



HOUSE OF LORDS

Procedure and Privileges Committee

7th Report of Session 2022–23

**Amendments to
motions;
Terms of reference
of the International
Agreements
Committee**

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Procedure and Privileges Committee

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Seventh Report

CHAPTER 1: MOTIONS AND AMENDMENTS TO MOTIONS

Introduction

1. On 19 September the Leader of the House and the Government Chief Whip wrote to the Senior Deputy Speaker to propose changes to the *Companion* guidance on the wording of certain types of motions for resolution and amendments to motions, and on the order of debate on such motions. They also proposed to clarify the existing guidance on length of speeches. In summary their proposals, which are set out in full in their letter at Appendix 1, were:
 - (a) **Order of speaking:** That those with amendments to a motion should speak after the opposition front bench openers.
 - (b) **Length of speeches:** That existing guidance that members with amendments to motions are (apart from those speaking for the opposition front benches) bound by the backbench advisory time in any debate where there are advisory time limits should be clarified.
 - (c) **Guidance on length and tone of relevant motions:** That further guidance should be provided in the *Companion* on the length and tone of motions and amendments to motions.
2. The Procedure and Privileges Committee considered the proposals at its meeting on 16 October. We also considered a paper prepared by the Clerks, which analysed procedural aspects of the proposals, and suggested ways in which they could be put into effect. As the Leader and Chief Whip acknowledged, the issues raised in the letter apply to all reasoned motions for resolution¹ and to all reasoned amendments to motions for resolution.
3. We do not seek to restrict the right of all members of the House to table motions or amendments to motions, which enable members to hold the Government to account, and are also vital elements of self-regulation. But we note that while the number and length of reasoned motions and amendments to motions has increased, the current guidance in the *Companion* is in some places unclear. Clear guidance is essential, to support self-regulation and ensure the orderly conduct of business. We have therefore agreed to recommend a number of changes to the House.
4. This report sets out the proposed changes and our rationale for them. In Appendix 2 we set out the specific amendments to the *Companion* that would give effect to the changes.

¹ That is to say, all motions inviting the House to take a “definite decision”, if necessary on a vote, and in which “it is in order to incorporate statements of opinion or the demonstration of a point of view” (*Companion*, paragraphs 6.58 and 6.59). In some cases, such as a motion relating to a negative instrument, members wishing to invite the House to come to a definite decision have to table a free-standing motion; in other cases, such as the second reading of a Bill or a motion to approve an affirmative instrument, they may do so by tabling an amendment to a motion that has already been tabled, typically by the Government.

Order of speaking

5. The first proposal, on the order of speaking, has a bearing on some key principles that underpin the conduct of debates on motions. These are articulated in paragraphs 6.76–6.77 of the *Companion*, which set out a clear sequence for such debates:
 - The original motion is moved and the Question is proposed;
 - The first amendment is called and the Question is proposed;
 - If an amendment to the first amendment has been tabled, it is called and the Question is proposed;
 - The debate then takes place, covering not only the motion and any amendment(s) that have been moved, but also all other amendments that have been tabled but have yet to be called;
 - Only when the Question on the first amendment has been decided are other amendments called and decided, usually without further debate.
6. In debates where there is a speaker's list, these rules do not give any priority in speaking order to those who have tabled subsequent amendments. So if, for instance, three members table separate amendments to a second reading motion, procedure requires that the first amendment is called immediately after the Question is proposed on the original motion, and as a result the member tabling that amendment secures priority in any speakers' list. But those tabling subsequent amendments have no greater priority than other speakers, and their position in any speakers' list is a matter of business management, decided by the Usual Channels in the normal way. Their amendments are called only after the first amendment had been decided, and as paragraph 6.76 of the *Companion* states, the expectation is that their amendment will then be decided without further debate—they either say 'not moved' or seek to test the opinion of the House.
7. These rules are designed to bring the greatest possible clarity to proceedings, by ensuring that there is a single debate rather than a series of debates on slightly different propositions. In so doing, they support the operation of a fundamental procedural principle, set out in Standing Order 29 that "No Lord is to speak more than once to any motion". The rules set out in paragraph 6.77 ensure that a single debate takes place on just one motion, thereby engaging SO 29.
8. One of the consequences is that the member whose amendment appears first on the order paper, either because it engages an earlier part of the original motion, or, if all amendments engage the same text, because it was tabled first, enjoys a privileged position in any speakers' list, as well as the right to respond to the debate. The Leader and Government Chief Whip, on the other hand, proposed that those moving such amendments should speak after the opposition front bench openers. They cited precedents for varying the normal order of speaking in this way, and made a persuasive case that it would normally assist the House in framing the debate to hear the views of the main opposition parties immediately after the Government.
9. We agree with the Leader's and Government Chief Whip's analysis, though we note that flexibility is required, as in some cases it may still be appropriate to take a backbench amendment first. We also note that any variation of

the existing rules of debate needs to safeguard the operation of SO 29: even if the opposition front benches speak before the first amendment is called, it should still be treated as one debate for procedural purposes, with no member speaking more than once unless permitted to do so under the terms of the Standing Order.² The Committee therefore proposes that the new guidance should be discretionary, and that it should include an explicit cross-reference to SO 29. These suggestions are reflected in the draft text proposed in Appendix 2.

Conclusion

10. The Committee recognises that it will often be for the convenience of the House to hear speeches from the opposition front benches before the first amendment to a motion is called, as long as the operation of Standing Order 29 (which provides that no member may speak more than once to a motion) is safeguarded. To achieve this outcome, **we recommend the amendments to paragraphs 6.77 and 6.78 of the *Companion* contained in Appendix 2.**

Length of speeches

11. The second proposal, on length of speeches, was to clarify that backbench members with amendments to motions are guided by the backbench advisory time in any debate (not the 20 minutes for the mover of a main motion).
12. We agree with the Leader and Government Chief Whip that this proposal reflects the current wording of the *Companion*: it would not amount to a change. But we also note that the current text of paragraph 4.41 of the *Companion* incorporates various layers of change introduced over a period of years, with the result that the text is not as clear as it should be. We therefore wish to take this opportunity to clarify the wording. In addition, the Committee considered that it would be helpful to slightly strengthen the guidance on the length of speeches, by reminding members that the House expects this guidance to be observed, even though it remains merely guidance, which may in some cases, and subject to the sense of the House, be over-ridden.

Conclusion

13. **The Committee recommends that paragraph 4.41 of the *Companion* should be amended to clarify the existing rules on speaking times (by reordering the text and putting internal cross-references into a footnote) and to strengthen the guidance on advisory speaking times in a new paragraph 4.41A. The revised text is given at Appendix 2.**

Guidance on length and tone of motions and amendments to motions

14. The third set of proposals suggested amending the *Companion* to provide more detailed guidance on the length and tone of motions and amendments to motions.
15. In discussing these proposals we noted that for some other types of business, such as questions for written answer and ‘take note’ motions, guidance already exists to help members judge the appropriate wording to use, but that no such guidance exists for motions for resolution. We believe that

2 SO 29 does not apply to the mover of a motion, or to Ministers of the Crown, but does apply to other speakers, including opposition front benchers.

such guidance would be helpful to members in drafting such motions or amendments.

16. Such guidance should, in our view, indicate that motions for resolution, and reasoned amendments to such motions, while they may incorporate statements of opinion, should be concise and, in the case of amendments, relevant to the subject-matter of the original motion. They should as far as possible avoid intemperate or argumentative language.
17. For the avoidance of doubt, we emphasise that what we propose would be guidance, and no more. It would not be mandatory, but would be subject to the general principles of self-regulation, as described in paragraph 6.12 of the *Companion*:

“Questions and motions are expected to be worded in accordance with the practice of the House. The clerks are available to assist members in drafting questions and motions, and the advice tendered by the clerks should be accepted. However, there is no official who has authority to refuse a question or motion on the ground of irregularity. Members are responsible for the form in which their questions and motions appear in House of Lords Business, subject to the sense of the House which is the final arbiter.”

Conclusion

18. **We recommend that paragraphs 6.58 and 6.59 of the *Companion* be amended to provide guidance on the wording of motions for resolution and amendments to such motions. The proposed new text is given in Appendix 2.**

CHAPTER 2: TERMS OF REFERENCE OF THE INTERNATIONAL AGREEMENTS COMMITTEE

The International Agreements Committee

19. On 13 June the Liaison Committee agreed a minor change in the terms of reference of the International Agreements Committee. The Procedure and Privileges Committee took note of this change at its meeting on 16 October 2023 and agreed consequential changes to the *Companion* and to the way that treaties are listed in *House of Lords Business*. These changes are set out below and are reported to the House for information only.

Changes to the *Companion*

20. The terms of reference of the International Agreements Committee are set out in paragraphs 10.56 and 11.64 of the *Companion*. The Procedure and Privileges Committee has therefore agreed that those two paragraphs should be amended to take account of the change in the Committee's terms of reference. Deleted text is ~~struck through~~; inserted text is in **bold** text:

“To consider, **and where appropriate report on, 1)** matters relating to the negotiation, conclusion and implementation of international agreements, and ~~to report on~~ **2)** treaties laid before Parliament in accordance with Part 2 of the Constitutional Reform and Governance Act 2010”.

Changes to *House of Lords Business*

21. At present, reports of the International Agreements Committee appear in *House of Lords Business* only when a report has been agreed. The new Terms of Reference mean that the Committee will not necessarily issue a report on all Agreements notified under the Constitutional Reform and Governance Act 2010 (CRAG). There will need to be an alternative form of notification to the House in cases where the International Agreements Committee merely notes an Agreement but does not report on it.
22. The Procedure and Privileges Committee has therefore agreed that the current list be replaced by two lists:
 - (a) ‘Treaties not yet considered by a Select Committee’. This list will comprise all treaties awaiting consideration by the International Agreements Committee, as well as any EU/EEA-EFTA treaties awaiting consideration by the European Affairs Committee.
 - (b) ‘Treaties considered by a Select Committee’. Each treaty will be accompanied by an italic note reading either “[*numbered*] report of the International Agreements Committee/European Affairs Committee” or “noted by the International Agreements Committee/European Affairs Committee on [*date*]”.
23. Both lists will, as now, indicate when the scrutiny period under CRAG will come to an end; treaties will be removed from one or other list when that date is passed.
24. This change will take effect from the start of the new session on 7 November.

APPENDIX 1: LETTER FROM THE LEADER OF THE HOUSE AND THE GOVERNMENT CHIEF WHIP

Letter from Lord True, Leader of the House and Baroness Williams of Trafford, Government Chief Whip, to Lord Gardiner of Kimble, Senior Deputy Speaker.

Motions of ‘regret’, whether against legislation, secondary legislation, or other resolutions are an important part of the scrutiny function of this House: allowing the House to express a clear view on Government policy within the boundaries of responsible and vital opposition. Whilst we consider that these motions are an important ‘safety valve’, we have become concerned that these motions have become out of step with the normal practice and courtesies of your Lordships’ House and that the procedure that surrounds them needs clarification.

We therefore propose three changes to procedure around regret motions:

1. Order of speaking: We suggest that all those with amendments to motion should speak after the opposition front bench openers. There is precedent for members with regret motions speaking either in their place on the list or after the frontbench speakers³. This would preserve the ‘normal’ order of debate and allow the House to hear the position, in particular, of the official opposition.
2. Length of speeches: Backbench members with amendments to motions are bound by the backbench advisory time in any debate (not the 20 minutes for the mover of a main motion) where there is one. This is a clarificatory change: this is already provided for in the Companion, but the drafting obscures the rule for members. We consider this should be made clearer and more explicit.
3. Guidance on length and tone: For many other types of business guidance exists to help members judge the appropriate parameters of motions (for example take note debates are neutral, questions should be short and extensive rules exist on their contents). There is no such guidance on regret motions or other amendments to motions. And regret motions have, on average, become longer. The last four second reading regrets averaged over 110 words each.

It is suggested that the Companion is amended to provide the following guidance on amendments to motions:

1. Such motions should be concise and focussed on the issues of concern; and
2. Such motions should be in keeping with the usual courtesies of the House and avoid polemical language and asperity of speech.

It is not suggested that such rules are mandatory or are given a status over and above other guidance in the Companion. As with current guidelines on the contents of motions, advisory time limits, and order in the Chamber, the clerks can advise but ultimately this would rest in the hands of Members and the House.

³ L Cobbold, House of Lords Reform, 1999 spoke after the frontbenches; 2002, Animal Health, Usual Channels wanted B Miller to speak in her place in the list after the clerks briefed her to speak second; 2002, Health Bill, L Clement Jones spoke after Labour frontbench; 2010, Cr AG, L Steel did not speak second.

We stress that these proposals are not designed to have a chilling effect on regret motions - or any other type of scrutiny that is the proper function of the House. They are designed to ensure that those functions are exercised in the most orderly manner in keeping with the best custom and practice of the House. In this spirit, I would ask the Committee to consider three proposals.

Any change to the procedures of the House is of course a matter for the Committee and we put these forward for discussion in the first instance. We are of course happy to discuss these proposals further with you and with any other member of the Committee.

19 September 2023

APPENDIX 2: PROPOSED AMENDMENTS TO THE COMPANION RELATING TO MOTIONS AND AMENDMENTS TO MOTIONS

Deleted text is ~~struck through~~; inserted text is in **bold** text.

Order of speaking amendments

6.76 In principle, the discussion of an amendment to a motion is a separate debate, which must be concluded before the House returns to the original motion (or the original motion as amended). However, in practice, once a motion and an amendment to it have been moved, **a single debate takes place on the motion and on any amendments that have been tabled to the motion and the principle embodied in Standing Order 29 (No Lord to speak more than once to a motion) applies to the debate as a whole. Once the first amendment has been moved**, the rest of the debate takes place on that amendment, and the members in whose names the motion and any subsequent amendments stand speak in this debate to indicate the reasons why they prefer their own form of words. When the first amendment has been disposed of, any remaining amendments and the original motion (as amended) are usually put and decided without further debate.⁴

6.77 The following principles apply to a debate during which amendments, and possibly amendments to amendments, are proposed to a motion:

- a motion, an amendment to the motion, and any amendment to the amendment, ~~must~~ **are normally** each be moved and proposed in the form of a Question from the Woolsack before they can be further debated, **though in some cases it may be for the convenience of the House to hear speeches from the opposition front benches before the first amendment is called;**
- a member of the House who moves a motion, an amendment to it or any amendment to the amendment, may speak for that purpose and has a right of reply on their motion or amendment;
- a member whose motion is sought to be amended by one or more proposed amendments may make separate speeches dealing with each amendment;
- a member who has neither moved the original motion nor any amendment to it may speak once on the motion and once on any amendment or on any amendment to that amendment; and
- a member who moves an amendment should not speak separately on the original motion, but has a right of reply on their amendment.

Length of speeches amendments

4.41 In debates where there are no formal time limits,⁵ members opening or winding up, from either side, are expected to keep within 20 minutes. Other speakers are expected to keep within 15 minutes, but shorter advisory limits may be adopted for backbench speakers (including those moving an amendment to a motion), with a view to managing the business on a given day. Such advisory limits are advertised on Today's List and the annunciators.

4 For the application of these principles to the procedure on amendments to second reading motions, see paragraph 8.47.

5 For length of speeches in time-limited proceedings see paragraph 6.68; in questions for short debate see paragraph 6.47.

4.41A The limits described in the preceding paragraph are guidelines. The **House expects them to be observed**, but on occasion a speech of outstanding importance, or a ministerial speech winding up a long debate, may exceed them.

Guidance on length and tone amendments

6.58 Resolutions may be put down in cases where a member wishes the House to come to a definite decision on a subject, if necessary on a vote. A resolution, if passed, constitutes the formal opinion or decision of the House on the matter. **Resolutions, unlike “take note” motions (for which see the following section) may be amended.**

6.59 Resolutions begin with the words “To move to resolve ...” or “To move that this House ...”. **While it is in order to incorporate statements of opinion or the demonstration of a point of view in resolutions, or in amendments to resolutions, argumentative or intemperate language should be avoided. The wording should be concise and, in the case of amendments, relevant to the subject-matter of the original motion.**