



HOUSE OF LORDS

Procedure and Privileges Committee

4th Report of Session 2019–21

Leave of absence

Committee rotations

Changes to procedure relating to legislation

Deletion of Standing Order 76

**Wording in the Companion relating
to “the closure”**

**Wording in the Companion relating
to “that the noble Lord be no longer heard”**

Changes to Standing Order 64

Legislative consent

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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.

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Fourth Report

Introduction

1. At our meetings on 27 January and 9 March this year, we agreed to make a number of recommendations to the House for changes to the Standing Orders and the Companion to the Standing Orders. At that time new editions of both of these publications were imminent and the Committee decided to present all the changes to the House when those new editions were ready. The work on the new editions was however paused when the Coronavirus pandemic started and the procedures underpinning the virtual and hybrid proceedings became the focus.
2. The Committee has recently agreed changes to the procedures regarding Legislative Consent Motions and we have decided to wrap up all the outstanding changes in this one report. New editions of the Standing Orders and the Companion to the Standing Orders will be presented in due course.

Leave of absence

3. At our meeting on 9 March, we considered a paper from the Government Chief Whip about the process of taking leave of absence from the House and agreed to recommend changes to avoid any ambiguity in the use of the leave of absence procedure. These changes will apply to members who are already on leave of absence.
4. **We recommend that:**
 - (a) **When writing to the Clerk of the Parliaments to request leave of absence, members should be required to:**
 - (i) **Specify a date by which they expect to return to the House¹; and**
 - (ii) **Specify a reason for asking to take leave of absence.**
 - (b) **In order to provide a safeguard against members using leave of absence as an alternative to retirement from the House, members should be required to renew their leave of absence at the start of each new session, rather than at the start of a new Parliament.**
5. **To give effect to these changes, we recommend the following changes to Standing Order 22:**

[new text **in bold**, deleted text ~~struck through~~]

22 Leave of absence [16 June 1958]

(1) **Lords Members of the House** are to attend the sittings of the House or, if they cannot do so for reasons of temporary circumstance, obtain leave of absence, which the House may grant at pleasure.

¹ It will be possible for a member to return before this date with the requisite three-month notice or at the start of the next parliamentary session.

(2) A **member of the House Lord** may apply for leave of absence at any time during a **Parliament session** for the remainder of that **session Parliament**.

(3) When applying for leave of absence a **member of the House Lord** should state in **their** his written application **the date that they expect to return, the reason for their leave of absence** and that **they have** he has a reasonable expectation that **they** he will be in a position again to take part in the proceedings of the House.

(4) The provisions of paragraph (3) do not apply to the Earl Marshal and the Lord Great Chamberlain.

(5) ~~On the issue of writs for the calling of a new~~ **At the end of a session of Parliament**, the Clerk of the Parliaments shall in writing ask every **member of the House Lord** who was on leave of absence at the end of the preceding **session Parliament** whether **they wish** he wishes to resign under the House of Lords Reform Act 2014 or, if **they expect** he expects to attend again in the future, apply for leave of absence for the new Parliament.

(6) A **member of the House Lord** who has been granted leave of absence should not attend the sittings of the House until the period for which the leave was granted has expired or the leave has sooner ended, unless it be to take the Oath of Allegiance.

(7) If a **member of the House Lord**, having been granted leave of absence, wishes to attend during the period for which the leave was granted, **they** he should give notice to the House accordingly at least three months before the day on which **they wish** he wishes to attend; and at the end of the period specified in the notice, or sooner if the House so direct, the leave shall end.

(8) In applying the provisions of this Standing Order the Clerk of the Parliaments may seek the advice of the Leave of Absence Sub-Committee of the Procedure and Privileges Committee.

6. **Additionally, we recommend the following changes to the Companion:**

1.37 Members of the House are to attend the sittings of the House. If they cannot attend, because of temporary circumstance, they should obtain leave of absence.² At any time during a **Parliament session**, a member of the House may obtain leave of absence for the rest of the **Parliament session** by applying in writing to the Clerk of the Parliaments, **specifying both a reason for asking to take leave of absence and a date by which they expect to return to the House.**

1.38 A member who has no reasonable expectation of returning as an active member at some point in the future should retire under the House of Lords Reform Act 2014. The House will not grant leave of absence to a member whose application has not stated that they have a reasonable expectation that they will return as an active member at some point.³

2 SO 22

3 Procedure Committee, *Changes to the leave of absence scheme; Ballot for oral question slots during recesses; Status of interpreted or translated evidence to select committees* (1st Report, Session 2015–16, HL Paper 62)

1.39 Before the beginning of every **Parliament session**, the Clerk of the Parliaments writes to those members who were on leave of absence at the end of the preceding **Parliament session** to ask whether they wish to renew that leave of absence for the new **Parliament session**. The Clerk of the Parliaments draws the attention of such members to section 2 of the House of Lords Reform Act 2014.⁴

Committee rotations

Backbench members rotations

7. The Liaison Committee report *Review of House of Lords Investigative and Scrutiny Committees: towards a new thematic committee structure* stated:

“There could be a case for providing a degree of flexibility in the three-year rotation rule when its rigid application would result in a large number of members of a committee being ‘rotated off’ simultaneously, or in the event of a very short parliamentary session being held. We recommend that the Procedure Committee gives further consideration to the operation of the rotation rule in due course.”⁵
8. At present, in order to secure a regular turnover of membership, a “rotation rule” operates in the case of most committees, whereby members are appointed onto committees, or sub-committees, for three successive sessions. They cannot be reappointed to the same committee in the following two sessions.⁶ These rules were most recently considered by the Procedure Committee in 2014 when at the request of the Liaison Committee the Committee reduced the maximum period of service from four to three sessions, to allow more members keen to take part in select committee work to do so.⁷
9. The rotation rule is based on the expectation that a typical session will last approximately 12 months. In the event of a significant variation from this term the Committee of Selection may consider making *ad hoc* adjustments.⁸ It did so recently.⁹
10. Over the last decade there have been a number of sessions that were significantly longer or shorter than 12 months,¹⁰ including several whose duration varied from what was expected at the start of the session. Despite the Committee of Selection exercising its power to make *ad hoc* adjustments, this has sometimes resulted in members serving on committees for longer

4 House of Lords Reform Act 2014, section 2

5 Liaison Committee, *Review of House of Lords Investigative and Scrutiny Committees: towards a new thematic committee structure* (6th Report, Session 2017–19, HL Paper 398)

6 The Joint Committee on Consolidation etc. Bills Committee, the Committee for Privileges and Conduct, the Standing Orders (Private Bills) Committee and the Hybrid Instruments Committee are exempt from this rule, as are the Lord Speaker, the Leaders, the Chief Whips, the Deputy Chief Whips, the convenor of the Crossbench peers, the Senior Deputy Speaker, and the Chair of the European Union Committee.

7 Procedure Committee, *Secondary Legislation Scrutiny Committee; Written Answers and Statements; Select Committee Membership; Maiden Speeches in Hansard* (5th Report, Session 2013–14, HL Paper 167)

8 Companion 11.14

9 When the 2017–19 session had lasted 24 months, the Committee agreed that the rotation rule should be applied on 1 July 2019, towards the end of the session; in October 2019 the Committee of Selection agreed that the short 2019 session should not be counted for the purposes of the rotation rule; and in June 2020 the Committee of Selection agreed that the next rotation should take place in January 2021, to take account of the disruption caused by the COVID-19 pandemic.

10 This includes the 2010–12 session, the 2017–19 session and the 2019 session, and the current session which began in December 2019.

than expected,¹¹ while others have been unable to join committees due to a lack of vacancies.

11. In making the recommendation below, which would take effect in January 2021, we exclude the European Union Committee (and its sub-committees), since changes to that Committee's structure, which may require significant changes to its membership, are likely in early 2021. We therefore propose that any 'normal' rotation of EU Committee membership should be deferred until any changes to the structure of the EU Committee are implemented.
12. **We recommend that from January 2021 onwards, subject to the comments about the EU Committee set out above, all select committee member rotations should take place at the beginning of January each year if reappointed.**¹²
13. **To give effect to this, we recommend the following changes to the Companion:**

11.11. In order to secure a regular turnover of membership, a "rotation rule" operates in the case of most committees, whereby members who have been appointed (or co-opted) for three successive **calendar years sessions** (or parts of **years sessions**) may not be reappointed in the following two **calendar years sessions**. The three **years sessions** may be extended to allow a member appointed as **Chairman** a three-**year session** term as **Chairman**. Select committees apply the rotation rules to their sub-committees.

11.14 ~~The rule is based on the duration of a session being approximately 12 months. In the event of a significant variation from this term~~ The Committee of Selection may consider making *ad hoc* adjustments **when needed**.

14. **We also recommend the following changes to the Standing Orders:**

63 Committee of Selection [3 April 1973]

(1) At the commencement of each session the House shall appoint a Committee of Selection consisting of the **Chairman** of Committees and such other **members of the House** ~~Lords~~ as the House shall name.

(2) **At the beginning of each January** the Committee of Selection shall select and propose to the House the names of the **members of the House** ~~Lords~~ to form each Select Committee of the House except the Committee of Selection itself, any Committee otherwise provided for by statute or by Order of the House and, unless the Chairman of Committees is of the opinion that the members of any such Committee should be appointed by the Committee of Selection or unless two or more members of that Committee request a meeting for that purpose, the following Committees:

11 For example, members who joined committees in 2015 served for four years before the Committee of Selection instigated a rotation part-way through the 2017–19 session.

12 January 2021 rotation—members appointed in the 2016–17 session rotate off.
 January 2022 rotation—members appointed in the 2017–19 session (pre 1 July 2019) rotate off.
 January 2023 rotation—members appointed between 1 July 2019 and 31 December 2020 rotate off.
 January 2024 rotation—members appointed between 1 January 2021 and 31 December 2021 rotate off.

- (a) Select Committees on Private Bills;
- (b) Select Committees on opposed Personal Bills;
- (c) Select Committees on opposed Provisional Order Confirmation Bills;
- (d) Joint Committees under the Private Legislation Procedure (Scotland) Act 1936 (Lords members);
- (e) Joint Committees under the Statutory Orders (Special Procedure) Act 1945 (Lords members).

(3) The Committee of Selection may propose to the House the name of the **member of the House** Lord to be ~~Chairman~~ of a Select Committee.

(4) In the absence of any ~~Chairman~~ appointed in pursuance of paragraph (3) of this Standing Order a Committee may appoint its own ~~Chairman~~.

(5) The Committee of Selection shall select and propose to the House the names of the panel of Lords to act as Deputy Chairmen of Committees for each session.

(6) The Committee of Selection shall also have power to select and propose to the House the names of the **members of the House** Lords to form any other body, not being a Select Committee, referred to it by the Chairman of Committees.

(7) The Chairman of Committees shall have discretion to propose to the House, without reference to the Committee of Selection, the names of **members of the House** Lords to fill casual vacancies occurring in the membership of Select Committees.

Frontbenchers and their substitutes

15. The Companion specifically exempts the Lord Speaker, Leaders, Chief Whips, Deputy Chief Whips, the Convenor of the Crossbench peers, the Senior Deputy Speaker and the Chair of the EU Committee from the rotation rule. However, it does not include Deputy Leaders or members attending domestic committees as substitutes for the members specified above.
16. **We recommend that the exemption to the rotation rule is extended to any member serving as a substitute for the Leaders, Chief Whips, Deputy Chief Whips and the Convenor of the Crossbench peers.**
17. **To give effect to this, we recommend the following change to the Companion:**

11.13 The Lord Speaker, Leaders, Chief Whips, Deputy Chief Whips, Convenor of the Crossbench peers, Senior Deputy Speaker and any Chair of the European Union Committee **or their substitutes** are exempt from the rotation rule.

Changes to Standing Order 64

18. On 3 October 2019 the House agreed the report of the Liaison Committee, *Review of Investigative and Scrutiny Committees: towards a new thematic committee structure*.¹³ As a result a new Public Services Committee has been appointed and some existing committees' names have changed.

¹³ Liaison Committee, *Review of House of Lords Investigative and Scrutiny Committees: towards a new thematic committee structure* (6th Report, Session 2017–19, HL Paper 398)

19. Standing Order 64 needs amending to reflect the new committee names.
20. **We recommend the following changes to Standing Order 64:**

64 Sessional Committees [10 November 1975]

The orders of appointment of the following Committees and any of their Sub-Committees shall remain in force and effect, notwithstanding the prorogation of Parliament, until such time as the House or Committee makes further orders of appointment in the next succeeding session:

House of Lords Commission
 Communications **and Digital** Committee
Conduct Committee¹⁴
 Consolidation Bills Committee
 Constitution Committee
 Delegated Powers and Regulatory Reform Committee
 Economic Affairs Committee
 European Union Committee
 Finance Committee
 Human Rights Committee
 Hybrid Instruments Committee
International Relations and Defence Committee¹⁵
 National Security Strategy Committee
~~Committee for Privileges and Conduct~~
Procedure and Privileges Committee
Public Services Committee
 Science and Technology Committee
 Secondary Legislation Scrutiny Committee
 Services Committee
 Standing Orders (Private Bills) Committee
 Statutory Instruments Committee.

Procedural changes relating to legislation

21. At our meeting on 27 January we considered a paper which proposed a number of small changes to procedures relating to legislation. We agreed that:
- **When Committee negatived is intended for a non-Supply/Money bill, Standing Order 47 should be dispensed with explicitly and “Committee negatived” should then appear on the Order Paper.**
 - **When Standing Order 46 is suspended to enable more than one stage of a bill to be taken on one day, manuscript amendments on third reading should be permissible notwithstanding SO 48 unless the House provides otherwise.**
 - **Standing Order 50, which allows bills etc received from the Commons when the House is adjourned to be published before**

14 This amendment, and the amendment to the name of the Committee for Privileges, are consequential on the House’s creation of a Conduct Committee on 9 May 2019. See Privileges and Conduct Committee, *Independent Complaints and Grievance Scheme: Changes to the Code of Conduct* (4th Report, Session 2017–19, HL Paper 335).

15 When it was first established in 2016 the International Relations Committee was not added to Standing Order 64, as its continuation was subject to the Liaison Committee’s review of all committees. Hence the committee will now appear for the first time (under its new name) in the standing order.

the next sitting, should be amended to make it clear that it applies whether the House is adjourned until a future day or during pleasure.

- **The privilege amendment should be agreed by silent Minute entry.**
 - **The rules for marshalling amendments should be aligned with practice in two respects:**
 - **The last bullet in the rules for marshalling amendments says, “where alternative amendments are tabled to the same place in the bill, they are marshalled in the order in which they are tabled, except that priority is given to an amendment tabled by the member in charge of the bill.” It is proposed to add, “unless a logical order applies, in which case it may be followed, starting with the amendment closest to the existing text”.**
 - **It is also proposed to add, “Where it is not possible to determine the order of tabling, the PBO may devise another method, e.g. a ballot, to determine the marshalling order”.**
22. **And at our meeting on 9 March we agreed that a factual footnote should be inserted in the Companion to reference the events of 4 and 5 September 2019 in relation to timetabling of bills.**
23. **To give effect to these changes, we recommend the following change to the Standing Orders:**

50 Printing of Bills brought from the Commons [9 November 1961]

(1) If a Public Bill is passed by the Commons and is **brought** carried up to the Office of the Clerk of the Parliaments at a time when this House is not sitting, **whether adjourned until a future day or during pleasure**, and if it is for the convenience of this House that copies of the Bill should be circulated before the Bill is read a First time, the Bill shall be deemed to have been brought from the Commons and the Clerk of the Parliaments shall arrange for the printing and circulation of copies of the Bill and any Explanatory Notes thereto.

(2) Likewise, if a Public Bill is returned from the Commons with amendments or Reasons at a time when this House is not sitting, **whether adjourned until a future day or during pleasure**, the Clerk of the Parliaments may, pursuant to this Standing Order, arrange for the printing and circulation of any such amendments and Reasons and any Explanatory Notes on the amendments.

24. **We recommend the following changes to the Companion:**

8.02 Under SO 46, no two stages of a bill may be taken on one day, except if a bill is not amended in Committee of the whole House, in which case the report stage may be taken immediately thereafter. So, if it is intended to take more than one stage of a bill on one day, other than the report stage of a bill which has not been amended in Committee of the whole House, SO 46 must be suspended or dispensed with; SO 84

requires that notice of this must be given. **If SO 46 is set aside, then manuscript amendments are permitted at third reading despite SO 48, unless the House provides otherwise.**¹⁶

8.22 A bill passed by the Commons may be carried up to the Lords when the Lords are not sitting (**whether adjourned during pleasure or for the day**). Under SO 50, if it is for the convenience of the House for copies of the bill and any explanatory notes to be circulated before the bill is read a first time, it is deemed to have been brought from the Commons on that day and the bill and any explanatory notes may be published before first reading.

8.48 In order to save the time of the House, supply bills and money bills are not usually committed. This is the invariable practice in the case of supply bills and the normal practice for money bills. Immediately after the second reading the member in charge of the bill moves “That this bill be not committed” and the Question is put. If it is agreed to, the next stage is third reading. A bill which has not been committed is described as having had its committee stage “negatived”. **If Committee negatived is intended for a bill which is not a supply or money bill, SO 47 must be dispensed with and an italic notice to this effect is put on the Order Paper.**

8.59 (last bullet) where alternative amendments are tabled to the same place in the bill, they are marshalled in the order in which they are tabled, except that priority is given to an amendment tabled by the member in charge of the bill, **unless a logical order applies, in which case it may be followed, starting with the amendment closest to the existing text. Where it is not possible to determine the order of tabling, the Legislation Office may devise another method, e.g. a ballot, to determine the marshalling order.** A decision may be taken on each in turn, even if the second amendment is in substitution for the first amendment to which the committee has already agreed.

8.149 On third reading of a bill originating in the House of Lords whose provisions may infringe the privileges of the House of Commons with regard to the control of public money, a “privilege amendment” is made **by silent minute entry** formally after all the other amendments have been disposed of. ~~The privilege amendment is moved without notice, without the amendment being circulated and without stating its nature.~~

Prorogation and Standing Order 76

25. On 24 September 2019 the Supreme Court ruled that the prorogation of Parliament was not itself a proceeding in Parliament but was a prerogative act of the Crown. In January this year, the Committee decided that the Supreme Court ruling brought into question the purpose or validity of Standing Order 76, which lays out the provisions for proroguing Parliament at the close of session and describes the ceremony. Standing Orders set out the rules governing proceedings in Parliament.

¹⁶ Business of the House motions not only to dispense with SO 46 but to timetable proceedings on a bill were tabled in September 2019. See HL Deb, 4 September, col 1011 and 5 September, col 1148.

26. **The Committee therefore recommends that Standing Order 76 (Proroguing the Parliament at close of session) should be deleted to avoid the implication that prorogation is a proceeding of Parliament.**
27. **We recommend the following changes to the Companion:**

2.12 The prorogation of Parliament, which brings a session to an end, is a prerogative act of the Crown **and not a proceeding of the House**.¹⁷ ~~By current practice~~ Parliament is prorogued by Commissioners acting in the Sovereign's name **or by the Sovereign in person**.¹⁸ **The House has no role in determining the timing of prorogation.**

2.13 On the day appointed for prorogation, prayers are read, and any necessary business is transacted. The ~~procedure~~ **sequence of events** traditionally followed at prorogation, with or without Royal Assent, is given at Appendix G. Parliament is always prorogued to a definite day. Prorogation for further periods may be effected by proclamation. Parliament, while prorogued, can be summoned by proclamation pursuant to the Meeting of Parliament Acts 1797 and 1870 and the Civil Contingencies Act 2004.”

Closure motion

28. If a Member wishes the House to come to an immediate decision on a motion and stop any further debate leading up to that decision, then they may move “the Closure”. If agreed then the question is immediately put without further discussion. The closure motion itself is not debatable but it can be divided upon.
29. Several times in the 2017–19 session members asked whether the closure motion could be moved during a speech moving an amendment or motion rather than during the debate once the question had been put. This question is not explicitly addressed in the Companion. The consistent advice, based on logic and precedent, was that the Closure cannot be moved until there is a Question before the House. This means, in the case of an amendment for example, that the opening speech by the mover must have been completed and the Question have been put from the Woolsack before the Closure can be moved.
30. **At our meeting in January we agreed to recommend to the House that:**
- **There must be a Question before the House before the closure can be moved; and**
 - **The wording in the Companion should be amended to delete reference to the closure being a “most exceptional” procedure.**¹⁹
31. **We recommend the following changes to the Companion:**

4.59 The Closure, that is, the motion “that the Question be now put”, is not debatable and so requires an immediate conclusion. **It can only be**

17 R (Miller) v The Prime Minister and Cherry v Advocate General for Scotland, [2019] UKSC 41: <https://www.supremecourt.uk/cases/docs/uksc-2019-0192-judgment.pdf>

18 The last time the Sovereign prorogued Parliament in person was in 1854.

19 This is in order to reflect the fact that the closure motion was used 13 times during the 2017-19 session.

moved if a Question is before the House. If carried, it compels the House at once to come to a decision on the original motion. ~~It is a most~~ **It should be** an exceptional procedure,²⁰ so when a member seeks to move the Closure, the member on the Woolsack or in the Chair draws attention to its ~~exceptional nature~~ **seriousness**, and gives the member concerned the opportunity to reconsider, by reading the following paragraph to the House before the Question is put:

[To be read slowly] “I am instructed by order of the House to say that **it will accept the motion** “That the Question be now put” is ~~considered to be a most exceptional procedure and the House will not accept it save~~ only in circumstances where it is felt to be the only means of ensuring the proper conduct of the business of the House; further, if a member who seeks to move it persists in his intention, the practice of the House is that the Question on the motion is put without debate.”

4.60 If the member of the House who is seeking to move the Closure persists, the member on the Woolsack or in the Chair must put and complete the Question forthwith without debate, in the following terms: “The Question is that the Question be now put.”

The noble Lord be no longer heard

32. Agreeing the motion “That the noble Lord be no longer heard” allows the House to put an end to a particularly long or unwelcome speech.
33. The current wording says that it prevents the member speaking further “on the substantive motion” which may, when a motion is subject to a number of amendments (as per the Business of the House motion on 4 September 2019²¹), imply that the member cannot speak on any other amendments to that same “substantive motion”, whereas the traditional interpretation is that the member only cannot speak again on the Question before the House which was being debated at the time the closure motion was moved (so they can speak to subsequent amendments).
34. **At our meeting in January we agreed to make explicit the guidance in the Companion that:**
 - **“The noble Lord be no longer heard” only prevented a member speaking on the specific question before the House (e.g. an amendment) rather than the wider substantive motion or stage; and**
 - **That it is not necessary for a question to be before the House for “the noble Lord be no longer heard” to be moved.**
35. **We recommend the following changes to the Companion:**

4.54 If in a speech a member is thought to be seriously transgressing the practice of the House, it is open to another member to move “that the noble Lord be no longer heard”. **It is not necessary for there to**

²⁰ Although it was used six times on 4 September 2019, during a debate on a Business of the House motion tabled by the Leader of the Opposition.

²¹ Minutes of Proceedings of 4 September 2019: <https://lordsbusiness.parliament.uk/?businessPaperDate=2019-09-04§ionId=38>

be a Question before the House before this motion is moved. The motion, however, is very rare; it is debatable and seldom needs to be decided on Question since members generally conform to the sense of the House as soon as this sense becomes clear.²²

4.55 The effect of agreeing to this motion is to prohibit the member in question from speaking further on the ~~substantive motion~~ **Question before the House which was being debated**, but not on any subsequent ~~motion~~ **Question**.

Length of balloted debates on Thursdays

36. The Companion states that:

6.62 “One Thursday in each month from the start of the session to the end of December is set aside for two balloted debates. These balloted debates are limited to 2½ hours each, and their subjects should be narrow.”

37. It has a footnote which states:

“If one balloted debate has at least twice as many speakers as the other balloted debate when the speakers’ lists close on Wednesday evening, the usual channels may agree to time-limit the debate with fewer speakers to two hours and the debate with more speakers to three hours. This is effected by a Business of the House motion moved by the Leader on the morning of the debates.”

38. **In March we decided to recommend that this paragraph should be amended to give the House greater flexibility to determine the lengths of balloted debates to more than the options of 2, 2½ and 3 hours currently available.**

39. **We recommend the following changes to the footnote to paragraph 6.62 of the Companion:**

If one balloted debate has **considerably more** ~~at least twice as many~~ speakers than the other balloted debate when the speakers’ lists close on Wednesday evening, the usual channels may agree to time-limit the debate with **more fewer** speakers ~~to two hours to three, three and a half or four hours~~ and the debate with **more fewer** speakers ~~to three hours to the remaining portion of the five hours~~. This is effected by a business of the House motion moved by the Leader on the morning of the debates (Procedure 4th Report of Session 2019–21).

Legislative consent

40. In its report, *Brexit legislation: constitutional issues*²³, the Constitution Committee recommended that we should consider “how legislative consent could be given greater prominence in the legislative process at Westminster.”

41. The Constitution Committee noted that when legislative consent was refused by a devolved legislature “at present, the only impact is that an italic note

22 The last time that a member moved “That the noble Lord be no longer heard” was 15 July 2011 (HL Deb, col 1031).

23 Constitution Committee, *Brexit legislation: constitutional issues* (6th Report, Session 2019–21, HL Paper 71)

appears on the list of public bills towards the end of the daily House of Lords Business paper to signify that consent has been granted or refused.”

42. At present, passage or refusal of a Legislative Consent Motion is notified by the Clerk of the devolved legislature to the Clerks of the two Houses. The letters and associated memoranda are published on the bill pages on parliament.uk.
43. **We recommend that when legislative consent has been refused, or not yet granted by the time of third reading, a minister should orally draw it to the attention of the House before third reading commences. In doing this the Minister should set out the efforts that were made to secure consent and the reasons for the disagreement.**