

INQUIRY INTO THE RULES FOR QUESTIONS

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Rules for questions

A. Motions to take note of answers

Senate standing orders provide that, at the end of question time each day, 30 minutes be allocated to debating answers given that day. The order has been in place for nearly a quarter of a century, and is now regarded as an essential part of question time each day. It is one of several opportunities each day for non-government senators to initiate debates of general or political interest.

Origins

In 1992 a practice arose of opposition senators seeking leave of the Senate to move a motion to 'take note' of the answer to one of their questions. If leave was granted, the debate would proceed with no time limits, delaying for an unknown length of time the Senate's consideration of other business. If leave was not granted, the refusal was often responded to with a motion to suspend standing orders to provide for such a debate; a procedural motion allowing 5 minute speeches for a total of 30 minutes.

From September that year, various iterations of temporary orders were tested which provided that – if leave were granted for a motion to take note of answers – the resulting debate would be limited to 30 minutes, with speakers each allocated 2 minutes; later increased to 4 minutes; and, finally, 5 minutes. These iterations responded in part to the various time limits then being tested for questions and answers at question time.

The requirement for leave to move the motion to take note was later removed. The procedure was adopted as a sessional order in 1993 and, in 1997, incorporated in its current form in standing order 72:

- (4) (a) After question time motions may be moved without notice to take note of answers given that day to questions.
- (b) A senator may speak for not more than 5 minutes on such a motion.
- (c) The time for debate on all motions relating to answers to questions without notice on any day shall not exceed 30 minutes.

Further detail of this history can be found in the [Annotated Standing Orders of the Australian Senate](#).

Quid pro quo

At the time the procedure was introduced, the Senate standing orders provided for a 90-minute debate on any day on a 'matter of public importance' or an 'urgency motion'. These are routinely used by non-government senators to initiate discussion or debate on matters of public policy and political interest. This time limit was subsequently reduced to 60 minutes as a trade-off for the time provided for motions to take note of answers. A 90 minute debate is permitted if no 'take note' motions are moved – a contingency that, in practice, does not occur.

Scope of answers

The order applies in respect of 'answers given that day to questions'. Occasionally, a minister at the end of question time will provide an additional answer to a question asked during a previous question time, and Senate practice allows debate to take place on such answers. The proposal in the Legislative Council permits debate on answers to written questions, but that has not been an element of Senate practice.

The motion must specify the question or questions to be taken note of, which provides the test of relevance for the debate. The standard motion is moved in the following terms:

I move—That the Senate take note of the answers given by the Minister <capacity> (<name>) to a question asked by Senator <name> today, relating to <subject>.

However, it is in order for a senator to move to take note of multiple answers in the one motion. So, for instance, the following formulations have been held to be in order:

- answers given to all opposition questions asked today
- answers given by Minister A and Minister B to questions asked by Senators X and Y
- all answers given today.

Operation of the Senate order

Senators invariably use the time provided on each day on which question time occurs. Since the current time limits were adopted in 1993, the practice has been to allocate the call as follows, with only occasional variations:

- Opposition (mover)
- Government
- Opposition
- Government
- Opposition
- Cross-bench (mover)

The cross-bench (that is, minor party or independent) senator called in the final place will typically be seeking the call to move their own, separate motion; in which case the chair will put the question on the first motion after the fifth speaker concluded, so that a second motion may be moved.

With the increased size and diversity of the current Senate cross-bench there has been some tentative interest in allocating speaking opportunities such as these differently, however, there have been no changes to date.

Elements in the proposed Legislative Council order

The order proposed for the NSW Legislative Council specifies that the mover does not have a right of reply. This is consistent with Senate practice, which does not generally provide a right of reply for procedural motions of this nature.

The proposed order also provides an opportunity for a minister to speak in reply. There is no similar provision in the Senate order, although occasionally a minister will take one of the places notionally allocated to government speakers. The purpose of the Senate procedure has sometimes been referred to as providing an opportunity for non-government senators (and particularly opposition senators) to balance the debate, after question time, which is characterised as being dominated by the government. A right for a reply from the ministry might be thought to go against this purpose.

B. The scheduling of question time

Under their respective standing orders, the Senate and the House of Representatives each begin question time at 2pm. This timing was standardised in 1990, coinciding with the commencement of the televising of questions time. The television broadcast is alternated between the Houses, and the House not broadcast live is shown in replay later. Of course, live webcasts of the proceedings of each House are now available. There have occasionally been musings about moving question time to avoid clashes, but not for many years.

C. Direct relevance

A requirement that "Answers shall be directly relevant to each question" was introduced in 2008, as substitute for the previous general requirement that answers be "relevant". The change makes little difference in practice. Presidents over many years have noted that it is not for them to tell ministers how to answer questions. When Presidents consider that ministers are not being directly relevant (generally in response to points of order to that effect), practice has been to remind ministers of the subject of the question.