



HOUSE OF LORDS

Procedure and Privileges Committee

2nd Report of Session 2022–23

Revision of the Companion to the Standing Orders

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Procedure and Privileges Committee

The Select Committee on Procedure and Privileges of the House is appointed each session to consider any proposals for alterations in the procedure of the House that may arise from time to time, and whether the standing orders require to be amended.

Membership

The members of the Procedure and Privileges Committee are:

<u>Lord Ashton of Hyde</u>	<u>Lord Kennedy of Southwark</u>
<u>Lord Bew</u>	<u>Lord Mancroft</u>
<u>Lord Eames</u>	<u>Lord McFall of Alcluith</u> (Lord Speaker)
<u>Baroness Evans of Bowes Park</u>	<u>Baroness McIntosh of Hudnall</u>
<u>Lord Faulkner of Worcester</u>	<u>Lord Newby</u>
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[Lord Collins of Highbury](#) (for backbench Labour members)
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[Lord Turnbull](#) (for the Convenor)

Declaration of interests

A full list of Members' interests can be found in the Register of Lords' Interests:

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Publications

All publications of the Committee are available at:

<https://committees.parliament.uk/committee/191/procedure-and-privileges-committee/publications/>

Further information

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Contact details

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Second Report

Revision of the Companion to the Standing Orders

Introduction

1. The last edition of *The Companion to the Standing Orders and Guide to Proceedings of the House of Lords* was issued in 2017. It has always been the intention of the Procedure and Privileges Committee to update the *Companion* every two or three years, and preparations for a new edition were in fact almost complete in early 2020. These preparations were paused at the start of the Covid-19 pandemic, which led to the rapid adoption first of remote, and then of hybrid sittings. Only now, as the House has returned almost entirely to pre-pandemic procedures, has it been possible to resume our work.
2. We have updated the text of the *Companion* to reflect changes agreed by the House since the last edition was published in 2017. We have also adopted changes to clarify the drafting, and we have added explanations of well-established and important concepts (such as ‘double insistence’) that are already defined in *Erskine May*, but have hitherto been missing from the *Companion*.
3. Finally, we propose a few minor but substantive changes, which are explained below, and to which we seek the agreement of the House. These changes were first proposed in our Seventh Report of the last session.¹ This was originally tabled for consideration by the House on 16 May 2022, but following member feedback on the recommendations relating to the Lord Speaker’s leave of absence and to the presence of young children in the division lobbies, our Chair decided not to proceed with his motion. After further consideration, the Committee has now made some adjustments to those two recommendations, though in other respects this report is identical to its predecessor.
4. The online edition of the 2022 *Companion* will be published without delay, once this report has been considered by the House. Hard copies, though, will not be ordered until after the House has considered the issue of sitting times, which we address in our First Report. Copies will be available when the House returns in September.

Lord Speaker’s absence

5. The *Companion* says: “1.54 The Lord Speaker seeks the leave of the House for any necessary absence of a full sitting day or more.” We consider that this requirement, which dates back to the time when the role of Lord Speaker was combined with that of Lord Chancellor, is no longer appropriate, particularly given that no other office-holder in the House is required to seek leave for non-attendance. We also note that the current wording makes no distinction between the Lord Speaker’s official duties, in which the House may have an interest, and personal matters.
6. **We recommend replacing the existing text on the Lord Speaker’s leave of absence, contained in paragraph 1.54 of the *Companion*, with the following: “The Lord Speaker notifies the House of all necessary**

1 Procedure and Privileges Committee, *Revision of the Companion to the Standing Orders* (7th Report of Session 2021–22, HL Paper 182)

absences of more than one full sitting day. He or she seeks the leave of the House when such absences relate to the public duties of the Lord Speaker.”

The length of oral questions

7. On 13 July 2021 the House agreed this committee’s 1st Report,² which recommended that the time allocated to oral questions should be 40 minutes. This equates to 10 minutes per oral question, but our report did not consider what would happen if a question were withdrawn. We now recommend that in such a case, rather than dividing the full 40 minutes between three questions (which would give 13 minute and 20 seconds to each question), the existing limit of 10 minutes for each question should apply, so that oral questions as a whole would last 30 minutes. The Lord Speaker would inform the House of this change in timings before the start of oral questions.
8. **We recommend the addition of the following wording at the end of paragraph 6.28 of the Companion:**

“6.28 If the Lord Speaker knows that an oral question is not going to be asked, they inform the House before they call the first question; the remaining questions are each limited to ten minutes.”

Limits on questions for short debate

9. The House has previously agreed to change the limit upon the number of oral questions and topical oral questions that members can ask to seven and four per calendar year respectively.³ The clock is reset on 1 January of each year. For the sake of consistency and clarity, we now propose that the rules on questions for short debate and topical questions for short debate should be applied according to the same timetable. To give effect to this change, the clock which starts on 10 May 2022 will next reset on 1 January 2023.
10. **We recommend that in future members should be entitled to table one question for short debate and one topical question for short debate per calendar year.**
11. Questions for Short Debate that are drawn from the ballot to provide the list of entries for use by the Government Whips’ Office to arrange lunch and dinner break business,⁴ but which are not ultimately debated, do not count towards the limit.

Access to the division lobbies

12. It was the practice before the pandemic that members caring for young children occasionally brought them through the division lobbies. No objection was raised, but a rule permitting the practice was never formalised.
13. **Now that the House has resumed conducting divisions in the lobbies, we recommend that the following sentence, confirming existing practice, be added to Chapter 7 of the Companion: “Members who are parents of children below school age may, if necessary, take them through the lobby while voting.”**

2 Procedure and Privileges Committee, [1st Report](#) (Session 2021–22, HL Paper 41), para 22

3 Procedure and Privileges Committee, [5th Report](#) (Session 2019–21, HL Paper 190), para 7

4 Procedure and Privileges Committee, [1st Report](#) (Session 2021–22, HL Paper 41), para 26

*Statements under the Environment Act 2021 and the Human Rights Act 1998*14. The *Companion* says:

“8.26 Under s. 19 of the Human Rights Act 1998 the minister in charge of a government bill must make a statement before second reading as to whether in their view the provisions of the bill are compatible with the European Convention on Human Rights, and publish the statement in such manner as they consider appropriate. The statement is usually set out on the cover page of a bill as first published for each House; where bills are not published for the Lords the statement is publicised by means of a written statement.

“8.27 The minister who makes the statement should under normal circumstances move the second reading of the bill. If that minister is unable to do so, another minister should do so on the basis that he or she is acting on behalf of the minister who has made the statement.”

15. The Environment Act 2021, section 20, contains provision for ministerial statements comparable to the provision in the Human Rights Act. The Leader of the House has proposed a straightforward procedure matching paragraph 8.26 in a letter to the Committee, which is appended to this report. The new *Companion* will reflect this.
16. The Leader has also proposed that the requirement in paragraph 8.27 and currently applicable to Human Rights statements, that the Minister who made the statement should normally move the second reading, should not apply to Environment Act statements, and that it should be revoked for Human Rights statements.
17. There is no such requirement in House of Commons procedure or in either Act; nor does it add to the significance of statements or to the scrutiny of bills. Each Act requires that “a Minister of the Crown in charge of a Bill in either House of Parliament” must, “before Second Reading of the Bill”, make a statement. In practice Human Rights statements are made before First Reading (and the Leader proposes the same for Environment Act statements). It may well be that a different Minister moves Second Reading than the one who was in charge before First Reading and signed the statement; this does not stop members raising human rights issues in the debate.
18. **The Committee endorses the Leader’s proposal and recommends that paragraph 8.27 of the Companion should be deleted.**

APPENDIX 1: ENVIRONMENTAL LAW STATEMENTS

Letter from the Leader of the House and the Leader of the House of Commons to the Speaker of the House of Commons, the Lord Speaker, the Chair of the House of Commons Procedure Committee and the Senior Deputy Speaker, 16 February 2022

Following the Royal Assent of the Environment Act 2021, there will be a new duty on ministers to sign a statement before the publication of certain bills. This will require a change to the front page of a bill or a paragraph to be included in the Explanatory Notes.

Section 20 of the Act applies where the minister in charge of a bill in either House of Parliament considers that it contains environmental provision. The purpose of section 20 is to help maintain environmental protections by highlighting to both Houses when a bill may have the impact - intended or otherwise - of weakening or reducing the environmental level of protection.

Therefore, the minister must determine whether the bill contains environmental provision. If there is, the minister must state that this is so and also state either that the provision will not lower the current level of environmental protection under existing environmental law or that they are unable to make a statement to such effect but that the Government nevertheless wishes the House to proceed with the bill. This duty applies before Second Reading in either House and does not need to be reconsidered if the bill is amended during passage through the second House.

The statement must be made in writing and we propose that it be signed by the minister before the publication of the bill in each House. Where the duty applies, we propose that the statement should be recorded on the front of the bill when it is

published and reflected in the Explanatory Notes. If the bill in question does not include environmental provision, we intend that this position be recorded in the Explanatory Notes using a standard form of words. In order to keep the commitment proportionate, there is no set requirement for any accompanying documents to support the statement in the bill. The Office of the Parliamentary Counsel has been in discussions with the Clerks of Legislation in both Houses about the form of words these statements will take.

The duty will extend to all new primary legislation introduced to Parliament from the start of the next parliamentary session and will apply to all bills introduced by a government minister, including hybrid. The duty will not, however, apply to Private Members' Bills as the section applies to ministers in charge of a bill.

In the Lords, the minister who makes a Human Rights Act statement should also under normal circumstances move the second reading of the bill. We propose that this provision is not applied to Environment Act statements and removed for Human Rights Act statements.

I am copying this letter to the Chairman and members of the Liaison Committee in the House of Commons, the Chairman and members of the Liaison Committee in the House of Lords.