in which committees are expected to conduct hearings on Estimates and annual review.

Purpose of scrutiny

We recognise that our package of changes will involve a significant shift in select committee practice, and a shift in culture. We recommend that the Standing Orders set out the purpose of scrutiny, to serve as an articulation of a shared, cross-party understanding of committees' responsibilities. The purpose statement would serve to guide chairpersons, committees, and members in applying the new scrutiny procedures. We note that a similar approach was taken with the addition of a purpose clause to the rules for declaring pecuniary and other specified interests in Appendix B of the Standing Orders, and that this has been useful in guiding the interpretation of those rules.

Parliament is a political environment. It could never be otherwise in a lively, competitive democracy. We recognise that scrutiny has a political dimension to it, particularly when the decisions and actions of Ministers are being scrutinised. We hope, however, that in articulating the purpose of scrutiny, we can contribute to a shared sense of purpose among members in deeper scrutiny of public administration and governance generally. Ministers and members have an interest in understanding what is being achieved with public money and how well the country is progressing towards important outcomes.

Amendment 27 Purpose of scrutiny

Set out the purpose of select committee scrutiny in the Standing Orders.

Scrutiny plans

The current approach to scrutiny is ad hoc. Committees decide once a year which organisations to call in for a hearing and for how long, and how long to spend hearing evidence on Votes and appropriations. Previous years' practice exerts a strong influence on this annual decision-making process, and there is little to no planning at the committee level in terms of topics, outcomes, or initiatives that members are interested in or that would benefit from scrutiny.

We recommend that each subject select committee be required to produce a scrutiny plan after the first round of annual reviews in the parliamentary term, covering its planned scrutiny activities for the remainder of the term. A planning process would help to develop a culture of systematic scrutiny, and provide greater focus to committees' scrutiny activities. Committees would report against their plans under our proposed procedure for scrutiny activities reports (see p 53).

Triennial allocation of organisations and Votes

We recommend that the Finance and Expenditure Committee be required to allocate organisations and Votes to committees on a triennial basis, at the start of each term of Parliament, to facilitate this planning process. Allocations could be amended by the Finance and Expenditure Committee in response to the creation or restructuring of organisations subject to annual review, changes in Vote structure, and requests from select committees.

Deadline for scrutiny plans

We recommend that committees be required to report scrutiny plans to the House by the end of the week before Budget Day (mid-May) of the first full calendar year following a general election. This would enable committee members to use the first round of annual reviews—which takes place between the opening of Parliament and the regular reporting deadline of 31 March—to learn about their subject areas and develop priorities for the years ahead.

Designating how organisations and Votes will be scrutinised

One of the main features of scrutiny plans is that they would be required to set out how a committee intends to scrutinise each organisation allocated to it over the two remaining rounds of annual reviews, and its plans for hearings on Votes and appropriations over all

three rounds of Estimates examinations. We recommend that committees be required to hold at least one hearing with each organisation allocated to them at some point in the parliamentary term. This would ensure that smaller organisations are not neglected, and do not develop the expectation that they will not be subject to scrutiny.

Our package of changes includes the creation of a new in-depth review procedure (see pp 47–49) and a mechanism to hold hearings with smaller organisations outside the congested annual review period (see p 50). These would sit alongside the current standard practice for annual review hearings, giving committees three options for how to scrutinise an organisation. Scrutiny plans would set out which of these three approaches the committee intends to employ for each organisation allocated to it, for the remainder of the Parliament. We expect some organisations will be reviewed in depth every year. For others, committees may wish to alternate between the three types of scrutiny across the term. Some organisations may only require one hearing a term. For committees with a large number of smaller organisations, we expect that scrutiny plans may include a programme of review briefings with smaller organisations to be conducted outside the annual review window.

We recommend below that the Finance and Expenditure Committee be empowered to designate certain organisations as requiring in-depth reviews (see p 48). Committees would then be required to give effect to these designations in their scrutiny plans. Committees could also designate further organisations for in-depth review in addition to the Finance and Expenditure Committee's designations.

The Office of the Auditor-General (OAG) currently provides advice to committees about organisations that are a priority from an audit and assurance perspective. We expect this to continue and for the OAG to play an important part in supporting committees in developing their scrutiny plans.

Time spent hearing evidence should increase

As part of the above designations, scrutiny plans are expected to set out the length of planned hearings. We think the current time spent on hearings should increase substantially. Part of the intention for creating scrutiny weeks and reducing the number of sitting weeks is to create space for this to occur without affecting the overall capacity of select committees or the amount of time members are expected to spend in Wellington.

In the 53rd Parliament, select committees have spent an average of 6.75 hours hearing evidence in each round of annual reviews, and 4 hours of evidence for Estimates. Some committees spend relatively more or less than each of these figures. A full breakdown by committee is included in this report in Appendix C.

We discussed creating a target number of hours that committees should hear evidence for, but decided against this due to the significant variation in the number of organisations and Votes allocated to committees. We expect the amount of time each committee spends hearing evidence on both annual reviews and Estimates to at least double, given the time available in scrutiny weeks and the creation of the new in-depth review procedure.

Substantive scrutiny priorities

Scrutiny plans should do more than set out the logistical aspects of scrutiny activities—they should also include some information about the committee’s substantive priorities. We recommend that the definition of scrutiny plans provide for this. Under our recommendation, scrutiny plans could include major initiatives and outcomes a committee plans to focus on in its scrutiny activities, as well as any other priorities, themes, or approaches the committee intends to follow. These could be focused on particular organisations, or at the sector or whole-of-government level.

Scrutiny plans would not be strictly required to include the above matters, but we hope committees will embrace the encouragement to spend time considering what they want to get out of their scrutiny work, and how they can best contribute to the purpose of scrutiny. A more strategic, big-picture approach to scrutiny is one of the underlying intentions of our recommendations, and scrutiny plans provide a valuable opportunity for committees to develop and implement this kind of approach. Substantive priorities listed in a scrutiny plan would not constrain a committee’s future activities, or the scope of relevant questions during hearings. They are intended to provide focus to the committee’s work and a useful signal to organisations about the committee’s priorities.

The OAG can support committees in developing substantive scrutiny priorities and we encourage committees to make use of the OAG’s expertise.

Amendment of scrutiny plans

We recommend that amendments to scrutiny plans be made by reporting them to the House. We do not expect changes to be frequent, but committees should consider amending their plans in certain circumstances—for example, when current events affect the desirability of scrutinising a particular entity, or there is broad agreement among members that scrutiny priorities have changed. We do not intend that the adoption of scrutiny plans should reduce committees’ responsiveness and relevance to external developments that require scrutiny.

Scrutiny activities reports (discussed below) would offer one opportunity to amend plans. Activities reports would be required to be made by mid-May, and committees may wish to recalibrate their plans for the third round of annual review scrutiny, after completing the second round of the term.

Sector-based scrutiny approaches and Ministers at sector hearings

In its report on the Review of Standing Orders 2020, the Standing Orders Committee encouraged select committees to take more of a sectoral approach to their scrutiny activities, and to consider inviting Ministers to participate in sectoral review hearings. Some committees have developed these practices in the current Parliament, as appropriate to their subject areas. We encourage this to continue in the next Parliament, particularly in the context of committees’ development of scrutiny plans. Our recommended amendments to the Standing Orders are focused predominantly on organisations and Votes, because these are the primary reporting units our current system is based on, and scrutiny at these levels

needs to improve. This should not be interpreted as discouraging more joined-up, sectoral scrutiny where appropriate.

Relatedly, we recommend below that an inquiry be undertaken by a special select committee in the 54th Parliament into public finance performance reporting information and parliamentary accountability (see p 54).

Amendment 28 Scrutiny plans

Require each subject select committee to adopt and report to the House a scrutiny plan that sets out the committee's intentions for conducting scrutiny activities during the Parliament.

Amendment 29 Triennial allocation of organisations and Votes

Require that the Finance and Expenditure Committee allocate Votes and appropriations for Estimates examinations, and organisations for annual reviews, at the beginning of a Parliament, with the ability to adjust allocations as the need arises.

In-depth reviews

A primary concern with current scrutiny practices is that hearings are far too brief. Departments that administer large sums of public money and that have significant system-wide roles are generally scrutinised for between 60 and 90 minutes each annual review round, and smaller ministries for as little as 30 minutes. Members do not usually have the opportunity to develop sustained lines of questioning, and there is a sense among some members that there is little incentive to prepare for hearings because of this. We are concerned that current practice is undermining the extent to which select committee scrutiny creates an expectation of scrutiny among organisations, which is a key part of how scrutiny creates discipline in public administration.

We recommend the creation of an in-depth review procedure to address these concerns. In-depth reviews would involve hearings of three hours or more, split over two meetings if necessary. The ability to split hearings across meetings would facilitate the conduct of in-depth reviews during regular committee meetings, when scrutiny hearings may need to compete with other committee business for scarce agenda time. Hearings could also be split into morning and afternoon sessions on the same day, particularly in scrutiny weeks. Committees may also want to conduct an in-depth review of two related entities—such as a public service department and an associated, operational Crown entity—concurrently over the course of the day. In such cases the hearing would be six hours or more. Scheduling organisations to appear before the committee at the same time should not reduce members' opportunity to question them.

For the first round of annual reviews of the Parliament, there will not be an annual review scrutiny week in the sitting programme, and there will not be scrutiny plans in place. We therefore expect that the volume of in-depth reviews in the first annual review round will be lower than in later rounds. We encourage the Finance and Expenditure Committee to take this

into account when specifying which organisations are subject to in-depth review at the start of the term.

To avoid these rules being overly rigid, we recommend providing that the requirements in Standing Orders for in-depth reviews can be varied by leave of the committee. If all committee members agree that a different approach would be more effective for scrutinising an organisation or sector, the Standing Orders should not prevent this.

Finance and Expenditure Committee to designate organisations for in-depth review

Some large or significant organisations should always be reviewed in depth. We recommend that the Finance and Expenditure Committee be empowered to designate organisations that must be subject to an in-depth review, when referring them to committees. We considered prescribing the organisations that would be subject to in-depth review in the Standing Orders, but on balance consider that having the Finance and Expenditure Committee designate them provides useful flexibility.

We expect that each committee will be allocated at least one or two organisations that require in-depth review in every annual review round. The Finance and Expenditure Committee's selection of organisations should focus on the volume of spending that organisations are responsible for and the significance of their roles in the public sector. In addition, some smaller organisations may be designated because they pose a particular audit and assurance risk. We expect that the Office of the Auditor-General will provide advice to the Finance and Expenditure Committee to inform its designation of organisations.

Committees themselves would be empowered to designate organisations for in-depth review above and beyond the designations made by the Finance and Expenditure Committee, as they see fit.

Structured agendas for in-depth hearings

In order to provide structure to hearings of a greater length than what is currently practised, we recommend that committees adopt a thematic structure or agenda for in-depth hearings. We have chosen to leave this requirement open-ended, so that committees themselves decide how best to structure their hearings. Hearing agenda items could be focused on outcomes, subject topics, or sectoral priorities relevant to an organisation. They could also be based on organisation-specific functions, such as:

- financial performance, management, and controls
- performance reporting and evaluating impact
- progress against performance expectations and strategic intentions
- collaboration across government
- long-term governance and stewardship.

Committees may also wish to designate a specific agenda item for general questions and current events. Members from parties not in Government should have significant influence over the selection of topics. Hearing agendas should not resemble patsy questions.

Currently, there is a relatively permissive culture around ruling on relevancy during scrutiny hearings. In structured in-depth hearings, chairpersons may need to be stricter on relevancy, given that each topic within the hearing agenda would conclude when there are no more relevant questions or the committee's agreed time for a topic has elapsed. We encourage members to accept stricter adherence to relevancy by chairpersons as part of the changes.

Organisations should be informed of the agenda for an in-depth hearing at least one week in advance, so that they can ensure the right people are in attendance. Agendas would also be published on the Parliament website so that all members, the public, and the media are informed.

Amendment 30 In-depth reviews

Establish a procedure for subject select committees to conduct in-depth reviews of organisations during the annual review process, as designated by the Finance and Expenditure Committee and the committees concerned.

Broader scope for annual reviews

Currently, the scope of relevant questions during annual review hearings is limited to the past performance and current operations of an organisation. This rule has sometimes frustrated members who want to ask questions about an organisation's plans for the future, or questions related to stewardship responsibilities.

We do not think that the prohibition on future-focused questions for annual reviews should be entirely removed—the purpose of the procedure is to examine the performance of an organisation, not to ask speculative questions that are unrelated to its performance, administration, or expenditure. However, there would be value in greater scrutiny of organisations' progress against their strategic intentions and what plans and intentions they have for further progress. Currently, organisations' reports on their strategic intentions are not referred to select committees or specifically scrutinised. We therefore recommend including examination of progress toward strategic intentions and plans for further progress against them in the definition that governs the scope of annual reviews.

One of the criticisms of current scrutiny practice is that it does not often follow a logical progression from long-term aims, to strategic intentions, to particular proposals, to current performance, to results, and to outcomes. The intention of broadening the scope of annual reviews is to facilitate more of this kind of scrutiny.

Amendment 31 Broader scope for annual reviews

Broaden the scope of the annual review procedure to allow for the examination of strategic intentions and future-focused questioning of organisations.

Review briefings

Some committees are allocated a large number of organisations for annual review, including a significant number with relatively narrow functions and that administer or spend relatively small amounts of money. Under current practice, committees often call these organisations in for short annual review hearings of about 20 or 30 minutes, or not at all. Often, these hearings resemble briefings in which committee members familiarise themselves with the activities of these organisations. There is value in members doing this, but we think committees' time during the annual review window—which can become quite congested with hearings, particularly alongside legislative and other work—should be focused on deeper scrutiny of larger organisations, or organisations that carry some risk that warrants more detailed scrutiny in line with the purpose statement we have proposed.

To facilitate this change in practice, we recommend creating a new procedure termed review briefings, which would be defined as scrutiny of an organisation carried out by a select committee outside the annual review procedure. This would enable a committee to adopt a programme of briefings with smaller organisations as part of its scrutiny plan. This way, committees that are allocated a large number of organisations could spread out their scrutiny workload across the financial year.

It is important that all organisations subject to the annual review procedure know that they will be subject to parliamentary scrutiny at some point during the term. We have recommended that a committee be required to hold at least one hearing during the term with all organisations referred to it.

We also recommend that review briefings be included in the list of possible topics for special debates in the House, so that they may be subject to debate outside the annual review debate.

Amendment 32 Review briefings

Provide for committees to conduct scrutiny outside the annual review procedure through review briefings, and for these review briefings to be included in the list of possible topics for special debates.

Examination of Estimates

In the current Parliament, select committees have dedicated on average four hours each year to hearings of evidence with Ministers on the Votes and appropriations allocated to them. The shortest amount of time allocated by a committee was one hour (one Vote referred), and the longest just over eight hours (seven Votes and three sets of appropriations referred). We consider this to be representative of committee practice in recent Parliaments as well.

The amount of time spent scrutinising the Estimates should increase. We have not considered it necessary to develop detailed procedures for this to occur. This is in part because committees typically hold hearings for all Votes and appropriations referred to

them. With our proposed creation of a dedicated Estimates scrutiny week in which the House does not sit, each committee will have available to it at least 12 hours of meeting time. If committees utilised all of that time, the amount of time spent hearing evidence on the Estimates would nearly triple (accounting for some time spent discussing advice with the Office of the Auditor-General). We encourage committees to aim to at least double the amount of time spent on hearings compared to previous years. Votes comprising billions of dollars of public money should be scrutinised for longer than one hour, which is currently common across many committees.

Committees may wish to adopt thematically structured agendas for Estimates hearings too, although we have not recommended requiring this. The questioning of Ministers is inherently more political than the questioning of public sector leaders because Ministers are elected decision-makers and responsible to the House. In this context, a more free-flowing form of hearing guided by the chairperson is appropriate.

One of the underlying intentions of our proposed changes is to spur a change in scrutiny culture in which committees are more willing to innovate to give effect to the purpose of scrutiny. For example, in some cases it may be quite useful for a committee to hear evidence from the department that would administer funding in practice, as well as the Minister responsible for the relevant Vote. The purpose of Estimates is to determine whether Parliament should appropriate the proposed sums of public money for particular purposes, which is not necessarily limited to examining the responsible Minister's decisions and justifications. We note that holding hearings with departments is a standard part of Budget scrutiny in the Australian Parliament. We encourage committees to consider what meaningful scrutiny of the Estimates looks like in their subject areas and to adopt practices accordingly. Where a committee invites a department to appear before it as part of its scrutiny of the Estimates, it should adopt a thematically structured agenda for the hearing so that public sector leaders can prepare accordingly. Estimates hearings with departments should not be entirely open-ended.

We encourage select committee chairpersons to take a somewhat stricter approach to relevance during Estimates hearings. While members should not be required to fastidiously link each of their questions to a line item in the Estimates, questions about policy or recent events that are in no discernible way linked to the Government's proposed spending plans should be ruled out as irrelevant if the member cannot demonstrate a link when asked.

Introductory remarks by witnesses

Frustration over the length of introductory remarks at the start of scrutiny hearings has been longstanding. Ministers and public sector leaders are reminded in letters of invitation to keep introductory comments short, and are occasionally reminded of this at the start of, and during, hearings. Nonetheless, the issue has persisted, and limited scrutiny time has been soaked up by opening statements that often add little value to the committee's work. In some cases, written statements are read verbatim and then made available by the witness on their website immediately.

While there are cases where a witness may wish to address a matter of public importance in specific terms, in most cases, lengthy opening statements come across as obfuscation. We discussed banning them altogether. We did not agree that such an approach was desirable at this stage. In some cases, it can be enlightening to hear how witnesses frame the matters they are responsible for. However, we wish to reiterate in strong terms to both witnesses and chairpersons that introductory remarks should be very brief, unless a longer statement is agreed by the committee in advance or a recent event of public importance warrants it. By “very brief”, we mean approximately 3 minutes for a hearing of 60 minutes, and approximately 6 minutes for a hearing of 120 minutes or longer.

It is ultimately up to the chair to manage the conduct of a hearing, subject to any direction from the committee. We encourage chairpersons to take note of our guidance.

Facilitating sustained questioning

The lack of opportunity to engage in sustained questioning of witnesses is one of members’ primary complaints about current scrutiny practices. We recommend that chairing practice be changed to address this.

The brevity of hearings is perhaps the most significant factor affecting the allocation of questions, and we expect that longer and more structured hearings will go some way to facilitating more sustained questioning. But chairing practice can play a role too.

Chairpersons should facilitate sustained questioning by individual members in their approach to managing hearings. Currently, hearings are run primarily by allocating primary and supplementary questions to members. This approach makes sense in the context of scarce hearing time and many members wishing to ask questions. For longer hearings, it may be appropriate to allocate portions of time to members rather than questions. Alternatively, chairpersons could facilitate more sustained questioning by allowing members more leeway to develop their line of questioning before moving to other members’ questions, including supplementary questions on the same topic.

We have not considered it desirable to regulate questioning in a Standing Order, which could prove difficult and contentious to apply. It is ultimately up to the chair to manage the conduct of a hearing, subject to any direction from the committee. However, we wish to be clear: there is an obvious link between the depth of scrutiny and members’ ability to develop lines of questioning over a sustained period of time. Select committees are an ideal environment for this to occur, and we wish to see more of it. We encourage the Standing Orders Committee of the next Parliament to consider how practice has changed in the next review of Standing Orders.

Encouraging follow-up scrutiny

Under current practice it is uncommon for select committees to invite organisations for second hearings as part of the annual review procedure, or to initiate briefings or inquiries to follow up matters of significant interest from annual reviews. With select committees spending more time on scrutiny and developing a deeper level of scrutiny over time, the incidence of such matters of interest arising in the course of regular scrutiny may increase.

We encourage committees to be more open to reasonable proposals for recalling an organisation or initiating a piece of work to follow up matters arising from regular scrutiny. It is not necessary to provide for this in Standing Orders, as all subject select committees already have the power to initiate briefings and inquiries within their subject areas. Members are encouraged to put forward specific proposals and reasons for follow-up scrutiny. If a committee's workload is heavy, it should consider appointing a subcommittee to conduct follow-up scrutiny.

Scrutiny activities reports

We recommended that select committees be required to make annual scrutiny activities reports to the House. These reports should inform the House about the implementation of the committee's scrutiny plan, including statistics showing time spent on scrutiny business. Committees may also wish to include overarching observations or themes from their scrutiny work, conclusions from review briefings conducted outside the annual review procedure, actions taken or intended to be taken by the committee to follow up matters from annual reviews, and any feedback on the operation of the new scrutiny procedures. Scrutiny activities reports could also include amendments to the committee's scrutiny plan, as appropriate.

The requirement to make activities reports is intended to assist committees with implementing the new scrutiny procedures by making it clear what they will need to report on, and to equip the Standing Orders Committee to monitor and evaluate how the changes are operating, in a consistent manner across committees. We recommend the Office of the Clerk develop a template for scrutiny activities reports to facilitate this.

We recommend that committees be required to make at least two scrutiny activities reports a term. The deadline for these reports would be the end of the week before Budget day, in the second and third year of a Parliament—the same as the deadline for scrutiny plans in the first year of the term.

Amendment 33 Scrutiny activities reports

Require every subject select committee to report about its implementation of its scrutiny plan and its conduct of scrutiny activities, including any updates to its scrutiny plan.

Extending deadline for examination of certain economic and fiscal reports

We recommend extending the deadline for the Finance and Expenditure Committee to report on the Budget economic and fiscal update and fiscal strategy report to 10 weeks after the delivery of the Budget. This would align the reporting deadline for these reports with the deadline for select committee reports on the examination of the Estimates.

Amendment 34 Time for examination of economic and fiscal reports

Extend the deadline for the Finance and Expenditure Committee to report on the Budget economic and fiscal update and fiscal strategy report to 10 weeks after the delivery of the Budget.

Proposed inquiry into public finance performance reporting and parliamentary accountability

We recommend to the House that an inquiry be held into performance reporting and the provision of information by the Government through which it is held accountable by the House. This proposed inquiry follows from concerns raised in recent reports to the House by the Auditor-General and the Parliamentary Commissioner for the Environment about performance reporting and accountability.

We are aware that the Finance and Expenditure Committee has recently considered the Auditor-General's views on this topic in the context of his report on the central Government audits. Overall, throughout his reporting to the House, the Auditor-General has expressed concern that accountability broadly is not meeting the needs and expectations of society. In general terms, the Auditor-General considers the current reporting system does not provide Parliament and the public with the kind of information that would enable them to properly understand the Government's performance and to hold it to account for that performance. His view is that legislative reform is needed for better financial and performance reporting. The Finance and Expenditure Committee encouraged its successor committee to continue to consider this matter with the Auditor-General in the next term of Parliament, and to involve the Treasury in this conversation.

While the Public Finance Act 1989 falls within the subject area of the Finance and Expenditure Committee, the issue of performance reporting and accountability information underpins parliamentary oversight of the whole span of public governance. On that basis, we believe this inquiry should be conducted by an ad hoc select committee established for the purpose.

This inquiry could well result in policy recommendations being made to the Government about adjusting the statutory framework. As well as examining the quality of performance reporting and information, the inquiry could consider how to enhance the quality of the information that select committees rely on to do their scrutiny work. For example, the inquiry could consider how information provided to the House could enable select committees to conduct scrutiny in a logical progression from long-term challenges, to strategic intentions, to multi-year baselines, to annual Estimates, to annual departmental performance, to progress and outcomes. Moreover, the inquiry could consider how information could be provided that would enable members and the public to trace spending and follow trends and developments in the Government's activity and resulting public outcomes.

Reporting and information are of interest to the House primarily as inputs to the scrutiny system. It may be desirable also to investigate whether that system is best organised to make effective use of the information. The inquiry should consider how the statutory framework and the House's scrutiny procedures fit together to form an effective overall system for accountability and scrutiny.

Recommendation to the House—Inquiry into public finance performance reporting and parliamentary accountability

We recommend to the House that it establish an ad hoc committee in the next term of Parliament to conduct an inquiry into performance reporting and the provision of information by the Government through which it is held accountable by the House.

7 Non-legislative procedures

Petition 2020/154 of Michael Gibson

Prior to our review we received a petition in the name of Michael Gibson, which requests “That the House of Representatives change its Standing Orders to prevent a member of the Government reading from or referring to any written material when answering a supplementary question from a member of a party in Government”. We resolved to consider and report on Michael Gibson’s petition as part of our review of Standing Orders.

Questions to Ministers and members

Questions from parties in Government

Questions in the House are allocated in proportion to non-executive membership of the House because oral questions are primarily a means for holding the Government to account. It is up to each party to determine how to use these questions, and nothing prevents members from discussing their questions with the Minister in advance. We accept that this may lead to a somewhat theatrical display, with members from governing parties asking questions simply to allow Ministers to make responses that suit their own purposes.

We accept that these types of questions and the answers that ensue appear artificial. However, it is important to give the Government an opportunity to advise the House of its successes or other areas of interest. We considered a proposal from the Clerk to establish a procedure for short Government announcements as an optional alternative to questions from members of governing parties, but were unable to reach agreement.

Number of supplementary questions

Scrutiny is not well served if Opposition parties do not have enough supplementary questions to follow up on issues raised during governing party members’ questions. In this Parliament, a particularly large governing party has led to a reduced number of supplementary questions for Opposition members. The principle of proportionality should continue to be observed, with questions allocated in proportion to non-executive membership of the House. However, we encourage the Speaker to consider increasing the total number of supplementary questions in Parliaments with large governing parties. We consider that this is unlikely to increase the total length of question time, as governing parties tend not to use their full allocation of supplementary questions.

We do not believe banning Ministers from referring to written material would improve scrutiny. The object of question time is not to test a Minister’s memory; it is to give the House opportunities to scrutinise the Government.

Questions to the Prime Minister

Under current arrangements questions may be addressed to the Prime Minister, but, as the Prime Minister's responsibilities overlap with those of portfolio Ministers, the Government can transfer questions unless they are particular to the Prime Minister. This often results in vague questions being lodged about the Prime Minister's own statements or actions, or their confidence in other Ministers, rather than about specific aspects of the Government programme.

In some circumstances, there is value in hearing what the Prime Minister's opinion is on a particular matter, separate from hearing what the portfolio Minister has to say. We ask future Governments to exercise restraint in transferring questions from the Prime Minister to other Ministers, though there may be times where this is still appropriate.

We considered introducing a separate Prime Minister's question time but were unable to reach agreement.

Urgent debates

Although urgent debates do not occur very often, when they are permitted they disrupt the expected plans for the sitting day. While Governments should expect to have House time diverted at short notice in recognition of ministerial actions that have given rise to matters of urgent public importance, we believe the current time, of 1 hour 30 minutes is too long. We recommend shortening the total time for an urgent debate to 1 hour, with 10 minutes for the first two speeches and 5 minutes for other speeches.

We also note that the current practice does not give members sufficient time to prepare as it requires the Speaker to declare whether an urgent debate is to be held immediately before it would begin. For this reason, we recommend amending Standing Orders to allow the Speaker to indicate earlier on a sitting day whether an urgent debate will be held. For example, the announcement may be made before question time, but this may depend on when the application is received.

Debates under this procedure are known formally as debates "on matter of urgent public importance". We recommend amending the Standing Orders to reflect the more usual description of them as "urgent debates".

Amendment 35 Urgent debates

Rename debates on matters of urgent public importance as "urgent debates".

Change the time for an urgent debate to two 10-minute speeches and eight x 5-minutes speeches.

Amend Standing Order 400 to allow the Speaker to announce earlier on a sitting day whether an urgent debate has been allowed.

Special debates

Following the 2020 review of Standing Orders, the House adopted a requirement to have at least 7 hours of House time each year allocated to special debates. These debates have been working well, but at times the Business Committee has struggled to find topics for special debates. We encourage members and committees to be more proactive in putting forward topics for special debates.

Petitions Committee

The number of petitions to Parliament has continued to increase in this term, with 476 petitions presented in approximately 2 years to August 2022, compared with 216 in the 52nd Parliament. In the previous review, the Standing Orders Committee recommended establishing a Petitions Committee as a specialist committee with oversight of and responsibility for petitions. We heard from the committee about how it has established its tikanga and procedures during this term of Parliament, while dealing with the challenge of an increasing number of petitions. We commend the committee for the vigour with which it has approached this task, as well as its collaborative approach and the seriousness with which it has considered its duty to petitioners.

We recognise, in particular, the contribution of Hon Jacqui Dean as the inaugural chairperson of the committee. Standing Order 204(4) requires the chairperson of the Petitions Committee to be a Deputy Speaker or Assistant Speaker, in order to support the multipartisan character of the committee. We heard that the appointment of one of the House's presiding officers to this role has indeed had the desired effect.

We heard from the committee about the core principles it developed during the 53rd Parliament:

- taking a cooperative, multipartisan approach
- aiming to give petitioners a fair hearing
- emphasising an efficient process so petitioners can hear back from Parliament in a reasonable time frame.

The committee stressed the importance of giving petitioners an opportunity to speak directly with members of the public, to give them an opportunity to have their say in their own words, and to discuss the issues they are passionate about. After receiving submissions from departments about petitions, the committee operated a practice of allowing time for petitioners and departments to work together on a solution before reporting back to the House.

The Petitions Committee must decide whether to consider a petition itself, transfer it to a subject select committee, or refer it to a Minister. We wish to endorse the approach the Petitions Committee has taken on decisions about when to refer or transfer petitions:

- Transfer petitions that require the expertise of a subject select committee or when the scope of the petition is relatively wide and may merit substantial public engagement.
- Refer petitions to Ministers for response if they are highly specific to individual petitioners' circumstances or when a Minister is a direct decision-maker and is best placed to respond to the petition.

- Retain petitions that require urgent consideration or that do not require subject select committee expertise.
- Balance those principles against committees' workloads.

We were concerned to hear that some government departments and agencies were declining requests for information and advice. When a select committee requests information from a government department, we expect cooperation with that request. The Petitions Committee may draw to the attention of the House any lack of cooperation, in its reporting on a petition.

Appointment and removal of statutory office holders

In June 2020, the Officers of Parliament Committee reported on a petition from Martin Matthews and 14 others seeking a review of the actions of Parliament and the Officers of Parliament Committee of the 51st Parliament leading up to the resignation of the then Controller and Auditor-General.

The Officers of Parliament Committee recommended that the Government review the empowering legislation for all Officers of Parliament. In its response, the Government agreed in December 2020 that the Ministry of Justice would carry out such a review. We asked whether this review is under way and were informed that it is not, because of other Government work priorities.

International treaties

The international treaty examination process has been in place for 25 years, and has largely remained unchanged during that time. In our view, it is time for a review of how the procedure is working. An inquiry by the Foreign Affairs, Defence and Trade Committee into international treaty processes, including both how treaties are made and the parliamentary procedure for examining them, would be the best parliamentary mechanism for such a review.

While the making of international treaties is generally regarded as an executive prerogative, it is entirely appropriate for the House to scrutinise how that function is carried out, as well as considering its own procedures for examining treaties. The Government may call for wider public input during the treaty negotiation process, although more usually public engagement is left for the select committee to undertake during the treaty examination process, which takes place after a treaty is made.

National interest analyses (NIAs) are prepared by departmental officials and presented to the House at the same time as the treaties to which they relate. It is up to the Government whether and how departments engage external advice or subject treaties and NIAs to independent assessment. NIAs are required under the Standing Orders, which are not suitable for setting out detailed steps to be undertaken during what is a Government process—such requirements would be more suitable for legislation. Any inquiry into the international treaty-making process should consider whether a statutory basis would be appropriate. Alternatively, a non-statutory approach could be to adjust requirements for Cabinet approval during the

international treaty process. However, in their current form, NIAs are primarily intended to inform the House, which is a valuable frame through which to view them and their purpose.

We recommend to the Foreign Affairs, Defence and Trade Committee that it initiate an inquiry and obtain independent advice about formulating its terms of reference.

Recommendation to select committee—International treaties

We recommend to the Foreign Affairs, Defence and Trade Committee that it conduct an inquiry into how treaties are made and the parliamentary procedure for examining them.

8 Pecuniary and other specified interests

Real property

Clause 5(1)(f) of Appendix B of the Standing Orders requires that members declare “the location of real property in which the member has a legal interest, other than an interest as a trustee, and a description of the nature of the real property”. We heard from the Registrar of Pecuniary and Other Specified Interests that “legal interest” appears to include any lease of real property held by a member.

Most real property leases are not pecuniary in nature. Many members may have a lease of real property that they have no possibility of receiving a financial benefit from. These leases would include their electorate and community offices, continuous Wellington accommodation, and ordinary residential leases.

We do not believe it serves the purpose of the register to require these types of leases to be declared. Most leases do not create a financial interest in land. Instead, they create an interest in a community. Other community interests, including family and iwi ties and involvement with community groups, are not declared through the register. Declaring these interests may also make it harder to identify whether members have a financial interest in land.

We note that members have declared long-term and commercial leases in the past, and we expect members to continue this practice. If a member profits from the leased property or has the ability to transfer or sublease the property, it should be declared.

We recommend an express provision that electorate and community offices do not need to be declared under clause 5(1)(f). However, in some situations arrangements for leases in electorate and community offices might need to be declared under other categories. For example, discounted rent should be declared as a donation in kind. We consider that declaring interests in electorate and community offices as tenants in an arms-length commercial arrangement is not currently required and this is a technical change, for the purpose of clarity. For this reason, we do not consider that past returns need to be corrected to record interests in electorate and community offices.

Amendment 36 Pecuniary and other specified interests

Amend clause 5 of Appendix B to clarify that a member’s interest as a lessee or tenant of a property used as that member’s electorate and community office does not need to be declared as an interest in real property.

Review of Appendix B in next Parliament

During our review we considered the question of whether all lease and leasehold interests should be required to be declared, or only those of a pecuniary nature. The Registrar also raised some matters with us related to the operation of Appendix B. We did not reach a conclusion on these issues in the time available for our work.

On 23 August 2023, the Privileges Committee reported on a question of privilege arising from an inquiry conducted by the Registrar of Pecuniary and Other Specified Interests of Members of Parliament into a member's compliance with the requirements of Appendix B of the Standing Orders. In its report, the committee recommended that this committee give consideration to give consideration to clarifying how interests in trusts should be dealt with.

We recommend that the Standing Orders Committee of the next Parliament conduct a general review of Appendix B at the start of the parliamentary term, and consider the above matters in the course of its review. It would be preferable for these matters, and any other enhancements to the regime for members' disclosure of interests, to be dealt with during the term rather than at the end of it.

Part 2—Recommended amendments to the Standing Orders



STANDING ORDERS OF THE HOUSE OF REPRESENTATIVES

Amendments recommended by the
Standing Orders Committee

August 2023

NOTES: References are to numbered amendments as set out in Part 1 of the report.

The Standing Orders will retain their current numbering when republished, with new provisions numbered as set out in this report.

Recommended amendments are shown as follows: ~~struck-out~~ and inserted text.

CHAPTER 1

GENERAL PROVISIONS AND OFFICE HOLDERS

INTRODUCTION

...

3 Definitions

(1) In these Standing Orders, if not inconsistent with the context,—

...

declaration of inconsistency has the meaning set out in clause 2 of Appendix F

Amendment 22
—Declarations of inconsistency

department means a department or departmental agency within the meaning of the Public Finance Act 1989

...

regulation means any delegated legislation, including secondary legislation within the meaning of the Legislation Act 2019

Amendment 23
—Secondary legislation

remote participation means attendance at a sitting of the House or committee meeting by digital means without being physically present, and **participating remotely** has a corresponding meaning

Amendment 8
—Remote participation

secondary legislation—

(a) means secondary legislation within the meaning of section 5(1) of the Legislation Act 2019, and

Amendment 23
—Secondary legislation

(b) includes any other instrument that, in the opinion of the Regulations Review Committee, has significant legislative effect

...

working day means any day of the week other than—

(a) a Saturday, a Sunday, Good Friday, Easter Monday, ANZAC Day, Labour Day, the Sovereign’s birthday, Te Rā Aro ki a Matariki | Matariki Observance Day, Waitangi Day, and the day on which Wellington Anniversary is observed, and

Amendment 1
— Te Rā Aro ki a Matariki/Matariki Observance Day

...

CUSTODY AND AVAILABILITY OF PROCEEDINGS AND RECORDS

8 Coverage and availability of proceedings

...

(3) Where practicable, official coverage of evidence heard in public by select committees is made available, subject to any select committee decision to the contrary, subject to paragraph (3A).

(3A) The availability of official coverage under paragraph (3) may be delayed or altered by the Clerk at the request of the committee concerned or on the Clerk’s own initiative.

Amendments 2 and 3
—Delay or alteration of availability of official coverage of select committee proceedings
—Committee request to delay availability of official coverage

(3B) If the availability of official coverage is delayed or altered under paragraph (3A) on the Clerk’s own initiative, the Clerk must consult

the committee concerned, and take the committee's views into account in deciding whether any delay or alteration should be continued.

(3C) The Clerk must inform the Speaker any time the availability of official coverage is delayed or altered under paragraph (3A).

...

OPENING OF PARLIAMENT

13 Proceedings on meeting of new Parliament

On the first day of the meeting of a new Parliament the business is as follows:

...

(c) when the Royal commissioners have withdrawn, the Clerk (or other person so authorised) reads ~~the commission authorising the administration of~~ the authorisation to administer the oath or affirmation required by law:

...

OTHER PRESIDING OFFICERS

...

29 Assistant Speakers

(1) The House may appoint up to ~~two~~ three members to be Assistant Speakers.

Amendment 5
—Number of Assistant Speakers

...

PARTIES

35 Recognition of parties

...

(2) Independent members, or members who cease to be members of the party for which they were originally elected, may be recognised, for parliamentary purposes,—

...

~~(c) as members of a component party in whose interest those members stood as constituency candidates at the preceding general election if they inform the Speaker in writing that they wish to be so recognised.~~

Amendment 6
—Recognition of component parties

(c) as members of a component party if they inform the Speaker in writing that they wish to be recognised as members of that component party, and

(i) those members stood as constituency candidates for the component party at the preceding general election, and

(ii) the component party is registered under Part 4 of the Electoral Act 1993.

(2A) A member may be recognised, for parliamentary purposes, as a member of only one party at a time.

...

CHAPTER 2

SITTINGS OF THE HOUSE

ATTENDANCE AND ABSENCE

...

38A Remote participation in sittings

- (1) The Business Committee may determine that members may participate remotely in a sitting of the House.
- (2) In making a determination under paragraph (1), the Business Committee may determine conditions or rules regarding remote participation.
- (3) A member participating remotely is regarded as attending the House during that participation, except for the purpose of—
- (a) the requirement for a Minister to be present during all sittings of the House, and
- (b) the procedure for a personal vote.

Amendment 8

—Remote participation

...

SITTINGS

46 Sittings of the House

- (1) The House sits as follows:
- Tuesday and Wednesday: 2 pm to 6 pm and ~~7 pm~~ 7:30 pm to 10 pm
- Thursday: 2 pm to ~~5 pm~~ 6 pm.
- (2) On a Tuesday and a Wednesday, the sitting is suspended at 6 pm until ~~7 pm~~ 7:30 pm.

Amendment 9

—Sitting hours

...

56 Extended sitting hours

...

- (4) Whenever a sitting has been extended under this Standing Order,—
- ...
- (b) if the sitting is on a Thursday, the sitting ~~continues to 6 pm~~, is suspended from 6 pm ~~to 7 pm~~, to 7:30 pm, is suspended at 10 pm, and resumes at 9 am the following day:

Amendment 9

—Sitting hours

...

58 Effect of urgency

...

- (2) Whenever urgency has been accorded,—
- ...
- (b) despite paragraph (a), if the Government has advised the Business Committee of the intention to move on a Thursday to

accord urgency to business, the sitting on that Thursday continues to 6 pm, and then is suspended between 6 pm and 7 pm 7:30 pm, and between 10 pm and 9 am, and

Amendment 9
—Sitting hours

...

BUSINESS OF THE HOUSE

...

72 Arrangement of members' orders of the day

(1) ~~Members' Subject to paragraph (2), members' orders of the day are arranged in the following order:~~

1. third reading of bills
2. committee stage of bills
3. second reading of bills
4. first reading of bills
5. consideration of reports of committees
6. notices of motion.

~~(2) Where the debate on a bill has been interrupted or adjourned, the bill is taken ahead of other bills at the same stage.~~

(2) ~~Where the debate on a member's bill has been interrupted or adjourned,—~~

- (a) ~~if the debate is on the first reading of the bill, or on an instruction to the select committee considering the bill, it is taken ahead of other members' orders of the day, or~~
- (b) ~~if the debate is on any other stage of the bill, it is taken ahead of other bills at the same stage.~~

Amendment 15
—Priority for interrupted first reading of member's bill

...

74 Discharge or postponement of order of the day

(1) An order of the day may be discharged or postponed—

- (a) on motion without notice, or
- (b) by the member in whose name the order stands informing the Clerk accordingly, or
- (c) by determination of the Business Committee.

(2) There is no amendment or debate on the question to discharge or postpone an order of the day.

~~(2A) Despite paragraph (1), an order of the day for the debate on a declaration of inconsistency cannot be discharged or postponed except under clause 10(3) of Appendix F.~~

Amendment 22
—Declarations of inconsistency

(3) An order of the day for the first reading of a member's bill—

- (a) may not be postponed under paragraph (1)(b); and
- (b) ~~if postponed under paragraph (1)(c), is arranged on the Order Paper as determined by~~ becomes available, after the postponement, as the last order of the day for the first reading of a member's bill, unless the Business Committee determines otherwise.

Amendment 16
—Postponement of first reading of member's bill

...

BUSINESS COMMITTEE

...

80 Arrangement of special debates

(1) The Business Committee may arrange special debates on any of the following:

- (a) ~~regulations~~ secondary legislation (informed by reports of the Regulations Review Committee):
- (b) petitions, as selected by the Petitions Committee:
- (ba) review briefings conducted under Standing Order 358A:
- (c) inquiries, briefings, international treaties, or other matters, as reported by select committees:
- (d) parliamentary papers examined under Standing Order 383 and Appendix E:
- (e) constituency and local issues:
- (f) members' notices of motion:
- (g) topics set by the Business Committee.

Amendment 23
—Secondary legislation

...

82 Sitting programme

(1) The Business Committee must recommend to the House a programme of sittings for each calendar year.

(2) The recommended programme of sittings is to be made to the House not later than the third sitting day in the preceding December or, if the House does not sit in December, not later than the sitting day before the House is due to adjourn.

~~(3) The recommended programme must require the House to sit first no later than the last Tuesday in February and to sit in total on about 90 days in the calendar year.~~

(3) The recommended programme of sittings must—

- (a) require the House to sit,—
 - (i) for the first time in the calendar year, no later than the last Tuesday in February of that year, and
 - (ii) for a total of about 84 days in the calendar year, and
- (b) designate two weeks, in which no sittings of the House are recommended, as scrutiny weeks (as set out in Standing Order 338C), with one scrutiny week for Estimates, and one for annual reviews.

Amendment 26
—Scrutiny weeks

...

CHAPTER 3

GENERAL PROCEDURES

MAINTENANCE OF ORDER

...

92 Member may be suspended

Whenever a member has been named, the Speaker ~~forthwith~~ immediately puts a question, "That [*such member*] be suspended from the service of the House". There is no amendment or debate on this question.

Amendment 7
—Simplifying parliamentary terminology

...

RULES OF DEBATE

...

116 Matters subject to judicial decision

- (1) Matters awaiting or under adjudication in, or suppressed by an order of, any New Zealand court may not be referred to in any motion, debate, or question, including a supplementary question, subject always to the discretion of the Speaker and to the right of the House to legislate on any matter or to consider ~~delegated~~ secondary legislation.

Amendment 23
—Secondary legislation

...

ADJOURNMENT OF DEBATE

...

136 ~~If motion negated~~ If adjournment motion not agreed, mover may speak

If a motion for the adjournment of the debate is ~~negated~~ not agreed, the member moving the motion for the adjournment may speak, otherwise the member's speech lapses.

Amendment 7
—Simplifying parliamentary terminology

CLOSURE OF DEBATE

137 Closure motion

- (1) After a question has been proposed, any member, on being called to speak to that question, may move ~~"That the question be now put"~~ "That debate on this question now close". In all cases the speech of the member lapses on the moving of the closure motion.
- (2) The Speaker may not accept a closure motion if the time for the debate is prescribed by the Standing Orders or by a determination of the Business Committee.
- (3) The Speaker may accept a closure motion if, in the Speaker's opinion, it is reasonable to do so.
- (4) A temporary Speaker or, in committee, a temporary chairperson may not accept a closure motion.

Amendment 7
—Simplifying parliamentary terminology

138 Acceptance of closure motion

If the Speaker accepts a closure motion, a question is put on the closure and decided without amendment or debate.

139 Effect of carrying closure motion

If a closure motion is agreed to, the debate then in progress ~~concludes~~ closes.

Amendment 7

—Simplifying parliamentary terminology

VOTING**140 Question is put when debate ~~concludes~~ closes**

- (1) Except where otherwise provided, as soon as the debate on a question ~~is concluded~~ closes (when a closure motion is agreed to, the end time for the debate is reached, or no further calls are sought) the Speaker puts the question to the House.
- (2) Questions are determined by a majority of votes Aye or No. Every member is entitled to one vote or to abstain.

Amendment 7

—Simplifying parliamentary terminology

...

144 How votes are cast by parties during party votes

...

- (4) The total number of votes cast for each party may include only—
 - (a) the votes of members who, at the time of the vote, are present within the parliamentary precincts, including members who are regarded as present under Standing Order 38(2);
 - (b) proxy votes, subject to Standing Order 146.
- (5) A party may have votes cast on its behalf only if it has a member in the House at the time of the vote, except as provided in paragraph (6).
- ~~(6) A party that consists of five or fewer members, or an Independent member, if not present in the Chamber, can have votes cast on that party's or that Independent member's behalf by the leader or whip of another party. However, this paragraph applies only if at least one of the members of the party whose votes are being cast, or that Independent member, is—~~
 - ~~(a) present within the parliamentary precincts at the time, including being regarded as present under Standing Order 38(2), or~~
 - ~~(b) absent from the House with the permission of the Speaker granted under Standing Order 39(1).~~
- (6) When this paragraph applies, as set out in paragraph (7), the following can have votes cast on their behalf by the leader or whip of another party, if not present in the Chamber:
 - (a) a party that consists of five or fewer members, and
 - (b) an Independent member.
- (7) Paragraph (6) applies—
 - (a) at any time that at least one of the members of the party whose votes are being cast, or that Independent member, is—

Amendment 9

—Sitting hours

- (i) present within the parliamentary precincts at the time, including being regarded as present under Standing Order 38(2), or
- (ii) absent from the House with the permission of the Speaker granted under Standing Order 39(1):
- (b) on a Thursday, from 5 pm until that sitting adjourns, except when the sitting has been extended under Standing Order 56 or business is transacted under urgency after 5 pm on that day.

Amendment 9
—Sitting hours

...

146 Proxy votes cast during party vote

- (1) During a party vote, the leader or whip of a party may cast proxy votes for members of that party who are not present within the parliamentary precincts, but a party's proxy votes must not exceed the limit set out in paragraph (2).
- (2) The-Except as provided in paragraphs (3) and (4), the limit on proxy votes for each party is the number equal to 25 percent of that party's membership in the House, or another limit determined by the Business Committee, rounded upwards where applicable.
- (3) A member's proxy vote is not counted towards the limit on proxy votes under paragraph (2) if, at the time the proxy vote is cast, the member is absent from the House with the permission of the Speaker granted under Standing Order 39(1).
- (4) The limit on proxy votes under paragraph (2) does not apply—
- (a) at any time determined by the Business Committee for this purpose, or
- (ba) on a Thursday, from 5 pm until that sitting adjourns, except when the sitting has been extended under Standing Order 56 or business is transacted under urgency after 5 pm on that day,
or
- (b) in the period from the declaration of a state of national emergency until that state of national emergency is terminated or expires.

Amendment 9
—Sitting hours

Amendment 9
—Sitting hours

...

148 Procedure for personal vote

- (1) In a personal vote,—
- (a) the bells are rung for the period set out in Standing Order 149:
- (b) the Speaker directs the Ayes to go to the right, the Noes to the left, and abstentions to the ~~centre Table, and appoints the tellers:~~
- (c) the doors are closed and locked as soon after the bells have stopped as the Speaker directs, and the Speaker then restates the question:
- (d) all members present within the Chamber or the lobbies when the doors are locked must vote or record their abstentions:

Amendment 10
—Personal votes

- (e) ~~members' votes are counted by the tellers and their names recorded; members abstaining have their abstentions recorded by the Clerk at the Table the Clerk counts all votes and abstentions and records members' names:~~ **Amendment 10**
—Personal votes
- (f) ~~the personal vote lists are signed by the tellers and returned to the Speaker, and the Speaker declares the result to the House.~~
- (2) Members may observe the voting in any part of the Chamber and in the lobbies.

...

150—Tellers

- (1) ~~One teller is appointed for the Ayes and one teller for the Noes.~~
- (2) ~~If no teller is found for either the Ayes or the Noes, the Speaker immediately declares the result for the other side.~~ **Amendment 10**
—Personal votes
- (3) ~~A member who has begun to act as a teller must continue to act in that capacity unless excused by the Speaker.~~

...

MESSAGES AND ADDRESSES

...

169 Preparation and adoption of address

...

- (3) The Speaker reads any proposed address to the House and immediately puts the question for its adoption ~~forthwith~~. There is no amendment or debate on the question. **Amendment 7**
—Simplifying parliamentary terminology

...

CHAPTER 4

SELECT COMMITTEES

...

SUBJECT SELECT COMMITTEES

...

190 Functions of subject select committees

The subject select committees consider and report to the House on the following types of business referred or initiated under the Standing Orders:

- (a) bills:
- (b) inquiries and briefings:
- (c) petitions:
- (d) annual reviews and review briefings:
- (e) Estimates:
- (f) Supplementary Estimates:
- (g) international treaty examinations:
- (h) reports of Officers of Parliament:
- (i) any other matters.

Amendment 32
—Review briefings

...

MEETINGS OF COMMITTEES

194 Venue of meeting

...

- (2) A committee may meet ~~by electronic means~~, with some or all members participating remotely, subject to any rules issued under Standing Order 208.

Amendment 8
—Remote participation

...

CONDUCT OF PROCEEDINGS

...

208 ~~Rules for conduct of proceedings by electronic means~~ with remote participation

- (1) The Business Committee may determine rules regarding the conduct of select committee proceedings ~~by electronic means~~ with members participating remotely.
- (2) Rules determined under paragraph (1) have effect despite any other Standing Order to the contrary.

Amendment 8
—Remote participation

...

212 Presence of committee members

- (1) The names of the members of a select committee present at a meeting are recorded in the committee's minutes.
- (2) A member may ~~participate in proceedings remotely, by electronic means~~ participate remotely in proceedings.
- (3) A member participating remotely—
- is recorded as present under paragraph (1),
 - is regarded as present for the conduct of the committee's proceedings, and
 - is regarded as attending the meeting for the purpose of Standing Order 38(1)(b).

Amendment 8
—Remote participation

...

INFORMATION ON PROCEEDINGS**243 Confidentiality of proceedings**

- ...
- (3A) A committee may release advice under Standing Order 246(2A).

Amendment 11
—Departmental advice to select committees

...

246 Information on committee's proceedings

- ...
- (2A) The committee may, by leave or by motion on notice, release proceedings for the purpose of obtaining public feedback on advice about matters raised in submissions, provided that, in releasing those proceedings, the committee does not disclose the contents of its draft report or report.

Amendment 11
—Departmental advice to select committees

...

REPORTS

...

250 Adverse findings

- (1) As soon as practicable after a select committee has determined any findings to be included in a report to the House, and prior to the ~~presentation~~ adoption of the report, any person named in the report whose reputation may be seriously damaged by those findings must be acquainted with any such findings and afforded a reasonable opportunity to respond to the committee on them. The committee will take such a response into account before ~~making~~ adopting its report to the House.

...

254 Reports set down

- ...
- (2A) A report on a declaration of inconsistency is set down as a Government order of the day under clauses 7 and 10 of Appendix F.

Amendment 22
—Declarations of inconsistency

...

256 Government responses to select committee reports

...

- (2) No response under this Standing Order is required in respect of select committee reports on bills, Supplementary Order Papers, questions of privilege, declarations of inconsistency, Estimates, Supplementary Estimates, and annual reviews of departments, Offices of Parliament, Crown entities, public organisations, or State enterprises.

Amendment 22
—Declarations of
inconsistency

CHAPTER 5

LEGISLATIVE PROCEDURES

FORM OF BILLS

...

~~262 Private bills~~

~~Every private bill must contain a preamble, setting out the facts on which the bill is founded and the circumstances giving rise to the necessity for it. If the objects of the bill could be attained otherwise than by legislation, the preamble must state why legislation is preferred.~~

262 Preambles in private bills

Every private bill must contain a preamble, which must—

- (a) set out the facts on which the bill is founded and the circumstances giving rise to the necessity for it, and
- (b) state whether or not the objects of the bill can be attained only by legislation, and
- (c) if the objects of the bill can be attained other than by legislation, give the particular reasons why legislation is warranted.

Amendment 13
—Preamble

...

OMNIBUS BILLS

266 Types of omnibus bills that may be introduced

- (1) The following types of bills may be introduced although they are omnibus in nature:
 - (a) Finance bills or confirmation bills that validate or authorise action otherwise illegal or validate and confirm ~~regulations~~ secondary legislation:

Amendment 23
—Secondary legislation

...

GENERAL PROVISIONS

...

269 New Zealand Bill of Rights Act 1990

- (1) Whenever a bill, as introduced, contains any provision that appears to the Attorney-General to be inconsistent with any of the rights and freedoms contained in the New Zealand Bill of Rights Act 1990, the Attorney-General must indicate to the House what that provision is and how it appears to be inconsistent with the New Zealand Bill of Rights Act 1990.
- (2) An indication by the Attorney-General to the House under paragraph (1), concerning the New Zealand Bill of Rights Act 1990, is made by the presentation of a paper,—

Amendment 21
—Reporting on NZBORA consistency of bills

- (a) in the case of a Government bill, on the introduction of that bill, or
- (b) in any other case, as soon as practicable after the introduction of the bill.

(2A) The Attorney-General may indicate to the House whether or not a bill, as amended or as proposed to be amended by the House or a committee, appears to be inconsistent with any of the rights and freedoms contained in the New Zealand Bill of Rights Act 1990, by presenting a paper to the House.

Amendment 21
—Reporting on NZBORA consistency of bills

- (3) Where the House has accorded urgency to ~~the introduction of a bill,~~ the Attorney-General may, ~~on the bill's introduction,~~ present a paper under this Standing Order, relating to that bill, in the House.
- (4) A paper presented under this Standing Order is published under the authority of the House.
- (5) When a paper has been presented under ~~this Standing Order paragraphs (1) and (2),~~ and the bill to which it relates is read a first time, the paper stands referred to a select committee for consideration. The paper is allocated by the Clerk to the most appropriate select committee.

269A Declarations of inconsistency

A declaration of inconsistency is brought to the House's attention and considered by the House as set out in **Appendix F.**

Amendment 22
—Declarations of inconsistency

270 Entrenched provisions

- ~~(1) A proposal for entrenchment must itself be carried in a committee of the whole House by the majority that it would require for the amendment or repeal of the provision to be entrenched.~~
- ~~(2) A proposal for entrenchment is any provision in a bill or amendment to a bill that would require that that provision or amendment or any other provision can be amended or repealed only by a majority of more than 50 percent plus one of all the members of the House.~~

270 Proposals for entrenchment

- (1) A **proposal for entrenchment** is any provision in a bill, or in an amendment to a bill, that would restrict the amendment or repeal of the provision or any other provision in a bill or Act.
- (2) A proposal for entrenchment may be considered in a committee of the whole House only if a select committee has—
 - (a) called for submissions from the public on the proposal and considered any submissions received, and
 - (b) reported to the House on the proposal.
- (3) A proposal for entrenchment that would restrict the amendment or repeal of a provision by requiring a majority of more than 50 percent plus one of all the members of the House must itself be carried in a committee of the whole House by the majority that it would require for the amendment or repeal of the provision to be entrenched.

Amendment 20
—Proposals for entrenchment

- (4) No proposal for entrenchment may be considered in a committee of the whole House when urgency is accorded to the bill that the proposal is, or would be, part of.

271 Copies of bills

...

- (2) A bill must be reprinted when it is reported by a select committee or committee of the whole House if it is reported with amendment or is divided by the committee, except—
- a bill passed under urgency, or
 - a bill that is set down for third reading ~~forthwith~~ immediately, or
 - as approved by the Speaker in respect of any minor textual amendment.

Amendment 7

—Simplifying parliamentary terminology

- (3) A bill must be reprinted when it is divided by the Clerk following a determination of the Business Committee, except when the bill is set down for third reading ~~forthwith~~ immediately.

Amendment 7

—Simplifying parliamentary terminology

...

274 ~~Cognate bills~~ Associated bills

- (1) The House or the Business Committee may determine that any two or more bills are ~~cognate bills~~ associated bills. Such a determination may be made in respect of bills before or after their introduction, and may relate to any or all of the first, second, and third readings of the bills concerned.
- (2) ~~Cognate bills~~ Associated bills that are set down on the Order Paper for the same stage are taken as one question for the purpose of debate, provided that the member in charge of ~~a cognate bill~~ an associated bill or bills may require the bill or bills to be set down separately.
- (3) Unless the House or the Business Committee determines otherwise, if one or more of the ~~cognate bills~~ associated bills to be taken as one question under paragraph (2) is a Government bill, the time for debate on the ~~cognate bills~~ associated bills is the same as would apply for Government bills.

Amendment 7

—Simplifying parliamentary terminology

...

276 Revision bills

- (1) A **Revision bill** is a bill that is certified under ~~section 33 of the Legislation Act 2012~~ section 98 of the Legislation Act 2019. When a certificate given under that section is presented to the House on the introduction of a bill, the procedures set out in this Standing Order apply to the bill.

...

- (5) Following the bill's second reading, the House proceeds to the third reading ~~forthwith~~ immediately, unless—

Amendment 7

—Simplifying parliamentary terminology

...

FIRST READING**~~293 Bills set down for first reading~~**

- (1) ~~After its introduction a Government bill is set down for first reading,—~~
- ~~(a) in the case of a bill introduced on any sitting day, on the next Tuesday on which the House sits, or~~
 - ~~(b) in the case of a bill introduced on any working day that is not a sitting day, on the third sitting day following.~~
- (2) ~~A private bill, local bill, or member's bill is set down for first reading on the third sitting day following its introduction.~~
- (3) ~~Urgency may be accorded to the first reading of a bill despite the bill not being available to be set down for first reading under paragraph (1) or (2).~~
- (4) ~~There is no amendment or debate on the question for the first reading of a bill in the following cases:~~
- ~~(a) an Appropriation Bill:~~
 - ~~(b) an Imprest Supply Bill:~~
 - ~~(c) a bill to implement an international treaty, if an international treaty examination of that treaty has already been separately debated by the House under Standing Order 254(2)(a):~~
 - ~~(d) a Revision Bill:~~
 - ~~(e) a confirmation bill under Standing Order 333.~~

Amendment 17
—Time before first reading of bills

293 Bills set down for first reading

- (1) A bill is set down for first reading on the third working day following its introduction.
- (2) Urgency may be accorded to the first reading of a bill despite the bill not being available to be set down for first reading under paragraph (1).
- (3) There is no amendment or debate on the question for the first reading of a bill in the following cases:
- (a) an Appropriation Bill:
 - (b) an Imprest Supply Bill:
 - (c) a bill to implement an international treaty, if an international treaty examination of that treaty has already been separately debated by the House under Standing Order 254(2)(a):
 - (d) a Revision Bill:
 - (e) a confirmation bill under Standing Order 333.

...

SELECT COMMITTEE CONSIDERATION**299 Select committee consideration of bills**

- (1) Each select committee to which a bill is referred examines the bill and may—
- ~~(a) determines~~ determine whether to recommend that the bill be passed, and
 - ~~(b) may~~ recommend amendments in accordance with Standing Order 300.

Amendment 19
—Select committee consideration of bills

...

DELEGATED LEGISLATION**SECONDARY LEGISLATION****Amendment 23**

—Secondary legislation

325A Time for presentation of secondary legislation

For the purpose of section 114 of the Legislation Act 2019, the relevant Minister must present secondary legislation to the House within 20 working days after the day on which the secondary legislation is made.

Amendment 25

—Timing of presentation of secondary legislation

326 Functions of Regulations Review Committee

- (1) The Regulations Review Committee examines all ~~regulations~~ secondary legislation.
- (2) A Minister may refer draft ~~regulations~~ secondary legislation to the committee for consideration and the committee may report on the draft ~~regulations~~ secondary legislation to the Minister.
- (3) In respect of a bill before another committee, the committee may consider—
 - (a) ~~any regulation-making power~~ any power to make secondary legislation, and
 - (b) any matter relating to ~~regulations~~ secondary legislation,— and draw any matters to the attention of the committee that is considering the bill.
- (4) The committee may consider any matter relating to ~~regulations~~ secondary legislation and report on it to the House.
- (5) The committee investigates complaints about the operation of ~~regulations~~ secondary legislation, in accordance with Standing Order 328, and may report on the complaints to the House.

Amendment 23

—Secondary legislation

327 Drawing attention to ~~regulation~~ secondary legislation

- (1) In examining ~~a regulation~~ secondary legislation, the committee considers whether it ought to be drawn to the special attention of the House on one or more of the grounds set out in paragraph (2).
- (2) The grounds are, that the ~~regulation~~ secondary legislation—

...

328 Procedure where complaint made concerning ~~regulation~~ secondary legislation

- (1) Where a complaint is made to the committee or to the chairperson of the committee by a person or organisation aggrieved at the operation of ~~a regulation~~ secondary legislation, the complaint must be placed before the committee at its next meeting for the committee to consider whether, on the face of it, the complaint relates to one of the grounds on which the committee may draw ~~a regulation~~ secondary legislation to the special attention of the House.
- (2) The person or organisation making the complaint is given an opportunity to address the committee on the ~~regulation~~ secondary legislation unless the committee agrees by unanimous resolution not to proceed with the complaint.

329 Disallowance motion does not lapse

- (1) A notice of a motion given by a member of the Regulations Review Committee for the disallowance of ~~a regulation~~ secondary legislation or any provisions of ~~a regulation~~ secondary legislation does not lapse and is retained on the Order Paper until dealt with by the House.
- (2) Paragraph (1) applies only to ~~regulations~~ secondary legislation that may be disallowed in accordance with any statute.

Amendment 23
—Secondary legislation

330 Affirmative resolution procedure

- (1) Any notice of a motion that the House approve ~~a regulation, a proposed regulation~~ secondary legislation, proposed secondary legislation, or an instruction under any statute stands referred to a select committee. The notice of motion is allocated by the Clerk to the most appropriate select committee for consideration.

...

- (3) No motion to approve ~~a regulation, a proposed regulation~~ secondary legislation, proposed secondary legislation, or an instruction may be moved until—
- (a) after the committee to which the notice of motion was referred reports, or
- (b) the first working day after 28 days have passed since the day on which the notice of motion was lodged,—
- whichever is the earlier.
- (4) If the committee to which the notice of motion was referred recommends to the Government that the ~~regulation, proposed regulation~~ secondary legislation, proposed secondary legislation, or instruction to which the notice of motion relates be amended, a further notice of motion for the approval of ~~a regulation, proposed regulation, or secondary legislation, proposed secondary legislation, or an instruction~~ that incorporates the amendment or amendments recommended by the committee, and only that amendment or those amendments, does not stand referred to a select committee under paragraph (1).

331 Negative resolution procedure

- (1) Any notice of a motion that the House, under any statute, disallow, amend, substitute, disapply, revoke, or otherwise not approve of ~~a regulation or other secondary legislation or an instrument~~, other than a notice of motion to which Standing Order 329 or 332 applies, stands referred to a select committee. The notice of motion is allocated by the Clerk to the most appropriate select committee for consideration.

...

- (6) A notice of motion to which this Standing Order applies lapses and is struck off the Order Paper if not dealt with by the House before the expiry of any time specified in an Act within which a resolution to disallow, disapply, or otherwise not approve of the ~~regulation or other secondary legislation or instrument~~ to which the notice of motion relates must be passed by the House for the resolution to have effect.

...

333 Confirmation bills

- (1) Where the purpose of a bill is limited to the confirmation of ~~regulations~~ secondary legislation that otherwise would lapse, the procedures set out in this Standing Order apply to the bill.

Amendment 23
—Secondary legislation

...

- (3) Following the bill's second reading, the House proceeds to the third reading ~~forthwith~~ immediately, unless—

Amendment 7
—Simplifying parliamentary terminology

...

CHAPTER 6

FINANCIAL PROCEDURES

...

SELECT COMMITTEE SCRUTINY

338A Purpose of select committee scrutiny

- (1) The purpose of scrutiny is to hold the executive to account, to contribute to good governance for improved outcomes, and to strengthen confidence in public institutions.
- (2) For this purpose, select committees examine, assess, and express views about the executive's strategy, policy, expenditure, administration, performance, and results.

Amendment 27
—Purpose of scrutiny

338B Scrutiny plans and scrutiny activities reports

- (1) A **scrutiny plan** is a plan setting out a select committee's intentions for conducting scrutiny activities during the Parliament.
- (2) **Scrutiny activities** include the examination of Estimates and the conduct of annual reviews, and may include other activities carried out for the purpose of scrutiny (for example, briefings, inquiries, examination of papers presented by Ministers, and other matters referred under the Standing Orders).
- (3) In the first calendar year following the opening of Parliament, before the time set out in paragraph (7), each subject select committee must adopt and report to the House a scrutiny plan that addresses the following matters:
- (a) how all organisations allocated to the committee for annual review will be scrutinised at least once during the Parliament, including the designation of whether organisations will be scrutinised through:
- (i) in-depth reviews (both those designated by the Finance and Expenditure Committee and any others the committee wishes to designate);
- (ii) the standard annual review procedure;
- (iii) review briefings outside the annual review procedure;
- (b) major initiatives or outcomes the committee intends to focus on;
- (c) any priorities, themes, or other approaches the committee intends to follow in its scrutiny activities;
- (d) the date by which the committee intends to report on each review briefing; and
- (e) any other matters that the committee wishes to raise in relation to its scrutiny activities.

Amendment 28
—Scrutiny plans

Amendment 30
—In-depth reviews

Amendment 32
—Review briefings

- (4) A **scrutiny activities report** is a report to the House by a select committee that:
- (a) provides information about the committee’s implementation of the scrutiny plan and its conduct of scrutiny activities:
 - (b) updates the scrutiny plan as necessary.
- (5) Every subject select committee—
- (a) may present a scrutiny activities report at any time after it has adopted its scrutiny plan:
 - (b) must present at least one scrutiny activities report in each calendar year in the Parliament after the year in which the scrutiny plan was adopted, before the time set out in paragraph (7).
- (6) Once the scrutiny plan is adopted, the clerk of the committee arranges the committee’s business accordingly, subject to any further directions from the committee.
- (7) The time by which the scrutiny plan and scrutiny activities reports, as applicable, must be reported to the House is the end of the week before the delivery of the Budget, as notified to the House by the Government under Standing Order 341(1).

Amendment 33

—Scrutiny activities reports

Amendment 28

—Scrutiny plans

Amendments 28 and 33

—Scrutiny plans and scrutiny activities reports

338C Scrutiny weeks

- (1) A **scrutiny week** is a designated week in which—
- (a) the sitting programme does not include any sittings of the House, and
 - (b) subject select committees must meet primarily for the purpose of conducting scrutiny activities.
- (2) Despite Standing Order 212, a member may not participate remotely in a committee meeting during a scrutiny week, unless their remote participation is approved by the leader or whip of their party on account of illness or other family cause of a personal nature.
- (3) When recommending the sitting programme under Standing Order 81, the Business Committee must designate one scrutiny week for Estimates, and one scrutiny week for annual reviews.
- (4) If the House sits in a scrutiny week, select committees may meet that week, for the purpose of examining Estimates or conducting annual reviews,—
- (a) during a sitting of the House (except during oral questions), despite Standing Order 196(1)(b):
 - (b) during an evening (after 6 pm) on a day on which there has been a sitting of the House, despite Standing Order 196(1)(c):
 - (c) on a Friday, despite Standing Order 193.

Amendment 26

—Scrutiny weeks

...

IMPREST SUPPLY**339 Imprest Supply bills**

...

- (4) After the second reading of the bill, the House proceeds to the third reading ~~forthwith~~ immediately, unless the Minister in charge of the bill requires the House to go into committee to consider an amendment.

Amendment 7

—Simplifying parliamentary terminology

...

THE BUDGET

...

341 Delivery of the Budget

...

- (2) There is no amendment or debate on the question for the first reading of the Appropriation Bill and the House proceeds to the second reading ~~forthwith~~ immediately.

Amendment 7

—Simplifying parliamentary terminology

...

344 Economic and fiscal reports

...

- (2) The committee must, within ~~two months~~ ten weeks of the delivery of the Budget, report on the fiscal strategy report and the economic and fiscal update presented to the House on the day the Budget was delivered.

Amendment 34

—Time for examination of economic and fiscal reports

...

ESTIMATES**~~345 Referral of Estimates~~**

- (1) ~~Following delivery of the Budget, the Estimates stand referred to the Finance and Expenditure Committee.~~
- (2) ~~The Finance and Expenditure Committee may—~~
- (a) ~~examine a Vote itself, or~~
 - (b) ~~refer a Vote to any subject select committee, or~~
 - (c) ~~examine some of the appropriations contained in a Vote itself and refer the remainder to any subject select committee, or~~
 - (d) ~~refer the appropriations contained in a Vote to two or more subject select committees.~~

345 Allocation of Estimates

- (1) As soon as practicable after the opening of a new Parliament, the Finance and Expenditure Committee allocates to subject select committees the task of examining Estimates during that Parliament.
- (2) When allocating Estimates, the Finance and Expenditure Committee may allocate—
- (a) a Vote as a whole to a single committee:
 - (b) appropriations contained in a Vote to two or more committees.
- (3) The Finance and Expenditure Committee allocates Estimates to itself as appropriate.

Amendment 29

—Triennial allocation of organisations and Votes

- (4) ~~At any time, the Finance and Expenditure Committee may—~~
- (a) ~~adjust an allocation in light of Estimates presented in relation to an Appropriation Bill:~~
- (b) ~~after receiving a request from, or consulting, the committee or committees concerned, reallocate Estimates that have already been allocated.~~

Amendment 29

—Triennial allocation of organisations and Votes

346 Examination of Estimates

- (1) ~~Each select committee to which a Vote is referred examines the Vote and—~~
- (a) ~~determines whether to recommend that the appropriations in respect of the Vote be accepted, and~~
- (b) ~~may recommend a change to the Vote.~~
- (2) ~~The Business Committee may determine that a week (or more than one week) is an Estimates week, in order to facilitate the examination of the Estimates.~~
- (3) ~~During an Estimates week, any select committee may meet for the purpose of examining the Estimates during a sitting of the House (except during oral questions), during an evening (after 6 pm) on a day on which there has been a sitting of the House, and on the Friday of that week, despite any Standing Order to the contrary.~~
- (4) ~~All committees must report to the House on their examinations of the Estimates within ten weeks of the delivery of the Budget.~~

346 Examination of Estimates

- (1) Following the delivery of the Budget, the Estimates stand referred to the subject select committees to which they have been allocated by the Finance and Expenditure Committee.
- (2) Every committee examines the Votes or appropriations referred to it and, for each Vote,—
- (a) determines whether to recommend that the appropriations in respect of the Vote be accepted, and
- (b) may recommend a change to a Vote.
- (3) All committees must report to the House on their examinations of the Estimates within ten weeks of the delivery of the Budget.

Amendment 29

—Triennial allocation of organisations and Votes

...

SUPPLEMENTARY ESTIMATES

...

351 ~~Passing of bill~~ Appropriation (Supplementary Estimates) Bill

...

- (3) After the second reading of an Appropriation (Supplementary Estimates) Bill, the House proceeds to the third reading ~~forthwith~~ immediately, unless—

Amendment 7

—Simplifying parliamentary terminology

...

ANNUAL REVIEWS

~~353 Allocation of responsibility for conducting annual reviews~~

- (1) ~~As soon after the commencement of the financial year as it thinks fit, the Finance and Expenditure Committee allocates to a subject select committee (or retains for itself) the task of conducting an annual review of—~~
- ~~(a) the performance in the previous financial year and the current operations of each department, Office of Parliament, Crown entity, public organisation, or State enterprise, and~~
 - ~~(b) what has been achieved with expenditure from appropriations administered by each department or Office of Parliament.~~
- (2) ~~When the annual report of each department, Office of Parliament, Crown entity, public organisation, or State enterprise is presented to the House, its annual review stands referred to a select committee as allocated by the Finance and Expenditure Committee.~~
- (3) ~~When the annual financial statements of the Government for the previous financial year are presented, their annual review stands referred to the Finance and Expenditure Committee.~~

Amendment 29
—Triennial allocation of organisations and Votes

353 Allocation of annual reviews

- (1) Each department, Office of Parliament, Crown entity, public organisation and State enterprise is an **organisation** that is subject to annual review.
- (2) The **annual review** of an organisation is—
- (a) the examination of the annual report of that organisation for the previous financial year, and of any parliamentary papers prepared by the organisation (since the previous annual review) relating to its strategic intentions,
 - (b) consideration of the organisation’s performance in the previous financial year, progress towards its strategic intentions, and its planning, administration, and current operations, and
 - (c) consideration of what has been achieved with expenditure from appropriations, and how the expenditure has contributed towards result areas or outcomes, as applicable to the organisation.
- (3) As soon as practicable after the opening of a new Parliament, the Finance and Expenditure Committee allocates to subject select committees the task of conducting annual reviews during that Parliament. The Finance and Expenditure Committee allocates annual reviews to itself as appropriate.
- (4) In allocating annual reviews, the Finance and Expenditure Committee designates particular organisations for the use of the in-depth review procedure.
- (5) The Finance and Expenditure Committee conducts an annual review of the annual financial statements of the Government for the previous financial year.

Amendment 31
—Broader scope for annual reviews

Amendment 29
—Triennial allocation of organisations and Votes

Amendment 30
—In-depth reviews

- (6) At any time, the Finance and Expenditure Committee may—
- (a) adjust an allocation in light of a change to an organisation, or an organisation being established or disestablished:
- (b) after receiving a request from, or consulting, the committee or committees concerned, reallocate annual reviews that have already been allocated.

Amendment 29
—Triennial allocation of organisations and Votes

353A Conduct of annual reviews

- (1) When the annual report of an organisation that is subject to annual review is presented, the annual review stands referred to the subject select committee to which it has been allocated by the Finance and Expenditure Committee.
- (2) The committee conducts the annual review by using the in-depth review procedure set out in paragraph (3) or the standard annual review procedure set out in paragraph (4).
- (3) The committee uses the in-depth review procedure for the annual reviews of organisations as designated by the Finance and Expenditure Committee and by the committee itself (including in its scrutiny plan). For each annual review, the in-depth review procedure involves—
- (a) responses to written questions:
- (b) three hours or more hearing evidence, which may be split over two meetings:
- (c) a thematic structure for questioning witnesses.
- (4) The committee uses the standard annual review procedure for all organisations except for those organisations for which it uses the in-depth review procedure and those organisations for which paragraph (6) applies. The standard annual review procedure involves—
- (a) responses to written questions:
- (b) hearing evidence for up to two hours.
- (5) The committee may, by leave, vary the in-depth procedure or standard annual review procedure.
- (6) When a committee has designated in its scrutiny plan that an organisation will be scrutinised through a review briefing outside the annual review procedure, the annual review of that organisation still stands referred to the committee, and the committee may—
- (a) adopt written questions for response from the organisation:
- (b) hear evidence on the annual review if the committee thinks fit.

Amendment 30
—In-depth reviews

Amendment 32
—Review briefings

354 Time for report on annual reviews

- (1) The Finance and Expenditure Committee must, no later than 31 March in each year, report to the House on the annual financial statements of the Government as at the end of the previous financial year.
- (2) Each select committee must, no later than 31 March in each year, finally report to the House on every annual review ~~allocated to it~~ that stood referred to the committee.

...

358 Passing of Appropriation (Confirmation and Validation) Bill

- (1) When the report of the committee of the whole House on the Appropriation (Confirmation and Validation) Bill is adopted, the bill is set down for third reading ~~forthwith~~ immediately.

Amendment 7

—Simplifying parliamentary terminology

...

358A Review briefings

- (1) A **review briefing** is the scrutiny by a select committee of an organisation that is designated in the committee's scrutiny plan for scrutiny outside the annual review procedure.
- (2) The committee may designate the period covered by the review briefing. If no such period is designated, the review briefing covers the previous financial year and current operations.
- (3) The review briefing involves the examination of papers and consideration of the matters set out in Standing Order 353(2), as they relate to the period covered by the review briefing.
- (4) The committee must report on all review briefings before the end of the Parliament, in accordance with the dates set out in the committee's scrutiny plan.

Amendment 32

—Review briefings

...

CHAPTER 7

NON-LEGISLATIVE PROCEDURES

...

~~DEBATE ON MATTER OF URGENT PUBLIC IMPORTANCE~~ **URGENT DEBATE**

Amendment 35
—Urgent debates

399 Application for urgent debate

- (1) A member who wishes the House to debate a matter of urgent public importance must give the Speaker a written statement of the matter proposed to be debated. The written statement must be provided at least one hour before the time fixed for the House to sit or such lesser time as may be allowed by the Speaker.
- (2) The Speaker may allow the urgent debate to be held if, in the Speaker's opinion, the matter—

...

~~400 Announcement and debate~~

- ~~(1) Immediately after oral questions and before the next business of the day is entered upon, the Speaker announces what applications for debate that day have been received.~~
- ~~(2) In announcing that a debate has been allowed, the Speaker calls on the member who submitted it to move that the House take note of the matter of urgent public importance. There is no amendment on the question. At the conclusion of the debate the motion lapses without any question being put.~~

400 Announcement and debate

Amendment 35
—Urgent debates

- (1) If an urgent debate has been allowed, the time for the debate is immediately after oral questions and before the next business of the day begins.
- (2) The Speaker announces what applications for debate that day have been received, and whether an urgent debate has been allowed. This announcement may, at the Speaker's discretion, be made before the time set out in paragraph (1).
- (3) At the start of an urgent debate, the Speaker calls on the member who applied for it, and the member moves that the House take note of the matter of urgent public importance. There is no amendment on the question. At the conclusion of the debate the motion lapses without any question being put.

401 Only one urgent debate on same day

Only one ~~debate on a matter of urgent public importance~~ urgent debate may be held on the same day. If more than one written statement is given for the same day and the Speaker considers that each would otherwise justify a debate, the Speaker gives priority to the matter which, in the Speaker's opinion, is the most urgent and important.

...

CHAPTER 8

PARLIAMENTARY PRIVILEGE

...

410 Raising a matter of privilege

...

- (4) A matter of privilege relating to the conduct of strangers present may be raised ~~forthwith~~ immediately in the House and dealt with in such way as the Speaker determines.

Amendment 7

—Simplifying parliamentary terminology

...

APPENDIX A

TIME LIMITS FOR SPEECHES AND DEBATES

<i>Item of business and member speaking</i>	<i>Times for speeches or debates</i>	
...		
LEGISLATIVE PROCEDURES		
First reading of Government bills		
<u>Each member</u>	<u>10 minutes</u>	
<u>Whole debate</u>	<u>12 speeches</u>	
<u>Minister moving motion</u>	<u>10 minutes</u>	
<u>Each other member</u>	<u>5 minutes</u>	
<u>Whole debate</u>	<u>11 speeches, or fewer if parties relinquish calls</u>	Amendment 18 —Shortened debate for first reading of Government bills
...		
NON-LEGISLATIVE PROCEDURES		
...		
Ministerial statement		
Minister making statement	5 minutes	
Specified party leaders	5 minutes each, subject to the discretion of the Speaker to allow more time for questioning	
Minister in reply	2 minutes	
Ministerial statement and comment on it		
— Minister making statement and specified party leaders	5 minutes each	
— Minister in reply	2 minutes	
...		
Debate on matter of urgent public importance <u>Urgent debate</u>		
<u>Mover and next speaker</u>	<u>15 minutes each</u>	Amendment 35
<u>Subsequent six members</u>	<u>10 minutes each</u>	—Urgent debates
<u>Mover and next speaker</u>	<u>10 minutes each</u>	
<u>Subsequent eight members</u>	<u>5 minutes each</u>	
...		
<u>Debate on declaration of inconsistency</u>		
<u>Minister moving motion</u>	<u>10 minutes</u>	Amendment 22
<u>Each member</u>	<u>10 minutes each, subject to the discretion of the Speaker to allow more time for questioning</u>	—Declarations of inconsistency
...		

APPENDIX B

PECUNIARY AND OTHER SPECIFIED INTERESTS

...

PART 1

...

5 Contents of return relating to member's position as at effective date of return

...

(1) Every return must contain the following information as at the effective date of the return:

...

(f) the location of real property in which the member has a legal interest, other than an interest as a trustee, and a description of the nature of the real property, and

...

...

(3A) For the purposes of subclause (1)(f), information about real property does not need to be contained in a return where a member's interest is as a lessee or tenant of a property used as that member's Electorate and Community Office.

Amendment 36
—Pecuniary and other specified interests

(4) For the purposes of subclause (1)(j) and (k), a member must also declare if the rate of interest payable in relation to any debt owed to a person other than a registered bank as defined in section 2(1) of the Reserve Bank of New Zealand Act 1989 Banking (Prudential Supervision) Act 1989, or a building society as defined in section 2 of the Building Societies Act 1965, is less than the normal market interest rate that applied at the time the debt was incurred or, if the terms of the debt are amended, at the time of that amendment.

APPENDIX C

PRELIMINARY PROCEDURES FOR PRIVATE BILLS AND LOCAL BILLS AND LOCAL LEGISLATION BILLS

PRIVATE BILLS AND LOCAL BILLS

...

2 Form and content of notice

...

(2) The notice must state—

...

(c) ~~the postal address of the promoter, or the promoter's solicitor or agent, to which communications may be sent, and~~

...

3 Publication of notice

~~(1) A notice must be published at least once in each of two consecutive calendar weeks,—~~

~~(a) if for a private bill, in a daily newspaper circulating in each of the cities of Auckland, Hamilton, Wellington, Christchurch, and Dunedin;~~

~~(b) if for a private bill affecting any land or if for a local bill,—~~

~~(i) in one or more daily newspapers circulating in the locality in which the land is situated or the region or district of the local authority, or~~

~~(ii) in one or more other newspapers that have at least an equivalent circulation in that locality or region or district to the daily newspapers circulating in that region or district.~~

(1) For a private bill affecting any land or a local bill, a notice must be published at least once in each of two consecutive calendar weeks, in at least one of the following:

(a) one or more daily newspapers circulating in the locality in which the land is situated, or the region or district of the local authority;

(b) one or more other newspapers that have at least an equivalent circulation to the daily newspapers in that locality or region or district.

(2) ~~The promoter or the promoter's solicitor or agent must ensure that the notice is publicly available on a website that is maintained by or on behalf of the promoter or the promoter's solicitor or agent, for at least two calendar weeks after the day on which the notice is first published under paragraph (1) 15 complete working days.~~

4 Notice to persons with direct interest

(1) The promoter of a private bill or local bill must give notice to every person who, to the knowledge of the promoter, has a direct interest

Amendment 12
—Notification requirements for private and local bills

in the subject matter of the bill or in the exercise of any power proposed to be given by the bill.

- (2) Without limiting the generality of paragraph (1), notice must be given to all of the following:

(aa) to the Clerk of the House:

(ab) to the Secretary for Justice:

(a) if the bill may affect the public revenues or the rights and prerogatives of the Crown, to the Secretary to the Treasury and the Solicitor-General:

(b) if the bill proposes to modify, restrict, repeal, or amend the provisions of an Act of Parliament, to the chief executive of the Government department or agency charged with the administration of that Act:

(c) if the bill may affect liability under an Inland Revenue Act, to the Commissioner of Inland Revenue:

(d) if the bill may affect liability to excise duty or a related duty, to the chief executive of the New Zealand Customs Service:

(e) if the bill involves the alienation or disposal of Crown land or the exchange of Crown land for other land, to the Commissioner of Crown Lands:

(f) if the bill affects land administered under ~~enactments~~ legislation for the time being relating to reserves, national parks, conservation areas, or otherwise for conservation purposes, to the chief executive of the responsible department:

(g) if the bill relates to the transfer of title to land, to the Registrar-General of Land:

(h) if the bill affects a charitable trust, to the Solicitor-General:

(i) if the bill affects the incorporation or registration of any body corporate, to the relevant registering authority.

Amendment 12

—Notification requirements for private and local bills

5 Notice to constituency members of Parliament

...

6 Delivery of notices

- (1) Notice is given under clause 4 or 5 by—

(a) having it delivered to the person or the office of the department or agency concerned, or

(b) posting it, or delivering it by courier, to that person's last known address or address for service or to the chief executive of that department or agency at the department's or agency's official address, or delivering it to a document exchange which that person or department or agency uses, or

(c) sending it as an electronic communication ~~(for example, by facsimile or email message)~~ to that person or the chief executive of that department or agency.

Amendment 12

—Notification requirements for private and local bills

- (2) Any notice delivered or sent may be included in or with any other ~~document~~ document, provided that it is given reasonable prominence.

7 Deposit and inspection of bill

- (1) At the time of the first publication of notice of a bill, a copy of the bill must be deposited,—
- (a) in the case of a private bill, ~~in the office~~ at a business address on behalf of the promoter or the promoter's ~~solicitor or~~ agent, or
 - (b) in the case of a local bill, in a public library or a service centre.
- (2) Each copy of the bill must be open to public inspection during the usual business hours of the place of deposit, without fee, for a period of not less than ~~15 whole~~ complete working days.
- (3) The promoter or the promoter's ~~solicitor or~~ agent must ~~also~~ ensure that a copy of the bill ~~is~~ in the form in which it was deposited under subclause (1) is also publicly available on a website that is maintained by or on behalf of the promoter or the promoter's ~~solicitor or~~ agent for the period specified in subclause (2).

Amendment 12
—Notification requirements for private and local bills

8 Certification of deposit of bill

- (1) The fact that a copy of the bill was deposited and remained open for public inspection must be certified by—
- (a) the promoter, or
 - (b) the promoter's ~~solicitor or~~ agent, or
 - (c) the promoter's chief executive.
- (2) Each certificate must be accompanied by an exact copy of the bill in the form in which it was open for public inspection, and must—
- (a) state the first and last ~~whole~~ complete days on which the copy of the bill was open for public inspection, and
 - (b) ~~be written directly on the copy of the bill and may not be separate from it~~ confirm that the copy of the bill that accompanies the certificate is an exact copy of the version of the bill that was open for public inspection and publicly available on a website, and
 - (c) be signed by the relevant person over their designation, and
 - (d) be dated.

Amendment 12
—Notification requirements for private and local bills

9 Bills dealing with land

...

- (2) A true copy of the plan is not required if the chief executive or delegate certifies that the bill proposes to deal with—
- (a) the whole or the residue of the land comprised in any certificate record of title issued under the Land Transfer Act ~~1952~~ 2017 or any computer register created under that Act:
- ...
- (c) the whole of the land comprised in a separate lot or other surveyed subdivision which is shown on a plan deposited in the relevant Land Information New Zealand office in accordance with the provisions of the Land Transfer Act ~~1952~~ 2017 or lodged with the chief executive or with any other person to

whom the power to receive such a lodgement has been delegated by the chief executive.

...

14 Form and content of declaration for private bill or local bill

The declaration must conform, in general, to the following form and contain all matters specified in it, and have attached to it the relevant notices:

DECLARATION FOR A PRIVATE BILL OR LOCAL BILL

To the House of Representatives

I, *[full name of representative, and position]* declare that—

1 The *[name of promoter or local authority]* respectfully requests that *[title of bill]* ~~(the deposited copies of which are attached an exact copy of which is attached, as deposited)~~ be introduced into the House.

Amendment 12

—Notification requirements for private and local bills

2 The reasons for the bill are—

[list the reasons].

3 The objects of the bill are—

[list the objects, including any in a preamble or purpose clause].

4 The objects of the bill cannot be attained otherwise than by legislation because *[give reasons]*.

or

The objects of the bill can be attained otherwise than by legislation but *[give reasons why legislation sought is warranted]*.

Amendment 13

—Preamble

~~5 Notice of the bill has been published in two consecutive calendar weeks in issues of *[name(s) of newspaper(s)]* on *[dates]* on page(s) *[give numbers]* (copies of which notices are attached). A copy of the bill was publicly available at *[name of website]* for the same period.~~

Amendments 12 and 13

—Notification requirements for private and local bills
—Preamble

5 Notice of the bill and a copy of the bill have been publicly available at *[name of website(s)]* for at least 15 complete working days, *[give dates of period for which notice has been available]*.

5A *[If applicable]* Notice of the bill has been published in two consecutive calendar weeks in issues of *[name(s) of newspaper(s)]* on *[dates]* on page(s) *[give numbers]* (copies of which notices are attached).

6 Notice of the bill was given to the following persons who have a direct interest in the subject matter of the bill or in the exercise of a power proposed to be given by the bill:

[name and address of natural or legal person, including person specified in clause 4(2) of this Appendix], who is affected by clause *[give reference]* of the bill because *[give reason]*.

[etc.]

(copies of which notices are attached).

[Signature]

[Name of signatory]

[Date]

...

LOCAL LEGISLATION BILLS

16 Initiation of clauses in Local Legislation bills

(1AA) The Minister of Local Government may initiate the preparation of a Local Legislation Bill, and may invite local authorities to apply under paragraph (1).

- (1) Any local authority may apply to the Minister of Local Government for preliminary consideration and provisional approval of a clause or clauses to be included in a Local Legislation Bill.

...

- (4) A copy of the proposed clause or clauses and the notice is given to such a member by—
- (a) personal delivery, or
 - (b) post, or delivery by couriers, or delivery to a document exchange which the member uses, or
 - (c) an electronic communication ~~(for example, by facsimile or email message)~~ to the member.

Amendment 14

—Local Legislation Bills

17 Repeal of spent local legislation

~~The Minister may also include in a Local Legislation Bill a clause or clauses repealing any spent local Act, any spent Local Legislation Act, or any spent provisions contained in a Local Legislation Act.~~

Amendment 14

—Local Legislation Bills

- (1) The Minister may initiate the preparation of a Local Legislation (Repeal) Bill, which is a type of Local Legislation Bill that contains only a clause or clauses repealing any spent local Act, any spent Local Legislation Act, or any spent provisions contained in a Local Legislation Act.
- (2) When preparing a Local Legislation (Repeal) Bill, the Minister must consult every local authority affected by spent legislation that is proposed to be repealed, before the bill is introduced.
- (3) The Minister may also include in a Local Legislation Bill a clause or clauses repealing any spent local Act, any spent Local Legislation Act, or any spent provisions contained in a Local Legislation Act, provided that the Minister must consult any relevant local authority before doing so.

18 Objections

The Minister must transmit to the select committee that considers a Local Legislation Bill (including a Local Legislation (Repeal) Bill) a copy of any objection received by the Minister to any clause included in the bill.

...

APPENDIX D

COVERAGE OF PROCEEDINGS

PART 1: MAKING IMAGES AND RECORDINGS OF PROCEEDINGS

1 Permission to make images and recordings

- (1) Only a permitted person may make images, sound recordings, and video recordings of the proceedings of the House, or of evidence heard in public by any select committee.
- (2) The following are **permitted persons**:
 - (a) the Clerk:
 - (b) the official provider of Parliament TV (PTV):
 - (c) the radio provider contracted by the Clerk to provide coverage of proceedings:
 - (d) members of the Press Gallery (including associate members and temporary members):
 - (e) any other person authorised by the Speaker.
- (3) This clause is subject to—
 - (a) all other Standing Orders, rules and practices of the House, and
 - (b) any directions, protocols, rules and guidelines made by the Speaker.

2 Select committee may authorise or prohibit recording of hearings of evidence

- (1) Despite clause 1, a select committee, by leave, may prohibit the making of images or recordings during particular proceedings of that committee.
- (2) A select committee may permit a person to make images and recordings when it is hearing evidence in public, despite that person not being a permitted person under clause 1.

Amendment 4
—Prohibiting permitted persons from making recordings

...

APPENDIX E

SELECT COMMITTEE EXAMINATION OF PARLIAMENTARY PAPERS

<i>Relevant legislation</i>	<i>Paper</i>	<i>Select committee</i>	<i>Time for report</i>	<i>Debate</i>	
...					
<u>Legislation Act 2019</u>	<u>Annual report on exemptions from presentation and other drafting and publication matters</u>	<u>Regulations Review Committee</u>	<u>60 working days</u>	<u>Consider debate</u>	Amendment 24 —Annual report on legislative practices
...					

APPENDIX F

DECLARATIONS OF INCONSISTENCY

Amendment 22
—Declarations of
inconsistency

1 Purpose

This Appendix provides for the House’s consideration of declarations of inconsistency and Government responses to them.

2 Definitions

In this appendix—

declaration of inconsistency means a declaration—

- (a) made by a court, and in respect of which section 7A(1) of the New Zealand Bill of Rights Act 1990 applies, or
- (b) made under section 92J of the Human Rights Act 1993, and in respect of which section 92WA(1) of that Act applies

Government’s response to a declaration of inconsistency means a report advising of the Government’s response to a declaration, which a Minister must present under—

- (a) section 7B of the New Zealand Bill of Rights Act 1990, or
- (b) section 92WB of the Human Rights Act 1993

notice means a notice presented by the Attorney-General in accordance with—

- (a) section 7A(2) of the New Zealand Bill of Rights Act 1990, or
- (b) section 92WA(2) of the Human Rights Act 1993.

3 Notice of declaration of inconsistency

A notice bringing a declaration of inconsistency to the attention of the House is published under the authority of the House.

4 Referral of declaration of inconsistency to select committee

- (1) When a notice is presented, the declaration of inconsistency to which the notice relates is referred to a select committee for consideration.
- (2) The declaration of inconsistency is allocated by the Clerk to the most appropriate select committee.

5 Select committee consideration of declaration of inconsistency

- (1) A select committee to which a declaration of inconsistency is referred considers the declaration and reports to the House.
- (2) In its report on the declaration of inconsistency, the committee may—
 - (a) make any recommendations to address the declaration, and
 - (b) include any other recommendations as the committee thinks fit.

6 Time for report on declaration of inconsistency

- (1) The select committee considering a declaration of inconsistency must finally report to the House on it no later than 4 months after the date on which the notice relating to the declaration of inconsistency was presented.
- (2) The Business Committee may determine a different time for report to that set out in paragraph (1).

Amendment 22
—Declarations of
inconsistency

7 Select committee report on declaration of inconsistency

A select committee report on a declaration of inconsistency is set down as a Government order of the day, but is available for consideration only when taken together with the debate on the declaration of inconsistency that is held under clause 10.

8 Variation of deadline for Government's response to a declaration of inconsistency

The Business Committee may, for any reason, vary the usual six-month deadline for the Government's response to a declaration of inconsistency by determining a different deadline (see section 7B(2)(b) of the New Zealand Bill of Rights Act 1990 or section 92WB(2)(b) of the Human Rights Act 1993, as applicable).

9 Government's response to a declaration of inconsistency

- (1) The Government's response to a declaration of inconsistency is published under the authority of the House.
- (2) When the Government's response to a declaration of inconsistency is presented, a debate on that declaration of inconsistency is set down as a Government order of the day under clause 10.

10 Debate on declaration of inconsistency

- (1) The debate on a declaration of inconsistency is the debate on—
- (a) the declaration of inconsistency itself, and
 - (b) the select committee's report on the declaration of inconsistency, and
 - (c) the Government's response to the declaration of inconsistency.
- (2) During the debate on a declaration of inconsistency,—
- (a) a Minister moves a motion to take note of the declaration, and
 - (b) during their speeches, members may ask questions to the Minister, and the Minister may reply.
- (3) The debate on a declaration of inconsistency must be held no later than six sitting days after the date on which the Government's response to the declaration of inconsistency is presented, unless the Business Committee determines otherwise.

Report Appendix A—Committee procedure and membership

Committee procedure

At its meeting on 4 May 2022, the Standing Orders Committee resolved to commence a review of the Standing Orders. The conduct of a review of the Standing Orders, procedures, and practices of the House is a function of the committee under Standing Order 7(a). The committee invited public submissions on the review, with a closing date of 16 September 2022. The committee also invited additional public submissions on the House's rules and principles relating to proposals for entrenchment, with a closing date of 5 February 2023. Submissions were received from 69 people, organisations, and select committees, as listed in Appendix B of this report. Evidence from submitters was heard in public in the Parliament Buildings.

David Wilson, Clerk of the House of Representatives, David Bagnall, Principal Clerk (Procedure), and Gabor Hellyer, Principal Clerk (Select Committees) were our primary advisers on the review.

Committee members

Rt Hon Adrian Rurawhe (Chairperson)

Rt Hon Trevor Mallard (Chairperson until 13 September 2022)

Camilla Belich

Chris Bishop

Rt Hon Chris Hipkins (until 8 February 2023)

Jan Logie

Debbie Ngarewa-Packer

Chris Penk

Hon Grant Robertson

Tangi Utikere

Brooke van Velden

Hon Duncan Webb (until 8 February 2023)

Hon Michael Woodhouse

Rachel Brooking, Golriz Ghahraman, Hon Kieran McAnulty, Dr Tracey McLellan, Nicole McKee, Ricardo Menéndez March, Greg O'Connor, Hon Eugenie Sage, David Seymour, and Hon Poto Williams participated in this review.

Report Appendix B—List of submitters

Annabelle Stephenson	Sir Kenneth Keith
ACT Party	Kimberly Daly
Alec van Helsdingen	Kylie Whellan
Alex Lusby	Labour Party
Anonymous	Make it 16
Billy Leonard	Maurice Cody
Charles Lawson	Michael Mcqueen
Carla Kupe	Michael Gibson
Charloh Tangianau	New Zealand Council for Civil Liberties
Cheree Antoinette	New Zealand Law Society Te Kahui Ture o
Chris Penk MP	Aotearoa
Clerk of the House of Representatives	Ngati Hau Hapu
Daniel Moran	Parliamentary Commissioner for the
David Farrar	Environment
David Hopkins	Parliamentary Counsel Office
David King	Petitions Committee
David Seymour MP	Philip de Weck
Dean Knight	Phil Evans
Demelza Crawford	Phil Smith
Edward Willis	Primary Production Committee
Engage	Registrar of Pecuniary and Other Specified
Finance and Expenditure Committee	Interests
Sir Geoffrey Palmer	Regulations Review Committee
Geraint Scott	Riana Shaw
Gordon Gandy	Richard Featherstone
Graeme Axford	Robin Gunston
Graeme Edgeler	Robyn Cain
Green Party of Aotearoa New Zealand	Sarah-Kay Coulter
Health Committee	Social Services and Community Committee
Hon Jacqui Dean and Hon Jenny Salesa	Te Tahu o te Ture Ministry of Justice
James Braund	Terry Young
Jane Kelsey	Thomas Going
Jason Brown	Todd Cusdin
Joseph Durkin-Gorman	Tom Seaman
Joseph Samuels	Trust Democracy
Kate Eastwood	Wade Alexander

Report Appendix C—Time committed by select committees to annual review and Estimates hearings in 53rd Parliament

Annual reviews

The figures below represent total minutes each committee resolved to hear evidence for, not actual hearing times. The number of entities referred to some committees has varied slightly over the three annual review rounds. Some committees held sector hearings with Ministers in addition to hearings with organisations. The table lists the number of entities referred to each committee for the 2021/22 annual reviews.

	Number of entities (2021/22 allocation)	Hearing time in minutes 2019/20	Hearing time in minutes 2020/21	Hearing time in minutes 2021/22
EDSI	28	615	545	570
ENV	7	180	220	280
EW	10	450	575	585
FADT	6	270	270	270
FEC	15	420	360	525
GA	11	360	330	450
HE	28 (incl. 20 DHBs)	615	660	590
JU	15	285	285	300
MA	6	225	270	180
PP	8	220	265	270
SSC	24	665	600	715
TI	16	360	345	420
ALL SCs	174	77.75 hrs total	78.75 hrs total	85.92 hrs total
Averages		389 (6.5 hrs)	394 (6.6 hrs)	430 (7.2 hrs)

Estimates

The figures below represent total minutes each committee resolved to hear evidence for, not actual hearing times. The number of Votes and appropriations referred to some committees

has varied slightly over the three Estimates rounds. The table lists the number of Votes and appropriations referred to each committee for the 2023/24 Estimates. Some committees held multiple hearings with different Ministers who had responsibility for appropriations within one Vote (such as the Economic Development, Science and Innovation Committee).

	Number of Votes and appropriations (2023/24 allocations)	Hearing time in minutes 2021/22	Hearing time in minutes 2022/23	Hearing time in minutes 2023/24
EDSI	1	360	345	345
ENV	3	170	170	170
EW	2	195	200	210
FADT	4	165	165	165
FEC	4*	145	165	165
GA	7	330	300	315
HE	3	150	60	60
JU	7	300	300	300
MA	2	210	210	210
PP	3	285	255	255
SSC	10	480	480	490
TI	2	105	115	115
ALL SCs	44	48.25 hrs total	46.1 hrs total	46.67 hrs total
Averages		241 (4 hrs)	230 (3.8 hrs)	233 (3.9 hrs)
* Includes Budget Economic and Fiscal Update				

