

## Chapter 15 Notices of Motions

A notice of motion is a statement of intention to move a motion on a particular day. A member may not move a motion unless notice of the member's intention to move the motion appears in the business paper, except as otherwise provided by leave, standing or sessional orders or resolutions of the House (S.O. 142). This means that in most cases notice must be given at least one day before the motion is moved. A notice of motion sets out the words of the motion.

The Speaker asks for notices of motions for bills, government business and for business with precedence (motions of no confidence or censure and other motions for business with precedence)<sup>1</sup> immediately after ministerial statements and before Question Time. Notices of motions for general business (general notices) must be given at the commencement of each sitting in accordance with the routine of business, as amended by sessional order (S.O. 97, 98 and 133).

In accordance with the standing and sessional orders, members can also give notice of a general business (general notice) which will be the subject of a motion for re-ordering before Question Time on the Wednesday, the day preceding debate on general business general notices and orders (S.O. 133).

When called upon, the member reads the notice aloud and then hands a signed copy to the Clerk. A notice must also bear the date upon which the notice was given. There is no requirement in the standing orders for a notice to be typed. It is acknowledged that members may wish to expedite motions and accordingly, if a motion is legible it will be accepted.<sup>2</sup>

A member, by request, may give notice for another member, not then present, with the written authority of the member wishing to give the notice (S.O. 135). Motions can also be moved by a member on another member's behalf with written authority.<sup>3</sup>

The terms of a notice may be changed by handing in an amended notice which must not exceed the terms of the previous notice. Alterations must be made prior to the motion being moved (S.O. 139).<sup>4</sup>

A member, or another member with written authority from the member, may withdraw a notice of motion standing in their name or postpone it to a date later than that originally fixed (S.O. 141). Members who provide written authorisation to have their notices withdrawn or postponed by another member must specify which particular notices are covered by the authority.<sup>5</sup> Notices of motions of former members on the business paper are removed by the direction of the Speaker.<sup>6</sup> Speaker Rozzoli noted that this was because: they could not be withdrawn by the

<sup>1</sup> Standing Orders 118 and 133 provide that no notice is required for motions for condolence or the printing of papers even though both are considered to be business with precedence as such motions can be moved any time.

<sup>2</sup> VP 27/02/2002, p. 40.

<sup>3</sup> PD 04/09/2001, p. 16306.

<sup>4</sup> VP 16/12/1909, p. 407; PD 16/11/1966, pp. 2512-3; VP 05/05/1998, p. 544. Notice amended to correct the name used in the motion, PD 10/11/1998, pp. 9527-8.

<sup>5</sup> A written authority was handed to the Acting Speaker to postpone a specific notice of motion. Another notice in the same member's name was called on by the Clerk and a point of order was raised that in the spirit of the letter, other notices in the absent member's name should also be allowed to be postponed. The Speaker ruled that, as the letter had only referred to a specific notice of motion, another member could not postpone the notice, and it would lapse, PD 13/04/2000, pp. 4831-2

<sup>6</sup> VP 31/03/1998, p. 426; VP 27/10/1998, p. 989; VP 17/10/2001, p. 1510.

former member; they could not be moved by any other member; and the House was not in the possession of the motions as they had not been proposed from the Chair.<sup>7</sup> Any member desiring to give a fresh notice of motion in the same terms as the removed notices can do so at the appropriate time.<sup>8</sup>

The Clerks, under the authority of the Speaker are able to alter notices of motions,<sup>9</sup> or divide a motion on notice if it contains matters that are not relevant to each other (S.O. 137). This generally only occurs in exceptional circumstances as members are responsible for the veracity of the statements that appear in notices. On one occasion it was claimed that the notice of motion contained an untrue statement and, that as the assurance of a Minister had been given that the statement was untrue, the inaccurate statement contained in the notice of motion should be ruled out of order. However, the Speaker did not agree stating that "...the mere denial by a Minister of a statement is to preclude a notice of motion being tabled, then the cornerstone of Parliament will be demolished, which provides for freedom of speech, and the freest expressions, in connection with the redress of grievances and the remedy of abuses."<sup>10</sup>

Notices of motions to disallow statutory rules are accorded precedence and it has been argued that they should lapse if not moved on the day they are called. However, the Speaker has ruled that such notices of motions may be re-ordered or postponed in the same way as any other motion or matter before the House and that notices of motions only lapsed if the member who gave the notice did not move or seek to postpone it on the appropriate day or did not seek to postpone it at the call over.<sup>11</sup>

Members (except Ministers) may not give more than one notice of motion consecutively, except for notices of motions to disallow statutory rules. On one occasion a member who had given a notice of motion which was held over subject to a ruling from the Chair attempted to give a second notice which the Speaker ruled out of order on the ground that a member cannot give two notices of motion consecutively.<sup>12</sup>

If a notice of motion is in accordance with standing orders it will appear on the business paper for the sitting day following the day on which notice was given. The Speaker may order that a notice of motion not conforming to the practice of the House not be printed in the business paper (S.O. 137).<sup>13</sup> This includes notices containing argument or unbecoming expressions.

Motions must put a concise proposition upon which the House may vote.<sup>14</sup> On one occasion the Speaker noted that a notice of motion should be termed so as to give a

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<sup>7</sup> See ruling of Speaker Rozzoli, PD 29/04/1992, pp. 3016-7; and rulings of Speaker Murray, PD 17/01/2001, p. 17469 and VP 31/03/1998, p. 426.

<sup>8</sup> See comments by Speaker Murray, VP 27/10/1998, p. 989; and VP 31/03/1998, p. 426.

<sup>9</sup> See for example, PD 25/11/1915, pp. 3934-6 where the Speaker altered a notice of motion given by interpolating the word "alleged" into the motion. See also PD 16/09/2004 where the Speaker altered a notice of motion to remove inflammatory and argumentative language.

<sup>10</sup> See ruling of Speaker Meagher, PD 25/11/1915, pp. 3934-6.

<sup>11</sup> PD 12/05/1994, p. 2457.

<sup>12</sup> PD 25/11/1992, p. 9896.

<sup>13</sup> On 11 November 2003 a notice of motion given that day was withdrawn by the member and did not make it to the business paper.

<sup>14</sup> VP 15/05/1997, p. 892.

precise proposition for determination by the House. He went on to emphasise that the giving of a notice of motion is not intended as an opportunity to make a long argument or convey the substance of a proposition nor are they to be “tendered in the spirit of mockery or designed merely to give annoyance.” The Speaker then advised the House that the Clerks would, under his authority, eliminate any unnecessary statements or arguments from notices prior to their publication in the business paper.<sup>15</sup>

The member giving the notice is responsible for the veracity of the statements in it and at times the judicial or constitutional appropriateness of motions may be called into question. However, Speakers have repeatedly overruled objections that Parliament was interfering in federal matters and have supported the principle that as a sovereign Parliament the House can express an opinion on any matter which commends itself to the House including demanding reports,<sup>16</sup> expressing views,<sup>17</sup> passing judgement<sup>18</sup> and urging action<sup>19</sup> on judicial and federal matters alike. In addition, Speakers have allowed motions that do not specifically deal with public matters. For example, a motion relating to internal party matters was allowed as a number of questions had been recently asked about the subject.<sup>20</sup> A notice of motion to expunge another notice of motion from the business paper is out of order.<sup>21</sup>

Notices of motions and motions have been ruled out of order for:

- Being given in a spirit of mockery.<sup>22</sup>
- Being argumentative, and ironical.<sup>23</sup>
- Being too long.<sup>24</sup>
- Requiring debate on non-existent, hypothetical or uncertain circumstances.<sup>25</sup>
- Being incapable of being actioned.<sup>26</sup>
- Being vague, non-specific and unparliamentary.<sup>27</sup>
- Being the same in substance as a question already resolved by the House that session (S.O. 154).<sup>28</sup>
- Oral version differing to the notice of motion lodged with the Clerk.<sup>29</sup>
- A paragraph of the motion not being in accordance with the facts.<sup>30</sup>
- Posing too many questions or placing too complex a question before the House.<sup>31</sup>
- Being speculative in nature.<sup>32</sup>
- Calling on Ministers to fully answer questions.<sup>33</sup>

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<sup>15</sup> VP 27/02/2002, p. 40.

<sup>16</sup> See ruling of Speaker Ellis, PD 03/11/1970, p. 7168.

<sup>17</sup> See ruling of Speaker Ellis, PD 05/11/1969, p. 2262.

<sup>18</sup> See ruling of Speaker Ellis, PD 10/11/1970, p. 7508.

<sup>19</sup> See ruling of Speaker Ellis, PD 20/08/1968, p. 331.

<sup>20</sup> PD 03/06/1998, p. 5681.

<sup>21</sup> PD 20/10/1971, pp. 2172 and 2177.

<sup>22</sup> VP 08/04/1998, pp. 488-9.

<sup>23</sup> VP 29/04/1998, p. 513, directed that the notice be amended; VP 01/04/1993, p. 1166.

<sup>24</sup> PD 13/09/1977, p. 7727; PD 14/05/1997, p. 8549.

<sup>25</sup> VP 19/11/1996, p. 614; PD 19/11/1996, p. 6415; PD 26/11/1969, p. 3161.

<sup>26</sup> PD 17/10/1961, p. 1554.

<sup>27</sup> PD 18/04/1996, p. 258; PD 11/11/52, p. 2008.

<sup>28</sup> PD 27/03/1990, p. 1082.

<sup>29</sup> VP 23/05/2000, p. 481.

<sup>30</sup> VP 20/06/2000, p. 601.

<sup>31</sup> See ruling given by Speaker Rozzoli where he noted that in cases where motions were ruled out of order that they could be modified or members given the opportunity to recast them, PD 17/09/1992, p. 6008.

<sup>32</sup> PD 25/11/1992, p. 9896.

- Being offensive to the Speaker.<sup>34</sup>

Notices of motions have also been ruled out of order on account of infringing the sub judice convention.<sup>35</sup> However, a ruling made by Speaker Rozzoli held that the sub judice rule applies to the debate which ensues after a motion has been moved and that a notice of motion which touches on sub judice issues may not be ruled out of order until such a time as the motion is moved.<sup>36</sup> (See section 11.12 of Part One for further information on the sub judice convention).

Members who lodge notices of motions which do not accord with the standing orders of the House may be given an opportunity on a later date to re-lodge their notice, suitably redrafted.<sup>37</sup>

Members must raise a point of order at the time a particular notice is given if they want consideration being given to it being ruled out of order as members are unable to challenge notices of motions that have been on the business paper for a reasonable period of time. For instance, during the giving of notices a member raised a point of order that a notice of motion was excessively long to which another member argued the business paper already contained notices that were as long and that the same points of order should have been raised for them. The Speaker ruled that motions that had remained on the paper unchallenged for some time are beyond the point of challenge.<sup>38</sup>

Notices of motions are categorised and placed on the business paper in accordance with the standing orders and practice (see section 8.2 of Part One). Certain types of motions, e.g. to set the days and hours of sitting and no confidence motions in the Government, are accorded precedence under standing order 118 and notices of those motions are placed ahead of other notices in the business paper under a separate category of "Business with Precedence". Entries under the headings of "Government Business - Notices of Motions" and "General Business - Notices of Motions" will also appear in the business paper.

[Members are able to defer general business notices of motions by advising the Clerk in writing on Wednesday \(see Section 12.3 of Part One\).](#) Members are able to withdraw notices of motions standing in their name during the placing or disposal of business each day or when they are called on to be moved. A motion is not required to defer or withdraw as a notice not yet moved is not in the possession of the House.

Unless leave of the House is granted, notices cannot be given after the House proceeds to consideration of the orders of the day. Notices of motions take precedence of orders of the day, and if called upon, must be moved, withdrawn or postponed by the member in the order in which they appear on the business paper, or lapse (S.O. 99).<sup>39</sup>

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<sup>33</sup> PD 01/04/1993, p. 1166 where a notice of motion calling on a Minister to fully answer a question on notice was ruled out of order for being argumentative.

<sup>34</sup> PD 05/09/1911, p. 324 where a motion was directed against the Speaker.

<sup>35</sup> VP 29/06/1999, p. 179.

<sup>36</sup> See ruling of Speaker Rozzoli, PD 17/09/1992, pp. 6006-8.

<sup>37</sup> See ruling of Speaker Rozzoli, PD 31/03/1993, p. 1038.

<sup>38</sup> PD 08/03/1994, p. 304.

<sup>39</sup> Standing orders amended to provide that the Clerk, rather than the Speaker, calls on notices of motions, VP 25/09/1996, p. 433; notice withdrawn, VP 15/11/1995, p. 383; notice postponed, VP 16/11/1995, p. 393; notice lapsed, VP 16/11/1995, p. 393.

When the House is prorogued all notices of motions before the House lapse and there is no provision within the standing or sessional orders to enable the restoration of motions that were before the House prior to prorogation. However, on a number of occasions notices of motions that had lapsed due to a prorogation have been restored to the business paper.<sup>40</sup> This was achieved by resolution of the House. For example, when the House resumed for the third session of the 52nd Parliament in February 2002 a motion was agreed to by the House which provided that:

- Members, or the Leader and Shadow Leader of the House on their behalf, may submit to the Clerk, by the close of business on Friday 8 March 2002, written notification of any general business notices of motions and orders of the day (standing in their name) which lapsed due to prorogation, which they wish to restore to the business paper;
- Notices requested to be restored will be listed in a supplement to the business paper entitled “Restored Business”; and
- Notices of general business given on and after 27 February 2002 will have precedence over restored business.<sup>41</sup>

The Speaker did not accept restoration of any notices that were out of date or no longer valid. Not one of the restored notices was moved during the third session of the 52nd Parliament.

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<sup>40</sup> Notices can only be restored to the business paper during the same Parliament.

<sup>41</sup> VP 27/02/2002, p. 45.