



LEGISLATIVE COUNCIL FACT SHEETS

FACT SHEET 32: COMMITTEE OF THE WHOLE HOUSE

A committee of the whole House consists, as its name implies, of all members of the House. It is the House itself presided over by the Chair of Committees instead of the President. The role of the committee is to consider matters that have been referred to it by the House. Most commonly, these are bills, and it is only in committee of the whole that amendment to bills can be made. However, other matters may also be referred to a committee of the whole.

In committee of the whole, members may speak more than once to any question before the Chair, making the committee a more relaxed forum for debate than the House itself. Further, the President has the right to vote in committee, like any other member, in contrast to the position in the House, where the President only has a casting vote.

The proceedings of the committee of the whole are not noticed by the House until reported by the Chair to the House. Resolutions reported from a committee may be agreed to by the House, disagreed to, or agreed to with amendment. The House may also recommit matters to the committee of the whole for further consideration.

Consideration of bills in committee of the whole

The most common use of the committee of the whole is for the detailed consideration of bills. The committee stage occurs after the second reading of the bill, whenever objection is taken to proceeding directly to the third reading of the bill, or there are amendments to be proposed to the bill.

Standing order 142 requires that bills be considered clause by clause. However, the committee may, by leave, consider clauses, parts, divisions or schedules of a bill together, and in the case of cognate bills, may consider a bill in whole or in part (SO 142(6)).

In considering a bill, clauses and schedules, if any, are taken in the order in which they stand in the bill. However, consideration of a clause or schedule may be postponed on motion (SOs 142 and 143).

Amendments may be made to the text of a bill by omitting certain words; by omitting certain words in order to insert or add words; or by inserting or adding words (SO 109(1)).

Standing orders 109-110 set out a number of rules concerning the moving of amendments in committee of the whole:

- (a) An amendment may be moved to a proposed amendment.
- (b) An amendment must be relevant to the question it is proposed to amend and must not be a direct negative of the question.

- (c) A proposed amendment may be withdrawn.
- (d) The mover of the motion or a member who has already spoken in the debate may not move an amendment.
- (e) An amendment must be in writing and signed by the mover, if required by the Chair.
- (f) Amendments do not require a seconder.
- (g) An amendment may not be moved to words which the House or committee has agreed should remain or be inserted or added, except to add other words.

Various other rules are set out in *May's Parliamentary Practice*.¹

Generally, amendments are considered by the committee in the order in which they would appear in the bill if they were agreed to.

Where there are several amendments to the same place in a clause, referred to as 'conflicting amendments', an amendment to omit words in order to insert other words is considered before an amendment to omit words. If the conflicting amendments are the same, amendments by the minister or member in charge of the bill are considered first. The order in which amendments are handed in to the clerks is also considered when determining the order in which conflicting amendments are moved.

In the case of conflicting amendments to insert words, once an amendment is agreed, subsequent amendments may not be put by the Chair because they would be inconsistent with the decision already made by the committee.

In some cases where there is a series of related amendments it is possible, with the leave of the committee, for the amendments to be moved together and for the Chair to put one question: 'That the amendments be agreed to.' This procedure is referred to as 'in globo.'

There are special rules determining how questions on amendments are put by the Chair. The procedure has been simplified greatly by the standing orders adopted in May 2004 which allow the Chair to put one question: 'That the amendment be agreed to' (SO 111).

Once a bill has been considered in committee of the whole, the Chair reports the bill to the House with or without amendment (SO 146).

On the motion that the Chair report the bill, the reconsideration of any clause may be moved as an amendment (SO 146). Alternatively, on the motion for the adoption of the report of the committee (after the committee has reported to the House) a bill may be recommitted if it is necessary to reconsider any clause, or schedule, or even the whole bill (SO 147). When the order of the day for the third reading is called on and before the motion for the third reading is carried, the bill may, on motion, be recommitted in whole or in part (SO 149).

¹ *Eryskine May's Treatise on The Law, Privileges, Proceedings and Usage of Parliament*, 23rd edn, LexisNexis, UK, 2004, pp 607-609.

Once a bill has been reported by the Chair to the House with or without amendment, it is usually read a third time and a message is sent to the Assembly either forwarding or returning the bill with or without amendment. If the Assembly disagrees with any Council amendment, the question of whether the Council will insist or not insist on the amendments is dealt with in committee of the whole.

Consideration of matters other than bills

While the majority of matters referred for consideration by committee of the whole are bills, the House may also refer other matters to committee of the whole for detailed consideration. The rules of debate applying to committee of the whole, particularly the ability to speak more than once on a question, can provide an effective means of considering complicated motions consisting of several parts on which amendments are proposed.

The most recent instance of a matter other than a bill being referred to committee of the whole was in 1994 on receipt of a message from the Assembly proposing a joint standing committee to be known as the Parliamentary Management Board. When the President reported the message, the Leader of the Government moved that consideration of the message (in the House) stand as an order of the day for the next sitting day. An amendment by a cross-bench member that the message be considered in committee of the whole was agreed to on division.²

² *LC Minutes* (2/12/1994) 467-470.