INTRODUCTION

The term “legislative process” denotes the process by which legislation passes through the House and receives the Royal assent. The legislative process “can be seen as a series of hurdles or tests that a proposal for legislation (a bill) must negotiate if it is to survive and become law”.

1 The test is essentially in two parts. 2

- First, whether the bill is needed as an addition to the body of law.
- Second, if a bill is deemed to be needed, whether it is fit for purpose. The question is whether the manner in which a bill seeks to affect change is effective and without adverse consequences—or, if unavoidable, minimal adverse consequences.

The New Zealand Parliament was said in 1979 to make the fastest law in the west. 3 Not only was Parliament seen as passing too many laws, but it also was observed that it was passing them too quickly in an “end of session rush” at the behest of the Government of the day. This meant that often legislation—both more and less important—was introduced hastily and not considered thoroughly before it was passed. This has been described as a poor process constitutionally. 4 Under MMP there are more constitutional and political constraints on legislating than prevailed in the late 1970s. Minority Governments are the norm, and they require the Government to secure the backing of one or more other parties for each bill; parties that undertake to support the Government on confidence and supply matters tend to reserve the right to distinguish their positions on legislative proposals. Moreover, it is in a Government’s interest to consult and compromise with other parliamentary parties if it is to progress its legislative agenda smoothly and with minimal opposition. House procedure has been changed to compensate the Government for the greater political difficulty of progressing a legislative programme under MMP. 5

The House’s procedures have been adjusted recently with a view to improving the effectiveness of the legislative process. A balance has been sought between giving the Government appropriate opportunity to implement its legislative programme,

---

2 Ibid.
on the one hand, and allowing for thorough scrutiny, on the other. 6 In particular, constructive engagement between parties has been encouraged, to focus the time of the House on matters of political and parliamentary importance, while facilitating the passage of bills with wide support to improve the statute book. Such engagement has been promoted by giving the Business Committee more flexibility to negotiate and determine arrangements for how the House will deal with legislation. 7

STAGES IN THE PASSING OF BILLS

For a bill to become law it must pass through a series of stages, at each of which the test of its validity set out at the beginning of this chapter may be reapplied. The vast majority of bills pass through the following stages in the House:

- introduction
- first reading
- select committee consideration
- second reading
- committee of the whole House consideration
- third reading.

At each of these various stages discussion on the formal proposals in the bill may take place. Procedural issues (for example, referral instructions to a select committee) may arise during each stage, and there are procedural questions to be decided as a bill passes from stage to stage, but the proposals in the bill may be debated only during the stages themselves.

Some bills do not go through all of the stages set out above. Occasionally, bills introduced under urgency are not referred to a select committee for consideration. Other exceptions may also be made. Bills that confirm or confirm and validate subordinate legislation may not receive an airing in the committee of the whole House. 8 And following the presentation to the House of a committee’s report on a statutes revision bill, the Business Committee may determine how the bill is to progress through the House, sometimes without a committee of the whole House stage and without debate on the third reading. 9

All bills must have three “readings” by order of the House before they are passed. 10 “Reading” a bill is a term drawn from early English Parliaments when not all members could read and copies of documents were not readily available, so that the Speaker or Clerk would actually read or describe the bill to the House before the Speaker asked the members if they agreed to it. In those days a “reading” preceded the passing of the bill through each stage; now a reading follows it. However, the bill is not read in full each time. Once the House has agreed to read a bill, whether for the first, second or third time, the Clerk merely reads the title of the bill and this now constitutes its being read. 11

INTRODUCTION OF BILLS TO THE HOUSE

Government bills

Time of introduction

A Government bill may be introduced on any working day or by 1 pm on any sitting day. 12 A bill has been introduced after 1 pm by leave where copies of it

---

7 Ibid, at 9.
8 SO 325.
9 SO 271.
10 SO 268(1).
11 SO 268(2).
12 SO 276.
became available only after the House met.\textsuperscript{13} In addition, an Appropriation Bill, an Imprest Supply Bill or a bill to which the House has accorded urgency may be introduced during a sitting (but not while a debate is in progress).\textsuperscript{14}

This means that, apart from the period from 25 December to 15 January, weekends and public holidays,\textsuperscript{15} Government bills may be introduced during adjournments of the House. (A bill cannot be introduced while Parliament is prorogued, dissolved or has expired.) While bills cannot be introduced after 1 pm on a sitting day (unless they are included in an urgency motion), if the House sits into a subsequent day under urgency and then adjourns and does not sit again on that day, a bill can be introduced at any time during the remainder of the day. If the House does sit again on that day, bills may be introduced in the period between its adjournment and 1 pm.

**Procedure for introduction**

When the Government intends to introduce a bill into the House, the parliamentary counsel (or the Inland Revenue Department drafter in the case of tax bills) makes arrangements for it to be published.

Introduction is effected by the Leader of the House informing the Clerk that the Government intends to introduce a bill.\textsuperscript{16} Advice is effected by the Leader’s office delivering a written note to this effect, giving the title of the bill, the Minister in charge, and the bill’s reference number. For the notice to be effective, copies of the bill must also be delivered to the Clerk so that it can be circulated to members on introduction,\textsuperscript{17} and it is published on the New Zealand legislation website. When the House is sitting under urgency at the time that a bill is to be introduced, copies of the bill must be available at the Table before it can be introduced.\textsuperscript{18} Without leave, there can be no introduction of a bill without copies of it being made available for circulation to members. Leave has been given, however, to permit a bill to be introduced even though copies of it were not available at the proper time.\textsuperscript{19}

**Members’ bills**

**Giving notice**

Unlike a Government bill, a Member’s bill cannot be introduced without notice having been given. The member intending to introduce the bill must give a notice of proposal to introduce it. Such a notice is given by delivery to the Clerk on any working day.\textsuperscript{20}

The member is obliged to deliver to the Clerk a fair copy of the bill proposed for introduction, no later than the time at which the member gives the notice of proposal to introduce. If the notice of proposal is in order, it is retained until the bill is drawn from the ballot or the member withdraws it.

Member’s bills for which the Clerk holds a notice of proposal are posted on the New Zealand Parliament website.\textsuperscript{21} This allows members to take advantage of technology for social and political networking, to disseminate links to a bill in order to promote their proposals and generate debate about it. Members can also indicate their support for a proposed bill on the bill’s webpage.\textsuperscript{22} While these indications of support do not have any procedural effect, such demonstration of the support of other members can promote consultation on legislative initiatives by members who are not Ministers. (See Chapter 24, “Members’ bills”.)

\begin{itemize}
\item \textsuperscript{13} (1996) 556 NZPD 13890 (Producer Board Acts Reform Bill).
\item \textsuperscript{14} SO 284.
\item \textsuperscript{15} SO 3(1) working day.
\item \textsuperscript{16} SO 276.
\item \textsuperscript{17} SO 267(1).
\item \textsuperscript{18} (1998) 567 NZPD 7938 Kidd.
\item \textsuperscript{19} (1996) 556 NZPD 13890 (Producer Board Acts Reform Bill).
\item \textsuperscript{20} SO 278(1).
\item \textsuperscript{21} SO 279(2).
\item \textsuperscript{22} SO 280.
\end{itemize}
**Number of bills before the House**

There was formerly no restriction on the number of Members’ bills that could be introduced on the same day. Notices for the introduction of Members’ bills were set down on the Order Paper in the order they were received by the Clerk. This led to unseemly queueing by members to gain priority on the Order Paper. The procedure has been altered so that priority is determined by ballot rather than stamina. No significance is now accorded to the order in which notices are lodged.

The number of Members’ bills on the Order Paper awaiting their first reading on any one day is restricted to a maximum of eight, which are selected by ballot. Where the debate on the first reading of a bill has been commenced and then adjourned, the bill is not counted as a bill awaiting first reading. Bills awaiting first reading that have been postponed by determination of the Business Committee are arranged on the Order Paper as the committee determines. Such a bill is normally below the line (see “Setting a bill down for first reading” below) for the period of postponement, and is not available for first reading. It is therefore not counted as a bill awaiting first reading.

When the Clerk sees that fewer than eight bills are available for debate, he or she conducts a ballot at midday on a sitting day to select bills to be introduced and to decide the order in which they will be introduced. This is most likely to happen on a Thursday morning following a Wednesday on which Members’ bills have been debated and processed by the House. The number of Members’ bill slots for new bills that become available each fortnight thus varies from none at all to eight, depending upon how many Members’ bills at first reading are dealt with on the preceding Members’ day.

While the Minister or member in charge of a bill normally has the right to postpone its consideration simply by informing the Clerk, this right is curtailed for Members’ bills. The first reading of a Member’s bill can be postponed only by either the Business Committee making a determination or the member in charge moving a motion without notice. The member in charge cannot postpone the first reading at his or her own prerogative. This restriction was imposed to avoid situations where members postponed first readings repeatedly while campaigning for public support, leaving the House with insufficient business to transact on Members’ days.

**Conduct of the ballot**

To prevent members boosting their chances in the ballot by lodging multiple notices, members cannot propose more than one Members’ bill for introduction at any one time. A member who entered more than one notice would be invited to nominate which should proceed. Failure to nominate one by the time the ballot is held would lead to all notices from that member being rejected. Furthermore, only one notice may be entered in respect of bills that are the same or substantially the same in substance. If similar bills are entered by different members, which Member’s bill proceeds into the main ballot is itself determined by ballot. Similarly a member may not enter a bill in the ballot that is the same or the same in substance as a bill that received, or was defeated on, first, second or third reading in the same calendar year.

---

23 See, for example: Jane Clifton “Parliamentary midnight stake-out ends with a deal, a smile and a drink” The Dominion (21 November 1989) at 2; Jane Clifton “Marbles save the day in private member’s bill battle” The Dominion (4 April 1990) at 2.

24 SO 74(3)(b).

25 SO 281(1).

26 SO 74(3).


28 SO 278(3).

29 SO 281(2).

30 SO 264(a); (15 October 2015) 709 NZPD 7281 Carter (Healthy Homes Guarantee Bill (No 2)).
When a ballot is to be held, members are advised by email shortly after 10 am of the titles of the bills for which notices have been lodged, and are invited to be present at the ballot in person or by representative. The ballot is conducted in one of the offices of the Office of the Clerk in Parliament House at midday. Members are advised of the result of the ballot shortly thereafter.

Introduction by leave
The House may give leave for a Member’s bill to be introduced without notice, and without being drawn in the ballot. Members occasionally seek leave for their bills to be preferred in this way, but they are rarely successful.\(^31\) Where leave is granted to introduce a Member’s bill, it is treated as if it had been drawn in the ballot.\(^32\)

Private bills and local bills
A private bill or local bill is introduced by a member’s notice of intention to introduce it. Such a notice is given by delivery to the Clerk on any working day or by 1 pm on any sitting day.\(^33\) A private or local bill may be introduced only after it has been endorsed by the Clerk as complying with the preliminary procedures in Appendix C to the Standing Orders.\(^34\)

The Clerk arranges on behalf of the member for sufficient copies of the bill to be printed (if this has not already been done) and circulated to members as soon as possible after the bill’s introduction,\(^35\) and for it to be published on the New Zealand legislation website.

There are no restrictions on the number of private or local bills that may be introduced on the same day. Such bills are listed on the Order Paper in the order in which notice of them was received by the Clerk.

CIRCULATION OF BILLS
Once a bill has been introduced it is circulated to members.\(^36\) This is done internally through the Bills Office, which is part of the Office of the Clerk. Following its introduction, hard copies are made available for sale to the public, and electronic copies are made available on the New Zealand Legislation website.

SETTING A BILL DOWN FOR FIRST READING
At the next sitting of the House after the introduction of a bill, the Clerk announces the bill’s introduction as an item of general business.\(^37\) If introduced on a sitting day, a Government bill is set down for first reading on the next Tuesday that is a sitting day.\(^38\) A Government bill introduced on a non-sitting day may have its first reading on the third sitting day following its introduction.\(^39\) Private, local or member’s bills are set down for first reading on the third sitting day after their introduction.\(^40\) During this waiting or stand-down period the bill is shown on the Order Paper as a Government, Members’ or local and private order of the day (as the case may be), below other orders of the day and without an order of the day number. A line is printed on the Order Paper under other orders of the day and above any bills that

\(^{31}\) See, for example: (20 September 2007) 642 NZPD 12078.
\(^{32}\) See, for example: (13 March 2008) 645 NZPD 14917 (Family Proceedings (Paternity Orders and Parentage Tests) Amendment Bill); (20 March 2008) 646 NZPD 15130 (Electoral Finance Amendment Bill).
\(^{33}\) SO 282.
\(^{34}\) SOs 273 and 274.
\(^{35}\) SO 267(1).
\(^{36}\) SO 272(1).
\(^{37}\) SO 283.
\(^{38}\) SO 285(1)(a).
\(^{39}\) SO 285(1)(b).
\(^{40}\) SO 285(2).
are in this waiting period. Such bills are therefore said to be “below the line” and are not available for consideration unless urgency has been accorded or leave of the House has been granted. On their third such appearance on the Order Paper, introduced bills are moved “above the line”. They may then be scheduled for their first reading if they are Government orders of the day, and they will be placed after other bills awaiting a first reading if they are Members’ and private and local orders of the day.

**WITHDRAWAL OF A BILL**

A bill that has been introduced may be withdrawn.

The promoters of local bills and private bills may withdraw them at any time. If there are joint promoters, each must agree to withdrawal. Withdrawal is effected by notifying the Speaker in writing that the bill is to be withdrawn. The concurrence of the member in charge of the bill is not required. Withdrawal is effective on the day that the Speaker receives the letter notifying it. The Speaker informs the House at the next opportunity that the bill has been withdrawn. The consequence of withdrawal of a bill is that it is discharged from further consideration by the House. If the bill is before a select committee at the time of its withdrawal, it is discharged at once from the committee and no report is made on it. If a promoter wishes to bring a bill that has been withdrawn before the House again at a later date, the procedures for promoting a local or private bill must begin anew. (A promoter of a bill has been ordered by a court to apply to Parliament for leave to withdraw a bill. This was not regarded as an interference with parliamentary proceedings, on the ground that the decision whether to accede to the request is still left to Parliament.)

As distinct from withdrawal of a local bill or private bill by the promoter, an order of the day relating to a bill (Government, Member’s, private or local) that is before the House may be discharged. This can be effected by the member in charge of the bill informing the Clerk accordingly, by determination of the Business Committee, or on motion without notice, moved when the order of the day is reached. A bill that is before a select committee is not an order of the day and so cannot be withdrawn under these procedures.

The discharge of an order of the day relating to a bill is treated as equivalent to the withdrawal of the bill. However, unlike withdrawal of a local bill or private bill by its promoter, a discharged order of the day can be reinstated by a motion on notice.

**REPORT UNDER THE NEW ZEALAND BILL OF RIGHTS ACT**

Where the Attorney-General considers that a bill as introduced includes a provision that appears to be inconsistent with any of the rights and freedoms set out in the New Zealand Bill of Rights Act 1990, the Attorney-General is obliged to report this inconsistency to the House. In the case of a Government bill, this must be done on the bill’s introduction. (A report will have been presented before such

41 SO 285(3).
42 See, for example: (2001) 592 NZPD 9400–9401 (Hauraki Gulf Marine Park Amendment Bill).
43 SOs 70 and 72.
44 SO 275(1). See, for example: (19 September 2007) 642 NZPD 11987 (Palmerston North Reserves Empowering Amendment Bill); (17 February 2010) 660 NZPD 8947 (Wanganui District Council (Port and Harbour) Bill).
45 SO 275(2).
47 SO 74(1)(b).
48 SO 74(1)(c).
49 SO 74(1)(a).
a bill was introduced.\(^{50}\) In the case of any other type of bill, it must be done as soon as practicable after the bill’s introduction.\(^ {51}\) This means that when the House holds its first debate on a bill after its introduction, it will be aware of any provision in the bill that the Attorney-General considers to be inconsistent with the Bill of Rights Act.

The Attorney-General is not required to report on every bill certifying whether it is or is not consistent with the Bill of Rights Act, only on those bills that he or she considers to demonstrate such an inconsistency.\(^ {52}\) An Attorney-General’s report takes the form of a paper, which is presented in the ordinary way and published under the House’s authority.\(^ {53}\) The paper stands referred to a select committee chosen by the Clerk.\(^ {54}\) If a bill is introduced under urgency, the Attorney-General may present the paper certifying an inconsistency at the time of introduction.\(^ {55}\)

The paper must indicate which provision of the bill is considered to be inconsistent with the Bill of Rights Act and how it appears to be inconsistent.\(^ {56}\) The Attorney-General may also respond to challenges concerning the compatibility of proposed legislation with the Bill of Rights Act in other ways: for example, by participating in debates on the bill, by making a ministerial statement, or by answering oral or written questions on the subject.\(^ {57}\) The Attorney-General’s report relates only to the bill that is introduced. Thus when a bill was consistent in itself with the Bill of Rights Act, but amended a provision in another Act that itself was inconsistent, no report was presented.\(^ {58}\) However, the Attorney-General has noted when a bill preserved an inconsistency that had previously been noted in the principal Act.\(^ {59}\)

The Attorney-General has no continuing responsibility to report on a bill as it proceeds through its various stages. Amendments at the select committee or committee of the whole House stages are not subject to a formal Attorney-General’s report,\(^ {60}\) though the Attorney-General, the select committee and other members may address the issue of consistency with the Bill of Rights Act in considering whether to adopt proposed amendments to the bill.

DEPARTMENTAL DISCLOSURE STATEMENTS

In July 2013, Cabinet implemented a trial of Departmental Disclosure Statements for some Government bills and substantive Supplementary Order Papers.

When a bill is introduced, or a substantive Supplementary Order Paper released, a disclosure statement prepared by the responsible department is published electronically by the Parliamentary Counsel Office and circulated to members by the Office of the Clerk. Departmental Disclosure Statements arise from Cabinet requirements, and are not formally required under the House’s procedures. However, they are useful for informing members of matters of legislative quality arising from bills, and thus they facilitate good scrutiny of legislation.\(^ {61}\)

---

\(^{50}\) Attorney-General, report under the New Zealand Bill of Rights Act 1990 on the Future Directions (Working for Families) Bill (27 May 2004) NZPP E.63; (27 May 2004) 617 NZPD 13424.

\(^{51}\) New Zealand Bill of Rights Act 1990, s 7.

\(^{52}\) (1991) 516 NZPD 2968 Gray.

\(^{53}\) SO 265(4).

\(^{54}\) SO 265(5).

\(^{55}\) SO 265(3); (16 May 2013) 690 NZPD 10053.

\(^{56}\) SO 265(1).

\(^{57}\) See, for example: Reply to question 7699 (2001) (48 NZPD Supp 1702) (Local Electoral Bill).


\(^{60}\) R v Poumako [2000] 2 NZLR 695 (CA) at [25], [66] and [96]; (2001) 597 NZPD 13349; Reply to question 18874 (2001) (50 NZPD Supp 4172).

The disclosure statement provides details of the objectives of the legislation, its background, policy analysis, any quality assurance work such as Bill of Rights Act vetting undertaken, and any especially important or unusual provisions in the bill or Supplementary Order Paper.

Disclosure statements are departmental, not ministerial, documents, and reflect the responsible department’s understanding of each bill’s preparation. Disclosure statements are required for all Government bills except:

- Imprest Supply and Appropriations bills
- Statutes Amendment bills
- Regulatory Reform (Repeal) bills
- Subordinate Legislation (Confirmation and Validation) bills
- Revision bills.

Substantive Supplementary Order Papers that require a disclosure statement are those that propose material change to the policy given effect by the bill, or propose changes to offences, penalties, court jurisdictions, privacy provisions, or any significant or unusual provision in the bill.

AMENDMENTS TO NEW ZEALAND SUPERANNUATION

On the introduction of any Government bill to amend the New Zealand Superannuation and Retirement Income Act 2001, the Minister of Finance (or other Minister charged with the administration of that Act) must bring to the House’s attention the consultation process that was followed in formulating the proposed amendment. In particular, the statement that the Minister makes must state what consultation has taken place with political parties represented in Parliament that are listed in the Act or in any Order in Council made under the Act as supporting the part of the Act that is to be amended, and what consultation has taken place with the Guardians of New Zealand Superannuation. The statement must also convey the results of the consultation.

Such a statement can be made by way of a ministerial statement, by the presentation of a paper to the House or in the bill’s explanatory note.

COGNATE BILLS

Sometimes the House has before it two or more bills on related matters—cognate bills. In the debate it is very difficult to prevent debate spilling over from one to another. To deal with this the House can take all the bills together for the purposes of discussion, permitting members to refer to all the cognate bills on the Order Paper. Among recent examples were legislation to regulate the conduct of the financial markets, and to effect treaty settlements. At the conclusion of the debate the question for the reading of each bill is put separately. The Standing Orders provide for the second reading debate on any Imprest Supply bill to be taken together with the third reading of the main Appropriation bill and with the

---

63 Ibid, at 8.
65 New Zealand Superannuation and Retirement Income Act 2001, s 73.
67 See, for example: Statutes Amendment Bill (71–1) (explanatory note, 14 October 2015); Statutes Amendment Bill (101–1) (explanatory note, 24 November 2009); New Zealand Superannuation Amendment Bill (119–1) (explanatory note, 6 April 2004).
second reading of an Appropriation (Supplementary Estimates) bill. The debate on the third reading of bills divided out of a bill during the committee stage may be taken together. In every other case the House or the Business Committee can determine, before or after introduction, whether two or more bills will be treated as cognate; and such a determination can relate to any or all of the first, second or third readings of the bills concerned. This offers an alternative to the introduction of omnibus bills. (See Chapter 24, “Omnibus bills”.

FIRST READING
Nature of debate
The first reading debate is the House’s first opportunity to debate the legislative proposal that has been put before it. The House may decide that it does not wish to spend any more time considering the proposal and reject it out of hand. But most bills (and especially Government bills) are not rejected at their first hurdle, and the first reading debate is looked upon as a prelude to sending the bill for detailed study by a select committee. It is therefore an opportunity for the Minister, in the case of a Government bill, to explain to the House why the Government has introduced the bill and what it hopes that it will accomplish, and to give a brief résumé of its provisions.

It is an opportunity also for other members, and especially parties, to put on record their positions on the proposal; or they may reserve their positions until they have benefited from information gleaned during the select committee’s consideration of it. So while a first reading can lead to an “in principle” decision on the bill, it does not have to. It is perfectly consistent with the first reading process for judgement on the bill to be deferred to allow it to be given more detailed examination.

The question of consistency or inconsistency with the Bill of Rights Act is always a legitimate debating point to be raised, especially during the first reading debate. Indeed the Minister moving the first reading may deal explicitly with how the Government perceives that the bill’s provisions relate to the Bill of Rights Act.

Speech of member in charge
In initiating the first reading debate the member in charge of the bill moves “That the … Bill be now read a first time”, and proceeds directly to speak to that motion. For most bills, the first reading precedes consideration by a select committee, and, after moving the motion for the first reading, the member in charge of the bill must nominate which select committee the member intends to consider the bill. This must be done at the commencement of the member’s speech. If the member in charge fails to do so, the Speaker will require this to be done before the debate proceeds. The Standing Orders provide that bills stand referred to a select committee for consideration after their first reading. Therefore, no motion to refer a bill to a committee is required: following the first reading the Speaker simply puts a question on the particular committee to consider the bill, which is nominated by the member in charge.

68 SOs 340(3) and 342(2).
69 SO 312(2).
70 SO 269. See, for example: Business Committee determinations for 21 October 2015, 5 November 2014 and 8 February 2012.
72 (1990) 511 NZPD 593 (Bail (Miscellaneous Provisions) Bill).
73 SO 286.
74 SO 287(1)(a).
75 SO 287(1)(a); (8 May 2012) 679 NZPD 2001 Tisch (Assistant Speaker).
76 (1998) 568 NZPD 8523–8524 Revell (Deputy Speaker) (Ministry of Energy (Abolition) Amendment Bill (No. 2)).
77 SO 288.
78 SO 289(2).
If it is intended to give the committee any special powers or instruction (for example, allowing it to meet outside the hours prescribed in the Standing Orders or requiring it to report the bill back by a particular date) this too must be specifically indicated at the commencement of the speech. Written notice of the motion to be moved in respect of the special powers or instruction must be lodged at the Table immediately after the speech. That motion is moved after the bill has been read a first time and the committee to consider the bill has been determined.

When speaking to the motion for the first reading, the member in charge is advising members of his or her intentions regarding the bill, so that the first reading debate can proceed in full knowledge of those intentions. Members taking part in the debate are at liberty to comment on the appropriateness of the committee nominated to consider the bill or on the powers or instruction to be given to it. If the member does not mention any special powers or instruction in the speech, a motion for them cannot be moved subsequently. Further, if the member in charge does mention special powers in the speech, the motion for them must be in the same terms. So a Minister who indicated a particular date for reporting the bill back to the House in his speech could not move a motion with a different date without leave of the House.

Amendments to motion for first reading
An amendment to the motion that a bill be read a first time can be moved, but not an amendment that would extend the debate in a way that is not relevant to the first reading debate. Thus, a want of confidence amendment would not be acceptable, nor is it acceptable to move an amendment relating to select committee consideration at this point, since there is a later procedure expressly dealing with such a motion.

Length and conclusion of debate
The debate on a Government bill is limited to 12 speeches (including the Minister’s), each of no more than 10 minutes’ duration. In the case of Members’ and local and private bills there are 11 speeches, the first two members’ speeches being 10 minutes in duration, followed by eight further speeches of five minutes’ duration. The member in charge then has five minutes to reply to the debate. A right of reply is no longer common in debate. It is not just another speech. It is a last chance for the member in charge, having listened to the debate, to respond and convince the House of the merits of his or her Member’s bill. If the member in charge is not available, no other member may take the reply. The Business Committee has from time to time used its power to vary the speaking times set out in the Standing Orders for the debate on a Member’s bill. Indeed this is likely to vary from Parliament to Parliament depending upon the party composition of the House. It is understood that at least one of the members speaking in the debate on a Member’s bill should be from the same party as the member in charge.

At the conclusion of the debate the Speaker puts the question, which is decided in the normal way. If the question for first reading is decided affirmatively (as it almost invariably is for Government bills), the bill is read a first time by the Clerk. The Clerk merely rises and reads the title of the bill.

---

79 SO 287(1)(b).
80 SO 287(2).
83 (1985) 468 NZPD 8981 Wall.
84 As for other debates, speaking slots can be shared, so a 10-minute call can be split between two members who each would have up to five minutes (SO 121(2)).
85 SOs, App A.
If the debate on the first reading of a bill is interrupted by the adjournment of the House, the debate is set down for resumption next sitting day. In the case of a Government bill, when it is subsequently dealt with depends upon its position among the other Government orders of the day. Other types of bills interrupted by adjournment will automatically take priority over any other bills at the same stage.87 The debate on the first reading of a bill can also be adjourned by a motion to that effect.88 In this case, too, the adjourned debate would be set down as an order of the day.

**First reading without debate**

Some categories of bills, such as Appropriation bills and Imprest Supply bills, are always set down for first reading without debate.89 Recently two further categories of bills—revision bills and bills for the confirmation and validation of subordinate legislation—have been accorded streamlined procedures, which include the putting of the question on the first reading without amendment or debate.90 When a bill set down for first reading without debate is reached, the order of the day is called, the member in charge moves that the bill be read a first time and the question on the first reading is put immediately. Following the first reading of the bill, the question of select committee consideration is dealt with forthwith, if the House is required to do so. Appropriation bills and Imprest Supply bills are not considered by committees. In the case of a revision bill, a question is put, without amendment or debate, on the committee nominated to consider the bill by the Minister in charge of the bill and notified in the bill’s explanatory note.91 A confirmation and validation bill stands referred to the Regulations Review Committee for consideration.92

**REFERRAL OF BILLS TO THE WAITANGI TRIBUNAL**

There is a statutory provision for the House to refer any proposed legislation before it to the Waitangi Tribunal, so that the tribunal may report on whether the provisions of the legislation are in any way contrary to the principles of the Treaty of Waitangi.93

A bill before the House may be referred for report only by resolution of the House.94 Such a resolution requires notice of motion to be given first; a motion to refer a bill to a body outside the House cannot be moved by way of amendment on the second reading of a bill.95 Referring a bill to the Waitangi Tribunal for report discharges any order of the day in respect of the bill, and discharges it from any select committee to which it has been referred. Further parliamentary progress on the bill is arrested until the tribunal reports.

The tribunal’s report on a bill referred to it is made to the Speaker. The Speaker then lays it before the House.96 Apart from formal referral of a bill to it by the House in this way, the Waitangi Tribunal has no jurisdiction in respect of a bill before the House of Representatives.97

Government departments are required to report in disclosure statements as to whether a bill is consistent with the Government’s Treaty of Waitangi obligations.

---

87 SOs 70(2) and 72(2).
88 SO 133.
89 SOs 331(2), 333(2) and 342(1).
90 SOs 271(2) and 325(2).
91 SO 271(3).
92 SO 325(2).
93 Treaty of Waitangi Act 1975, s 8(1).
94 Treaty of Waitangi Act 1975, s 8(2)(a); (24 July 2014) 700 NZPD 19545 (Maori Language (Te Reo Maori) Bill). The House denied leave for the moving of a motion to refer the bill to the Waitangi Tribunal.
95 (1975) 397 NZPD 869 Whitehead.
96 Treaty of Waitangi Act 1975, s 8(3)(a), (4).
97 Treaty of Waitangi Act 1975, s 6(6).
It is always open to select committees themselves to consider whether the terms of a bill that has been referred to them are consistent with the principles of the Treaty of Waitangi.98

REFERRAL OF BILLS TO SELECT COMMITTEES

Almost all bills referred

With very few exceptions, every bill stands referred to a select committee for consideration after its first reading.99 This rule of nearly universal referral of bills to select committees was introduced in 1979.

Appropriation bills and Imprest Supply bills are not referred to a select committee.100 These exceptions are more apparent than real, however. The contents of Appropriation Bills (Estimates, Supplementary Estimates and annual reviews) are considered by select committees even though the bills, as the formal vehicles for debate in the House, are not. An Imprest Supply Bill is passed at one sitting, so there would be no opportunity for select committee consideration in any case (there are no more than three such bills each year). Moreover, the use of public money that is given interim authority through an Imprest Supply Bill is subject to subsequent approval through an Appropriation bill.

The real exception to the rule that all bills are referred to select committees is bills to which the House accords urgency to their passage. But urgency does not necessarily preclude select committee consideration. Urgency may be taken for a bill’s introduction and first reading, allowing for it to go to a select committee, and it may be taken again for the passage of the bill through its remaining stages after the select committee has considered it.

Occasionally a matter of such urgent importance arises that the Government considers it necessary to introduce and pass a bill through successive stages or indeed all its stages in one day. To do this, it asks the House to accord urgency for the introduction and subsequent stages of the bill. If urgency is so accorded, the bill is exempted from the requirement under the Standing Orders that it be referred to a select committee, and no motion to refer the bill to a select committee will be accepted by the Speaker.101 The Standing Orders Committee has asserted that urgency should be confined to situations that genuinely require an urgent approach. But it has qualified this with regard to the use of urgency to make progress:102

Beyond the situations when bills require urgent consideration for legal reasons, urgency could ultimately be justified to make progress if the Government’s legislative programme has been unreasonably delayed in the House despite constructive attempts to negotiate arrangements in the Business Committee.

There might also be an expectation that, immediately after an election, a Government will seek to implement its key campaign pledges quickly. In practice, some 95 per cent of all Government bills introduced and read a first time (and virtually 100 per cent of all other bills) are now referred to select committees for study.

Choice of committee to nominate

In most cases, a bill fits naturally into the subject area of one committee, which is nominated accordingly. However, allocation by subject area is not compulsory.

---

99 SO 288(1).
100 SO 288(2).
101 (1985) 460 NZPD 3048 Arthur (Income Tax Amendment Bill (No. 3)).
A bill does not have to be considered by any particular committee, even one whose subject area seems to make it the most suitable. Nor does a bill have to be considered by a committee that is already in existence. A bill can be considered by a special committee to be established for the purpose. However, no committee can be established by the member in charge’s nomination in his or her first reading speech. Such a nomination can merely indicate a proposal to establish a committee to consider the bill. The committee must be established by a motion of which notice has been given in the ordinary way. In practice, only a Government bill is likely to be referred to a special committee in this way, unless leave is forthcoming. A Government notice of motion to establish the committee may be before the House as an order of the day at the same time as a Government bill is read a first time. The order of the day for the establishment of such a committee can be taken on the same day, or on a subsequent day, and also can be dealt with before the first reading of the bill concerned.

**Determination of committee to consider bill**

Immediately after the bill is read a first time, the Speaker puts the question without debate on the committee to consider the bill, as nominated in the speech by the member in charge. Which committee the member in charge nominates is a matter for that member. It is a political judgement, though it will depend to some extent on the subject matter of the bill and the workload of the committees.

Other members may object to the committee nominated by the member in charge on the grounds that another committee would be more appropriate. During the first reading debate, when members were forewarned of the committee nominated by the member in charge, they could debate the nomination. It is open to any member to nominate a different committee to consider the bill by lodging a written nomination with the Clerk at the Table. If another member has done so, then the Speaker will put the question only if the House has not agreed with the committee proposed by the member in charge.

**Special powers or instructions**

After the House has resolved which committee will consider the bill, the member in charge can move a motion to give the committee special powers or particular instructions for its consideration of the bill, as long as the member described them in the first reading speech. Such a motion can seek to vary the standard powers and obligations that would otherwise apply to the committee when considering the bill, for example to permit the committee to meet at times normally restricted under the Standing Orders, or to adjust the default six-month deadline for the committee’s final report. Special powers or an instruction moved immediately after the first reading of a bill may relate only to the committee’s consideration of that bill. They cannot extend to other business before the committee or to the committee’s subject area, functions or powers generally.

The motion is subject to amendment and debate, unless it relates only to the time for reporting on the bill and provides for a report date that is between four and six months. Any debate is restricted to the subject matter of the motion and must not extend to the principles, objects, or provisions of the bill to which the motion relates.

---

103 SO 289(3).
106 SO 289(1).
107 SO 289(2).
108 SO 290(1).
110 SO 290(2).
111 SO 290(3); (8 May 2013) 689 NZPD 9677, 9683–9689 (Government Communications Security Bureau and Related Legislation Amendment Bill).
Special powers or an instruction can subsequently be given by the House by motion on notice. However, it is more convenient for the Government to move the motion immediately after the first reading, as debate on the motion will be limited in its scope or not permitted at all. Furthermore, it is unlikely that any member in charge of a Member’s bill will get a subsequent opportunity to move for such powers, since Members’ notices of motion normally are not dealt with by the House. Where a special committee is to be established, special powers can be conferred on it through a motion moved after the first reading of the bill concerned, provided that those powers were mentioned in the member in charge’s speech. Otherwise they can be conferred in the motion establishing the committee.

**Transfer of bill to another committee**

Because the House orders a particular committee to consider each bill that has been read a first time, only the House can transfer a bill from one committee to another.

A motion to effect this by rescinding the House’s original order can be moved after notice has been given in the ordinary way. Alternatively, leave of the House could be given for this purpose. Committees occasionally raise the question of transferring a bill to another committee that they consider more appropriate, and they may report to the House suggesting this. Normally any proposal to transfer a bill to another committee will be discussed first by the Business Committee.

If a bill were to be transferred to another committee the standard six months’ time limit for reporting would start to run anew from the date of transfer; but if any specific reporting date had been imposed on the former committee by the House, that date would continue to apply to the new committee.

**CONSIDERATION OF BILLS BY SELECT COMMITTEES**

The House of Representatives has throughout its history made a regular practice of referring bills to select committees for detailed examination. Until 1979 this was done after second reading on an ad hoc basis. Approximately 30 per cent of Government bills (and virtually every other type of bill that received a second reading) were referred in this way. In 1979 a procedure of automatic referral of all bills (with limited exceptions) after their first reading was introduced. Between 1996 and 1999 the House reverted to its previous practice of referring bills after their second reading, then in 1999 the House returned to referring bills after first reading. Given the importance of select committee consideration of bills, it was considered that the House should take its “in principle” decision on legislation—that is, the decision made at the second reading of the bill—after the select committee had considered it and with the benefit of that consideration.

Select committees are charged with examining bills that are referred to them to determine whether they should pass. This is the fundamental question that is raised in respect of every bill introduced into the House, and the select committee to which a bill is referred is expected to express its opinion on it. This does not mean that a select committee has the power to determine whether a bill will be passed or not passed. Only the House can do that. But select committees are not only authorised to express their opinions on this matter, they are enjoined by the Standing Orders to do so.

112 SO 290(3).
113 SO 290(2).
116 SO 291(1)(a).
A committee may be unable to agree on whether a bill should pass. This should not prevent the committee from reporting on the bill. When dealing with a bill that raises conscience issues, a committee may well prefer to focus on improving the wording and legislative quality of the bill without expressing a view on the form that amendments should take—leaving that judgement and other decisions on broader policy matters to the full body of members in the House.

As well as considering the question of the bill’s passing, a select committee may recommend amendments to the bill. While they must be relevant to the bill, they can be of fundamental importance and alter its shape substantially (another reason to defer the “in principle” decision on the bill’s passing until after select committee consideration). Sometimes instructions to committees circumscribe the committee in its work. The committee must operate within any limitations laid down by the House when the bill is referred to it, and is always subject to subsequent direction by the House by means of an instruction.

**PROCESS FOLLOWED BY COMMITTEES**

Each committee is relatively free to organise for itself the performance of the legislative task it is given. All of the 13 subject select committees consider bills at some time or other, as does the Regulations Review Committee. Even the Standing Orders Committee has done so. From time to time committees are established to consider particular bills. Committees are not obliged to discharge their task in any particular way unless the House specifically directs them to.

Most bills are considered by committees that are already in existence. Even so, it is irregular for the committee to take formal action in relation to a bill—such as advertising for submissions—before the bill is actually before it. Nevertheless, the committee may have been informally advised by the Minister in the case of a Government bill that a bill is to be considered by the committee, and it is quite proper for the committee to discuss in advance how the bill is to be processed once it is before the committee.

**Briefings**

Exceptionally a bill may be referred to a committee for it to receive only a briefing on the bill from the Minister in charge of it or officials from the Minister’s department.

In such a case the committee may not advertise for submissions or hear evidence. How, if at all, the committee considers written communications on the bill is a matter for it to decide. But the committee may appoint advisers and receive reports from them on the bill, in addition to receiving briefings from the Minister and departmental officials. The committee still has the function of examining the bill to determine whether it should pass, and the power to recommend relevant amendments to it.

---

119 SO 291(1)(b).
121 (6 August 2013) 692 NZPD 12426 (Subordinate Legislation (Confirmation and Validation) Bill (No 2)).
123 (1996) 555 NZPD 12949 Tapsell (Adoption Amendment Bill (No 2)).
125 SO 291(1).
Generally, a committee cannot receive a briefing or initiate an inquiry into a bill that is not before it, unless the House or the Business Committee has authorised it.\textsuperscript{126} The main exception to this rule is the Regulations Review Committee, which is empowered, on its own initiative, to consider bills before other committees in relation to regulation-making matters, and to report accordingly to the committees concerned.\textsuperscript{127} A committee to which a bill has been referred can also seek opinions from other committees about provisions in the bill.\textsuperscript{128}

Advertising

The committee determines the extent of the advertising for submissions to be undertaken on a bill. However, if a bill is referred to a committee at a time when it is not due to meet for some days and it is desirable not to lose the intervening time, the chairperson may, on behalf of the committee, direct the clerk of the committee to place advertisements calling for submissions by a particular time. But these steps are provisional, and are subject to the ultimate authority of the committee, which may repudiate or alter the chairperson’s action.\textsuperscript{129} It is normal practice for an advertisement to include a concise neutral summary of the bill’s provisions. These summaries are prepared by the committee staff, subject to the final control of the committee.\textsuperscript{130}

Where a bill is referred to a special committee that has been newly set up, the committee must meet and elect a chairperson before the calling of submissions can be arranged, and it is improper for anyone to act in the committee’s name before that time.\textsuperscript{131}

The extent of the advertising that is undertaken will depend upon the perceived level of interest in the bill and any time constraints placed on the committee’s consideration of the bill. If the committee considers that a bill must be processed with despatch, or the House has required that the bill be reported back within a matter of days, the committee may decide not to place any advertisements calling for public submissions.\textsuperscript{132} A committee has decided not to call for submissions on a bill that it considered to be straightforward and uncontroversial.\textsuperscript{133} But these situations are uncommon.

The Parliament website notifies the public of all bills before select committees and where submissions have been called for by committees. To help people make submissions it provides links to the bills and other relevant information, such as disclosure statements and regulatory impact statements and the Bills Digest prepared in the Parliamentary Library. It also provides the means for making submissions. Committees may also use various other means to alert those wishing to make submissions, including social media. The means of advertising is a matter for the committee, and will depend on its view of the amount of public interest.

Period for submissions

The time allowed for submissions to be lodged is for the committee to determine. It has been suggested that the normal period to allow for submissions is a minimum

\textsuperscript{126} SO 189(3).
\textsuperscript{127} SO 318(3) (see Chapter 28).
\textsuperscript{128} SO 293 (see p 411).
\textsuperscript{130} Ibid
\textsuperscript{131} (1981) 439 NZPD 2441 Harrison.
of six weeks.\textsuperscript{134} This gives those who wish to make submissions a realistic time to formulate their comments, even on a substantial bill.\textsuperscript{135} Shorter timeframes will be appropriate if the House has restricted the time for report by the committee or if the bill is of limited interest.\textsuperscript{136} There are likely to be complaints from members and the public if a limited timeframe is allowed for a substantial bill.\textsuperscript{137} A committee could allow longer than six weeks for submissions on a very large, complex bill.\textsuperscript{138} However, in general terms allowing more time for submissions could curtail the overall extent to which a Government could reasonably expect to implement its legislative programme in a three-year parliamentary term.\textsuperscript{139}

Although local and private bills have been the subject of preliminary procedures designed to draw attention to their promotion, it is still the practice for select committees to advertise for submissions on them in the appropriate locality.\textsuperscript{140} Submissions are also requested from the promoters and any Government department with a particular interest in the subject matter of the bill, though such a department will often be appointed as an adviser to the committee and provide its input in that capacity instead.

From 2011 those wishing to make a submission to a select committee have been able to do so electronically via the Parliament website. Members of the public can use the secure system as an easy way to communicate their views to a select committee.

**Hearing submissions**

The chairperson and the committee staff organise a programme of hearings on the bill, during which those who wish to appear before the committee, and those from whom the committee wishes to hear, give evidence. Witnesses may include members of Parliament themselves. Committees are not strictly required to hear submissions, but a decision not to hear any evidence at all would be highly unusual.

The number of submissions received varies from none to thousands. In the case of the Smoke-free Environment (Tobacco Plain Packaging) Amendment Bill, more than 15,600 submissions were received (including almost 15,500 standard form submissions).\textsuperscript{141} Even for a local bill, the committee has received as many as 209 submissions.\textsuperscript{142} In these circumstances, it is not always possible to oblige everyone who wishes to appear in person before a committee. To some extent this problem can be met by “grouping” similar submissions and inviting witnesses to appear jointly before the committee even though they have put in separate submissions. When consideration of a bill had taken a long time and substantial amendments to the bill had been circulated on a Supplementary Order Paper, a committee invited witnesses to make resubmissions to the committee on the bill with the amendments.\textsuperscript{143}

Committees need not simply wait for people and organisations to initiate submissions. They can, if they consider it desirable, seek out submissions from


\textsuperscript{135} Ibid.

\textsuperscript{136} Ibid.


\textsuperscript{141} Smoke-free Environments (Tobacco Plain Packaging) Amendment Bill (186–2) (commentary, 5 August 2014) at 5 ([2011–2014] AJHR I.22C at 387).

\textsuperscript{142} Manukau City Council (Regulation of Prostitution in Specified Places) Bill (197–1) (commentary, 5 December 2014) at 8.

groups that they consider likely to have particularly useful perspectives on the legislation before the committee. Thus the Finance and Expenditure Committee sought submissions on the Public Finance Bill 1989 from Government departments, State enterprises and private-sector financial institutions when these groups seemed to be unwilling to make submissions or unaware of the implications of the bill for them.\textsuperscript{144} Committees from time to time ask the Minister in charge of a bill to appear before them to explain policy matters relating to their bills.\textsuperscript{145} It has been suggested that committees should do this more often.\textsuperscript{146}

Committees may meet anywhere in New Zealand\textsuperscript{147} and they frequently travel to hear evidence outside Wellington. (For example, the Māori Affairs Committee, when considering legislation facilitating settlement between the Crown and an iwi, will usually travel to the region of the iwi concerned to hear submissions.) But evidence is usually heard in a committee room in Parliament Buildings, where the witness appears before the committee in person, or from a remote location using videoconferencing or teleconferencing facilities. At these hearings, witnesses elaborate on their written submissions and are questioned by members of the committee. In this way the select committee process brings the legislator into direct contact with the citizen.

**Opinions from other committees**
A bill may relate to matters falling within the subject areas assigned to two or more committees. For this reason the committee to which such a bill is referred is empowered to ask any other committee for its opinion on a part, clause, schedule or other provision of the bill.\textsuperscript{148} Any other committee that is asked for its opinion in this way may effectively treat the provision involved as if it had been referred to it by the House as a separate bill. It may call for submissions and hear evidence on the provision. When it reports its opinion to the committee that requested it, it can at the same time recommend amendments to the provision in question.\textsuperscript{149}

The Regulations Review Committee has its own standing authority to report to any committee on any regulation-making power in a bill, on any provision in such a bill that proposes to delegate the power to make instruments of a legislative character, and on any other matter relating to regulations pertaining to a bill that has been referred to a committee.\textsuperscript{150} Indeed, other committees often ask the committee to examine specific issues (such as matters raised in submissions, questions about empowering provisions, and departmental advice) in bills before them.\textsuperscript{151} The Regulations Review Committee makes its reports on the bill in correspondence with the committee, and by its members and staff appearing personally before the committee. (See Chapter 28.) The Regulations Review Committee itself may seek comment from other committees on the annual Subordinate Legislation (Confirmation and Validation) Bill where there may be policy issues concerning the setting of confirmable levies that are pertinent to the committees. Such consultation has been facilitated by the earlier referral of the bill to the committee now that the first reading is no longer debated in the House.\textsuperscript{152}


\textsuperscript{145} See, for example: (1996) 555 NZPD 12663.


\textsuperscript{147} SO 192(1).

\textsuperscript{148} SO 293(1).

\textsuperscript{149} SO 293(2).

\textsuperscript{150} SO 318(3).


\textsuperscript{152} SO 325(2).
Advisers and drafting

As well as hearing evidence from witnesses, committees also receive reports from their own advisers. All such advice is arranged and circulated to committee members through staff of the Office of the Clerk attached to the committee for the purpose.

In the case of Government bills, officials from the department whose Minister is in charge of the bill are invariably accepted by the committee in the role of its advisers for the duration of its consideration of the bill. Departmental advisers will prepare a report for the committee summarising the evidence received and suggesting amendments to the bill. In the case of local and private bills, committees will usually seek similar support from the relevant department to help in their consideration of bills that are likely to become law. Occasionally, committees seek departmental involvement in the consideration of a Member’s bill before them. Such assistance will only be rendered with the agreement of the Minister for the department concerned and is therefore problematic. A committee has been refused departmental assistance for a Member’s bill.153 Offices of Parliament also provide advisers from time to time to assist committees on bills,154 as do bodies such as the Electoral Commission for bills on which they have a particular expertise.

Other advisers may be engaged under contract with the Clerk of the House to assist the committee for their particular expertise or skill pertaining to the bill before the committee. The Finance and Expenditure Committee has made a long-standing practice of engaging a tax adviser to assist it with the consideration of tax bills.

The drafting of amendments that a committee wishes to propose to a Government bill is undertaken by a parliamentary counsel who attends for the consideration and deliberation phases of the committee’s work. The parliamentary counsel also drafts amendments to local and private bills before the committee. Whether drafting assistance will be forthcoming for amendments to Members’ bills depends upon whether the Attorney-General agrees to make such a service available. This is normal for a bill being progressed as a conscience issue but may be refused in other cases.155 In at least one case, departmental officials have drafted amendments for the member in charge of a Member’s bill, although the committee considering the bill was concerned that it would be inappropriate for officials to use a Member’s bill as a vehicle for the department’s own amendments.156 Committees can also obtain drafting assistance from the Office of the Clerk.

Legislative quality

The Standing Orders Committee has encouraged select committees to examine legislative quality issues when preparing their reports on bills. In particular, it has indicated that respect for the rule of law requires the avoidance of the arbitrary deprivation of rights and freedoms; and it has referred to the principles for good legislation-making expounded by the former Legislation Advisory Committee (now the Legislation Design and Advisory Committee) in its Guidelines on Process and Content of Legislation,157 where it observed:158

158 Legislation Advisory Committee Guidelines on process and content of legislation (2001) at 46. Note that this document has been superseded by the 2014 guidelines.
Parliamentary democracy is not simply the proposition that anything a majority decides must be always right and good. Rather it proceeds upon a presumption that when the majority vote for a law which constrains individuals or takes away any of their freedom of person or property it will only be for a good reason.

Attention by select committees to legislative quality may result in committees, in their consideration of bills, addressing wider constitutional and administrative law issues, along with the fundamental question of whether each piece of legislation is necessary and fit for purpose. In undertaking such legislative scrutiny, committees should ensure that any departures from the Legislation Design and Advisory Committee’s guidelines are justified. The guidelines were designed to help departments prepare draft legislation before its introduction, but they are equally available to committees seeking subsequently to ensure legislation is easy to use, understandable, and accessible to those who are required to use it, that it integrates smoothly with the existing body of law, and that it achieves its underlying policy objective, but with proper respect for important legal principles. Committee staff may draw departures from the guidelines to the committee’s attention, so that the committee can ask departmental officials to demonstrate the justification for them.

**Bill of Rights Act**

Select committees must consider the relationship of the bill before them to the New Zealand Bill of Rights Act 1990. If the Attorney-General considered that a bill as introduced contained a provision inconsistent with the Bill of Rights Act, a report to this effect will have been made to the House and referred to a committee. The Clerk typically allocates such a report to the committee expected to consider the bill. The report is a separate item of business for the committee to consider, on which a response to the House is required, although it can be reported together with the bill. Committees are expected to receive a briefing on the Attorney-General’s report.

Committees must consider whether any proposed limitation of rights can be demonstrably justified in a free and democratic society, as required under the New Zealand Bill of Rights Act 1990. They may have had inconsistencies with the rights and freedoms set out in the Act drawn to their attention by a report from the Attorney-General, or by submitters. In making a judgement as to whether a limitation is reasonable and can be justified, committees have to balance various public interests. In so doing committees will have available to them disclosure statements indicating whether departments have provided advice to the Attorney-General on whether any provision of a bill appears to limit any of the rights and freedoms affirmed in the Act. In addition, reports prepared by the Ministry of Justice for the Attorney-General that conclude there are no inconsistencies with the Bill of Rights are made available on the Ministry of Justice website. Committee staff will draw all such reports and any related submissions to the committee’s attention, and may suggest the need for departmental officials to brief the committee on the issues and on any need for further legal advice.

The Attorney-General’s view as to whether a bill is consistent with the Bill of Rights Act is not conclusive, and the House and a select committee are both free to come to a different view. Committees may ask the Attorney-General or the Attorney-General’s advisers to reconsider their initial view in the light of

---

159 Legislation Advisory Committee Guidelines on process and content of legislation (October 2014) at 4.
160 Ibid.
161 Ibid.
162 Ibid, at 5.
164 New Zealand Bill of Rights Act 1990, s 5.
submissions to the committee. Whether the invitation to reconsider an initial view is acted upon is for the Attorney-General to decide. Advisers may confirm their initial position in response to such a request. Commonly, committees recommend amendments to the bill to reconcile the proposed legislation with the Bill of Rights Act where such issues are raised. However, sometimes a committee, while accepting that there is an inconsistency with the Bill of Rights Act, considers that the public interest justifies overriding a right or freedom given expression in the Act, and that legislation containing such a provision should be passed nonetheless.

**Amendments**

Select committees do not have, and have never had, the power to make amendments to bills; they have the power only to recommend amendments to the House. While select committee amendments are included in a reprinted copy of the bill when the committee reports to the House, such amendments remain to be adopted (or not) by the House. Amendments recommended by a select committee are not adopted until the bill is read a second time by the House. It follows that amendments proposed by a select committee to the title of a bill become effective at the time it is given a second reading. The new title is used to refer to the bill after that point.

Committees are obliged to distinguish in their reports between those amendments adopted unanimously by the committee and those adopted by a majority of the committee. Amendments must be distinguished in the report in this way because the House will later be asked specifically whether it agrees to the majority amendments in total. It is unusual for amendments not to be agreed as a package at this point, as it is always open to the House to address the detail of committee amendments in the committee of the whole House stage.

**Admissibility of amendments**

The chairperson of the select committee rules on the admissibility of amendments. Amendments that would be out of order in a committee of the whole House are equally out of order in a select committee. An exception to this general position is that the financial veto rule does not apply to amendments proposed in a select committee. However, after a select committee has reported on a bill, the Government can apply its veto in respect of amendments recommended by the committee provided it does so before the amendments are adopted on the bill’s second reading.

Although they are only recommendations, amendments proposed by select committees must be relevant to the subject matter of the bill, be consistent with its principles and objects and otherwise conform to the Standing Orders and practices...
The Legislative Process

of the House.\textsuperscript{175} This requirement for amendments to fit within the scope of the bill mirrors the limitation on amendments in a committee of the whole House.

A committee must be specifically authorised by the House to consider amendments that are outside the scope of a bill or are otherwise inadmissible.\textsuperscript{176} Amendments proposed by a select committee that are inadmissible may be struck out of the bill by the Speaker before the bill is given its second reading.

An amendment that is the same in substance as an amendment already agreed to or defeated earlier in the calendar year may be moved again only by leave or if notice of it has been given.\textsuperscript{177}

\textbf{Amendments adopted unanimously or by majority}

Once an amendment has been agreed to by the committee it is incorporated into the committee’s report to the House. But committees are obliged to indicate in their report which amendments were adopted unanimously by the committee and which by a majority of the committee.\textsuperscript{178} Amendments recommended by a majority of the committee must be specifically endorsed by the House.\textsuperscript{179} They and any other amendments are deemed to be adopted when the bill is read a second time.\textsuperscript{180} An amendment agreed in the committee on a voice vote is regarded as having been adopted unanimously, though that does not necessarily mean that all members supported it. Only if a member requires that the votes or abstentions of members present be recorded for inclusion in the committee’s minutes is the amendment described as having been adopted by majority.\textsuperscript{181} Only amendments to the bill adopted by majority are specified in this way in the report. The fact that the committee agreed to a provision standing part of the bill by a majority vote is not specially shown in the report, though the committee may choose to draw attention to this in its commentary. Where only an abstention is recorded on an amendment without any member actually voting against it, the amendment is still regarded as having been adopted by a majority.

\textbf{Private bills and local bills}

\textit{Consideration of private bills}

In passing private legislation, the House was formerly thought of as exercising a judicial as well as a legislative function.\textsuperscript{182} This was especially the case when parties spoke in opposition to a measure before the committee considering the bill. However, the consideration of private bills is now merely a specialised form of legislation, rather than the House sitting in judgement over parties to a suit. More often than not there is only one party in any case. The committee on a private bill conducts its proceedings much as a select committee would on any other bill, although the promoter is more likely to be represented by counsel, which is not often the case with other committees. Reports are called for from interested Government departments and evidence heard from any other person who wishes to offer it.

In the case of a private bill, committees are enjoined to examine the preamble to the bill to determine whether the statements set out there as justifying the bill have been proved to their satisfaction.\textsuperscript{183}

\begin{itemize}
\item \textsuperscript{175} SO 292(1).
\item \textsuperscript{176} (2000) 588 NZPD 6679–6690 (Crimes Amendment Bill (No 6)).
\item \textsuperscript{177} SO 207.
\item \textsuperscript{178} SO 292(4).
\item \textsuperscript{179} SO 298(1).
\item \textsuperscript{180} SO 300.
\item \textsuperscript{181} Under SO 213, members may require votes or abstentions to be recorded. See, for example: Search and Surveillance Bill (45–2) (commentary, 4 November 2010) [2008–2011] AJHR I.22B at 1477.
\item \textsuperscript{182} Mr Speaker, memorandum on proposed new Standing Orders on private bills (29 August 1870) [1870] AJHR A.30.
\item \textsuperscript{183} SO 291(2).
\end{itemize}
**Advertised scope of local bills and private bills**

In addition, in the case of local bills and private bills, the committee may not propose any amendment that is outside the scope of the notices advertising the intention to introduce the bill.\(^{184}\) (But a widely drawn notice does not expand the scope of a bill—the bill’s scope is still confined to its provisions.) If a committee adds a clause or makes an amendment to a local or private bill that is not within the scope of the advertised objects of the bill, it exceeds its powers. Where such an amendment is perceived as being out of order before the bill is read a second time, it will be struck out of the bill by the Speaker (though the Standing Orders may be suspended to allow the clause or amendment to stand\(^{185}\)). Alternatively, a bill may be referred back to the committee for it to amend its report and remove the offending clause or amendment.

**Consultation with promoters**

In the case of private bills and local bills it is the practice for committees to consult with the promoter of the bill about proposed amendments. Promoters do not have a right of veto over amendments to their bills, though a promoter may withdraw the bill if dissatisfied with the outcome of the committee’s consideration of it.

**Local Legislation bills**

A committee considering a Local Legislation Bill is directed to consider whether, in its opinion, any clause in the bill should more properly have been the subject of a separate local bill.\(^{186}\) In the case of a Local Legislation Bill any new clause that the committee sees fit to recommend adding to the bill (unless it is in substitution for, incidental to, or consequential upon an existing clause) must first have been provisionally approved by the Minister of Local Government.\(^{187}\)

**Statutes Amendment bills**

A Statutes Amendment Bill consists entirely of amendments to other Acts of Parliament (see p 376) that are typically minor and non-controversial. Amendments to Statutes Amendment bills are by convention adopted unanimously to complement the rule that, in a committee of the whole House, any member can veto a clause to the bill.\(^{188}\) In addition, in the case of proposed amendments to Acts not amended by the bill as originally introduced, the committee is likely to seek assurances that each party in the House not represented on the committee consents to the amendments being added to the bill.\(^{189}\)

**Dividing a bill**

Select committees have power to divide a bill and report the resulting bills back to the House as separate bills. This power arises where the bill referred to the committee is drafted in parts or otherwise lends itself to division because it comprises more than one subject matter.\(^{190}\)

When a select committee divides a bill, it may decide that it wishes to report only one or some of the newly separated bills to the House. It then retains the remaining bill or bills before it for further consideration.

\(^{184}\) SO 292(2).

\(^{185}\) See, for example: (1991) 512 NZPD 151–153 (Greymouth Harbour Board (Validation of Rates) Bill).

\(^{186}\) SO 291(3).

\(^{187}\) SOs, App C cl 23.

\(^{188}\) SO 305(2).


\(^{190}\) SO 294(1).
Each new bill must have an enacting formula, title and commencement provision, as must any bill introduced into the House. A bill that has been divided is reprinted as separate bills when it is reported to the House by the committee. 191

**REPORTING ON BILLS**

When a committee has heard all the evidence submitted to it, or all the evidence it is prepared to hear, it considers reports from its staff and advisers and draft amendments put before it and deliberates on the bill part by part or in any other way that it determines, adopting amendments to the bill’s text as it sees fit. It also adopts a written text (the commentary) describing the process it followed and the conclusions that it has come to. These will constitute its final report to the House on the bill.

Before presenting its final report on the bill, the committee may have presented a number of interim or special reports on it.

**Time for report**

All bills must be finally reported back to the House within a specified time. This must be a date that is certain and not a time fixed by reference to some uncertain event. This also applies to any extension to the report-back date. The House may instruct a select committee to report the bill to the House by a particular date. 192 Where no time for the committee to report back on a bill is fixed by the House, the Standing Orders impose a backstop reporting time of six months for the final report to be made. 193 The House can accord a longer reporting time than six months for a committee to report. 194

The committee must adopt its final report on the bill and present it to the House before the deadline has passed, unless the committee has been granted an extension. It may make as many interim or special reports on the bill as it sees fit in the meantime, but these do not absolve the committee of the need to make a final report by the date required.

Committees have occasionally protested at the short time they have been given to report back on a bill, 195 and individual members often protest that not enough time has been allowed for a committee to do a thorough job of considering a bill. A time constraint imposed by the House is a major factor in the time allowed for the public to make submissions on the bill, and can have serious implications for legislative quality and the public’s opinion of the process. 196 Because of such concerns, motions to severely truncate select committee consideration of bills were made debatable, in order to reduce the frequency of this practice. 197 Disputes over the time for report are matters for the Business Committee or, ultimately, the House to resolve.

The time for report starts to run from the date of the sitting day on which the committee nominated to consider the bill is agreed (which may not be the same as the actual calendar day). In the case of a bill that is to be considered by a committee yet to be set up, time starts to run from the date the committee is nominated even though this may be some time before the committee is actually established. If a bill is referred to one committee but subsequently is transferred to another, the six months’ reporting time starts to run anew from the date of transfer.

---

191 SO 267(2).
192 SO 290.
193 SO 295(1).
197 Ibid, at 40–41.
Where a bill has been reinstated in a new Parliament, no time runs from the day after the date on which the previous Parliament was dissolved or expired to the date on which the bill was reinstated. In all cases if the time for reporting the bill would expire on a non-working day (when no report can be presented in any case) the bill is regarded as due for report on the next working day.\textsuperscript{198}

If a committee has not presented its final report on a bill by the time fixed in the House’s order referring the bill or by the expiry of the six months provided by the Standing Orders, the bill is automatically discharged from further consideration by the select committee and is set down as an order of the day for consideration at its next stage in the House on the third sitting day following its discharge from the committee.\textsuperscript{199} Generally, this will mean that the bill is set down for second reading.

### Extension of time

Many bills receive an extension to the initial reporting deadline assigned to them. Often bills receive multiple extensions. It is always open to the House to change a reporting deadline (by extending or contracting it), either by instruction when the committee to consider the bill has been determined or by subsequently imposing one in place of the six months’ deadline imposed by the Standing Orders. This may be done on motion with notice or, more commonly, by leave of the House. Following a general election the House has extended the deadline for reporting all bills.\textsuperscript{200}

In addition, the Business Committee has power to extend reporting times for any bill.\textsuperscript{201} The Business Committee cannot contract a reporting deadline. This is the most common way for a committee to obtain an extended deadline. Committees that conclude that they cannot meet a reporting deadline write to the Business Committee and seek its agreement to an extension. The Business Committee has indicated to all select committees that it will not approve extensions without having been informed of the views of the member in charge of the bill on the proposal. Therefore the committee’s letter to the Business Committee either includes these views or is accompanied by a separate notification from that member setting them out. Failure to communicate them will invariably result in a decision on the extension application being deferred.

Usually, if the select committee and the member in charge are in agreement, the Business Committee will approve an extension, but occasionally, if it considers the extension sought to be unreasonably long or unrealistically short, it will substitute a date of its own. Where the select committee and the member differ over the extension, the Business Committee makes its own judgement of whether to grant one and, if so, for how long.

### Form of report

A select committee’s final report on a bill conveys two things to the House.

- It sets out in the form of a narrative (called a “commentary”) how the committee carried out its consideration of the bill and what its conclusions are regarding the passing of the bill and any amendments that might be made to it.
- If there are any recommended amendments, it indicates textually on a copy of the bill precisely what those proposed amendments are.

This form of reporting to the House was adopted following a Standing Orders Committee recommendation in 1995.\textsuperscript{202} Previously select committee reports on

\textsuperscript{198} SO 3(3).
\textsuperscript{199} SO 295(3).
\textsuperscript{200} Business Committee determination for 21 October 2014.
\textsuperscript{201} SO 295(2).
bills had generally been confined to indicating textual amendments to bills without any supporting explanation of the reasons for the committees’ conclusions. These reasons, insofar as they could be ascertained at all, appeared in the speeches of the members (especially the chairperson) when a report was debated in the House. Now select committee commentaries include extensive explanation of the committees’ legislative work and discussion of the major policy and drafting issues that confronted them in the course of considering particular bills.

Subject to its complying with any particular Standing Orders requirements, how each committee’s commentary is drafted is a matter for it to decide. Commentaries often describe the differing views of members or parties on the issues that have been considered. Indeed as there is no convention of collective responsibility attaching to committees, there is no expectation that committees should present unanimous views. Committees have therefore canvassed the differing views of their membership in their reports. Thus where a committee is divided on whether a bill should be passed, the majority opinions in favour of its passing have been described in the commentary party by party and then the minority opinions similarly set out party by party.

Occasionally a committee may be evenly split on how to report a bill back to the House. In these circumstances the committee has reported the impasse and indicated that it was unable to make a recommendation on the future of the bill. The committee, though split on the bill, may be able to agree to present a report describing the differing views of its members or of the parties represented on the committee. Committee reports have done this even though the committee itself could make no recommendations.

The fact that a select committee report records split views can make it unreliable as an aid to determining Parliament’s intention where a question of statutory interpretation arises, though the majority’s view has been taken to represent the parliamentary intention.

Reports on private bills

The committee’s report on a private bill must indicate whether the statements in the bill’s preamble have been proved to the committee’s satisfaction. If the objects of the bill could be attained otherwise than by legislation, the preamble must state why legislation is preferred. This will be a crucial matter for the committee to address in deciding whether to recommend the bill’s passage. The question of an alternative to legislation must be confronted in the committee’s report.

The preamble may be proved to the committee’s satisfaction even though the committee decides to amend it. Only if the amendment were fundamental in character would it be necessary for the committee to conclude that the preamble had not been proved. A finding that the preamble has not been proved does not automatically kill the bill, though it will obviously count against its passing.

203 SO 291(4).
208 Vela Fishing Ltd v Commissioner of Inland Revenue [2001] 1 NZLR 437 (HC) at [129] – [131] (reversed on other grounds [2002] 1 NZLR 49 (CA)).
209 As, for example, in Norske Skog Tasman Ltd v Clarke [2004] 3 NZLR 323 (CA) at [51] per Anderson P and William Young J.
210 SO 291(2).
211 SO 258.
Suitability of using Local Legislation bills

The committee considering a Local Legislation Bill must report on the appropriateness of using the bill as the vehicle for the particular legislative changes being proposed. A Local Legislation Bill is an alternative to having several local bills, but if an amendment proposed for inclusion in it is particularly important it may be more appropriate for the amendment to be introduced as a separate local bill. The committee is required to address this and report specifically on it.212 If the committee concludes that a clause of a Local Legislation Bill should more properly have been introduced as a local bill, it is likely to recommend the omission of that clause from the bill.

Reports on associated topics

A committee can, in the same report, make a report on a bill that has been referred to it and on associated matters. That is a matter for the committee to decide. Conversely, a committee is not bound to bring reports on associated matters back to the House with a report on a bill. Bills are often reported back to the House along with linked petitions213 or with Supplementary Order Papers relating to the bill that have been specially referred to the committee.214 A committee has reported on a bill together with a related international treaty examination.215 In each case it is up to the committee whether to present one or separate reports.

A committee cannot combine two bills into one. However, in reporting on a bill, a committee can include a commentary jointly addressing matters raised by another bill that is reported at the same time.216 A committee’s report on a bill may also include its response to an associated report by the Attorney-General on that bill’s consistency with the New Zealand Bill of Rights Act.217

PRESENTATION OF REPORTS

A select committee report on a bill is presented like any other select committee report, by delivering it to the Clerk on any working day or before 1 pm on any day on which the House sits.218

It is the duty of the chairperson to present the report to the House within a reasonable time of being directed to do so by the committee. This does not mean at once and a delay of up to a week in presenting a report is quite acceptable.219 It is desirable in any case for the chairperson to refrain from presenting the report until the commentary has been printed and the bill reprinted to show the amendments that the committee has recommended. Ideally there should be no hiatus between presentation of the report and its availability for public dissemination in printed form, though this always depends upon the size of and amount of work to be done on the reprinted bill.220 A delay in presentation by the chairperson to facilitate its reprinting before presentation of the report is therefore desirable.

212 SO 291(3).
214 See, for example: (11 July 1989) [1987–1990] 2 JHR 1490 (Local Legislation Bill).
216 See, for example: Maraeroa A and B Blocks Claims Settlement Bill (9–2) and Maraeroa A and B Blocks Incorporation Bill (8–2) (commentary, 14 June 2012) ([2011–2014] AJHR I.22A at 679 and 689).
217 See, for example: Parole (Extended Supervision Orders) Amendment Bill (195–2) (commentary, 5 November 2014) at 2–3.
218 SO 249(1).
REPRINTING OF BILLS

A bill must be reprinted to show the amendments recommended by a select committee and reprinted copies of it provided to the Clerk by the member in charge of the bill. Bills are reprinted according to a standard style that indicates clearly on them any provisions that the committee has recommended be omitted from the bill and, conversely, provisions that the committee recommends for insertion in the bill. Occasionally this standard style is departed from in the interests of clarity. Thus, in one case where the amendments recommended by a committee were so extensive that it would have been almost impossible to illustrate them by showing omitted and inserted material, the bill was printed “clean” to show it in the form that the committee recommended that it proceed. The amendments proposed by the committee were listed separately in a schedule. In another case where a bill had been split out of another bill and extensively amended, it was also printed clean but this time with the addition of a “finding chart” to enable the reader to find the equivalent clause (if one existed) in earlier versions of the larger bill.

Though reporting back a bill with amendment always involves reprinting it, the Speaker may agree to dispense with this requirement if only minor textual amendments are involved. Thus, when committees recommended only a change to the date shown in the title in one bill, and the pluralising of a word in another, the Speaker directed that the bills not be reprinted as this was not justifiable for such small amendments. Committees have occasionally reported a bill back without amendment but with a recommendation that the committee of the whole House make amendments to it because they were not considered important enough to warrant reprinting the bill, or the bill was expected to proceed through the House so quickly there would not be time to reprint it.

A bill is not available for debate until copies of it, as reprinted, have been circulated to members.

SETTING BILL DOWN FOR SECOND READING

Once the committee’s final report on a bill has been presented, the bill is set down for second reading on the third sitting day following. An adverse select committee report on a bill—indeed one that recommends that the bill not proceed—does not kill the bill at that point. It is still set down for second reading. It is for the House to determine its fate when it next considers the bill. The bill will be available for debate as a Government, Member’s or local and private order of the day depending upon its type. An interim or special report on a bill is also set down for consideration as an order of the day on the third sitting day following. The bill, at this stage, stands on the Order Paper as an order of the day for second reading. The order in which Government bills are taken is largely in the hands of the Government. Members’ private and local bills are considered in the order prescribed by the Standing Orders. (See pp 196–197.)

221 SO 267(2), (4)(a).
222 Children and Young Persons Bill (97–2) (20 April 1989).
223 Taxation Reform Bill (7–1) (20 March 1990).
224 SO 267(2)(c).
228 SO 267(4)(b); (2002) 605 NZPD 2704–2705 Hunt (Local Government Bill).
229 SO 296(a).
230 (1914) 170 NZPD 519 Lang.
231 (1901) 118 NZPD 619 Guinness (Deputy Speaker).
232 SO 296(b).
When the order of the day for a bill’s second reading is reached it is possible for any member to move that it be discharged, and that the bill be referred back to a select committee for further consideration. There is no amendment or debate on this question. If a bill is referred back to a select committee in this way, any recommended amendments will not have been adopted and so will not have become part of the bill, though the committee will take account of the work that has already been done when it considers the bill anew.

SECOND READING

The second reading of a bill is the stage at which the House is asked to adopt the bill before it in principle (with any amendments to it proposed by the select committee). While there may be changes to details after this stage, the House is being asked here to make a fundamental commitment as to the desirability of passing the bill at all.

When the order of the day for the second reading of a bill is reached, the Speaker calls upon the member in charge to move the motion “That the … Bill be now read a second time”. While one member may act for an absent member in moving the motion, a non-Minister cannot move a motion in respect of a Government bill. The debate is limited to 12 speeches, each of a maximum duration of 10 minutes.

A much wider discussion on the bill is permitted at this stage than at any other, but members are still expected to discuss the main purpose and contents of the bill and matters reasonably related to it, and not to deal at length with matters not provided for in the bill. While members should direct their attention to the bill as it is before them, they may indicate their intention to move amendments to the bill in the committee of the whole House, and it is legitimate for a member to give reasons for doing so. However, a detailed debate on proposed changes to the bill is not permissible. Members proposing to move amendments to their own bills usually place such amendments on a Supplementary Order Paper for the information of members, which may be circulated at any time, even before the second reading.

If it is available at the time, a Supplementary Order Paper may be referred to in general terms during the second reading debate, but not discussed in detail. However, where a Supplementary Order Paper is not only available but has itself been considered and reported on by a select committee, it can be discussed freely along with the bill. Members should not refer to a Supplementary Order Paper that has not yet been circulated, beyond making passing reference to its existence. The question of the admissibility of amendments that members intend to move is a matter for the Chairperson to deal with when the bill is considered in committee; it is not for the Speaker to rule on.

Where the bill under debate is one amending an existing Act already in force (as most bills are), members may point out further amendments they think should be made to the principal Act, but they cannot begin a debate outside the scope of the question before the House. The fact that a bill is an amending bill does not make everything in the principal Act relevant in the debate. Only those sections

---

233 SO 74(1). See, for example: (2 July 2013) 691 NZPD 11424 (Food Bill).
234 SO 74(2).
235 SO 297.
236 Sos, App A.
237 (1936) 244 NZPD 837–838 Barnard (Primary Products Marketing Bill).
238 (1920) 186 NZPD 517 Lang (Gaming Amendment Bill).
239 (1922) 197 NZPD 187–188 Lang (Post and Telegraph Amendment Bill).
240 (1983) 452 NZPD 2219–2220 Harrison (Transport Amendment Bill (No 4)).
241 (1975) 398 NZPD 2175 Whitehead.
243 (1924) 203 NZPD 752 Statham (Legislature Amendment Bill).
of it directly affected by the amending bill and any of its other sections of general
effect, such as the interpretation section, may be referred to.

AMENDMENTS ON SECOND READING

On the second reading of a bill members are asked to endorse the bill by giving it
a second reading, but they may decide instead to defer a decision on it, or decide
definitively that it should not proceed. Deferral or defeat can also be effected by
amending the question for the bill’s second reading.

The question for the second reading of the bill is open to amendment in a way
that pertains to one of these objects. An amendment that merely seeks to add
words to the motion does not do either of these things. Such an amendment would
attach conditions to the second reading and leave the House’s decision unclear.244
An unequivocal decision must be reached if a bill is to be read a second time. Nor
is it possible simply to move that the bill do not proceed.245 If that is what members
want, they should vote against the second reading.

An amendment cannot be moved at this stage to refer the bill to a select
committee.246 The Standing Orders provide appropriate procedures for the referral
of a bill to a select committee and this cannot be done indirectly on the question for
the second reading.247 Neither can an amendment propose to refer a bill to another
body that is outside the control of the House.248

Amendments to defer second reading

A traditional deferral amendment is one to omit the word “now” and to add at the
end of the question “this day three months”, “this day six months”, or any other
specified time. The time must be specified and cannot be reckoned by reference
to an uncertain event (such as “three months after the publication of the report of
the royal commission to be set up”249). This type of amendment does not overtly
defeat the bill, but it is intended to have the effect, if carried, of fatally postponing
the second reading.

Adverse or reasoned amendments

An amendment moved on the question for the second reading may put forward an
abstract proposition relating to the bill—what is known as a reasoned amendment.250
The proposition will be unfavourable to the bill receiving its second reading that day,
but it must offer an alternative to the second reading. An amendment declining to
give a bill a second reading until certain amendments had been made to it and the
money saved expended in other ways was accepted, because it offered an alternative
course of action to the second reading. If it had merely confined itself to suggesting
the striking out of certain parts of the bill this would not have been in order, because
the committee of the whole House could have done this later quite consistently
with the bill being read a second time.251 While the proposition put forward in a
reasoned amendment is an abstract one, it must be closely related to the bill under
consideration or it will be ruled out as not being relevant to the question. Thus an
amendment to substitute for the question for the second reading the words “this

244 (1994) 542 NZPD 3188 Tapsell (Appropriation Bill (No 2)).
246 (1959) 520 NZPD 1625–1626, 1647 Macfarlane (Land Settlement Promotion Amendment Bill).
247 The appropriate mechanism is to move that the order of the day for the second reading be discharged
and the bill referred to a select committee: SO 74(1)(a) and (2) (see p 199 “Discharge on motion”).
Examples include (24 March 2015) JHR 118–119 (Harmful Digital Communications Bill); (2 July
248 (1975) 397 NZPD 869 Whitehead (Hospitals Amendment Bill).
249 (1975) 396 NZPD 821; (1975) 397 NZPD 900 Whitehead (Hospitals Amendment Bill).
250 (1975) 397 NZPD 899–900 (Hospitals Amendment Bill); (13 May 2009) 654 NZPD 3247–3248
(Local Government (Auckland Reorganisation) Bill).
251 (1886) 56 NZPD 186 O’Rorke (New Zealand Loan Bill).
House views with grave alarm the Government’s proposal to embark on a course of uncontrolled inflation” was ruled out of order. The amendment neither offered an alternative to the second reading nor pertained to the motion.252 Amendments that propose resolving a bill’s proposition by way of referendum rather than legislation have also been accepted as reasoned amendments, because they too offer an alternative course of action to the second reading.253

**Public affairs amendments**

An amendment concerned with public affairs, which is not required to be strictly relevant to the bill, may be moved to the questions for the second reading of an Imprest Supply Bill and the main Appropriation Bill.254 This permits an amendment raising a question of confidence in the Government to be moved in the course of these debates. (See Chapter 8.)

If an amendment adverse to reading the bill a second time that day is carried, the order of the day is no longer available for debate on the next sitting day. This does not in itself formally kill the bill. All the House has decided is that it will not read the bill a second time on that day. The order of the day for the bill’s second reading would be placed on the Order Paper below the line, showing that it is not available for debate until some later sitting of the House.

**FINANCIAL VETO OF SELECT COMMITTEE AMENDMENTS**

Any amendments recommended to the House by a select committee are subject to financial veto by the Government on the ground that they may have more than a minor impact on the Government’s fiscal aggregates.255 (See pp 515–519 for the giving of financial veto certificates.) A financial veto regarding amendments recommended by a select committee must be given (if it is to be given at all) before the amendments are agreed to by the House.256 Thus a financial veto certificate in relation to select committee amendments can be given at any time between the presentation of the report and the House taking a decision on the second reading of the bill, because this decision is the point at which the House is deemed to adopt select committee amendments.257

Select committee amendments that are the subject of a financial veto are omitted from the bill.258 The bill is reprinted with them deleted. Such amendments cannot be moved again in the committee of the whole House.259

**ADOPTION OF SELECT COMMITTEE AMENDMENTS**

The amendments recommended by the select committee in its report to the House are just that—recommendations. Unless the amendments are adopted by the House they do not become part of the bill that proceeds to its committee stage. At the second reading stage the House decides whether or not to adopt the amendments. This is a matter that the House alone decides as part of its internal proceedings. Whether the amendments recommended by a select committee are appropriate for inclusion in the bill is not a matter on which a court can intervene or express an opinion.260

A select committee in its report on a bill must distinguish between the amendments it is recommending with the unanimous agreement of its members

---

252 (1939) 256 NZPD 832 Barnard (Reserve Bank of New Zealand Amendment Bill).
253 (14 May 2009) 654 NZPD 3245–3248 (Local Government (Auckland Reorganisation) Bill);
(13 March 2013) 688 NZPD 8543–8544 (Marriage (Definition of Marriage) Amendment Bill).
254 SOs 331(3) and 334(2).
255 SOs 326(1) and 329(1).
256 SO 329(1).
257 SO 300.
258 SO 329(1).
259 SO 329(3).
260 Ram Dubey v Government of Madhya Bharat [1952] AIR (Madhya Bharat) 57.
The Legislative Process

and those adopted by a majority vote of the committee. This distinction reflects the two-stage decision that the House makes before the amendments are adopted.

At the conclusion of the debate on the second reading of a bill, either one or two questions are put to the House depending upon whether the committee recommended any amendments by majority. If there are no majority amendments the question for the bill’s second reading is put and determined. If it is agreed to, the select committee amendments are regarded as having been adopted by the House. But if there are majority amendments two questions are put. The first asks the House specifically whether it agrees to the majority amendments. There can be no amendment or debate on this question. Following the determination of this question, the question for the bill’s second reading is put. If the House agrees to the majority amendments they, and any amendments recommended unanimously, are regarded as having been adopted by the House when the bill is read a second time.

If the House does not agree with majority amendments but does give the bill a second reading, the bill is reprinted with the majority amendments removed.

SETTING BILL DOWN FOR COMMITTEE STAGE

When the question for its second reading has been carried, the bill is ready to proceed to its next stage, which is consideration by a committee of the whole House. For this purpose it is set down for consideration in committee on the next sitting day. This means that its committee stage becomes an order of the day. In the case of Government bills, the Government will determine when it is considered. Where practicable, the Government advises the Business Committee which bills it intends to be considered in committee in the following week, and it may include such advice in the Leader of the House’s Thursday business statement. These committee stages are noted on the Order Paper. Other bills stand on the Order Paper in the priority determined by the Standing Orders. (See pp 196–197.)

COMMITTEE STAGE—CONSIDERATION BY COMMITTEE OF THE WHOLE HOUSE

Nature and purpose of committee stage

Consideration of a bill by a committee of the whole House is known as the committee stage in the passing of a bill. The House goes into committee to decide whether the bill’s provisions properly incorporate the principles or objects embodied in the bill when it received its second reading, and to consider and make relevant amendments. Unlike a select committee, a committee of the whole House is not required to give its opinion on whether the bill should be passed.

Considering a bill in committee gives all members of the House an opportunity to participate, if they wish, in a more in-depth discussion of the bill and to move amendments to its text. Without the committee stage, only the handful of members who had served on the select committee considering the bill would have this opportunity. The less formal character of debate in committee allows more direct exchanges of views, particularly with the Minister or member in charge of the bill.

During the committee of the whole House stage, Ministers may propose amendments that may be required as a result of the House’s adoption of amendments

261 SO 292(4).
262 SO 300.
263 SO 298(1).
264 SO 298(2).
265 SO 300.
266 SO 299.
267 SO 301(3).
268 SO 302(1).
recommended by a select committee or that otherwise reflect submissions to a select committee. Under MMP, the committee stage has taken on significance as the point in the legislative process at which the full proportionality of the House is brought to bear on the text of bills.\(^{269}\) It is also the “final shot at getting it right”, the last opportunity to fine-tune the drafting of the bill.\(^{270}\)

When a bill is passed under urgency without the benefit of select committee consideration, the committee of the whole House is the only real opportunity for detailed scrutiny. The price for bypassing the select committee process therefore is likely to be an extended committee of the whole House stage.\(^{271}\)

The presumption is now that bills will be considered part by part rather than clause by clause, which results in broader discussion of the provisions of bills. There is a shift towards debating the major issues and the raising of alternative propositions in a public forum for the record. Part 1 of a bill usually includes a purpose provision, which allows the bill’s background and policy to be debated fairly widely, giving members who could not speak at the second reading an opportunity to participate in the debate. The final debate of the committee stage on the preliminary clauses allows for summing up. The consideration of amendments by way of alternative propositions rather than dealing with them clause by clause can avoid spending considerable time voting on many individual, minor amendments.\(^{272}\)

By the time the bill reaches the committee of the whole House, provisions added by a select committee are an integral part of the bill, having been adopted by the House at the second reading. The select committee may also have recommended that certain provisions be deleted, so the bill may no longer include some of the clauses, parts or schedules it had when it was introduced. Therefore, by the time a bill reaches a committee of the whole House the numbering of its provisions may not be straightforward. The important thing, however, is that each provision is assigned a number or a number and letter that will identify it correctly and uniquely; the consecutive numbering of the bill can be tidied up when it is being prepared for the Royal assent.

**Notice of committee stage**

To facilitate preparation for the committee stage, where practicable the Government advises the Business Committee which bills it intends to consider in committee in the House’s next sitting week.\(^{273}\) While failure to give notice does not prevent the Government from taking a bill’s committee stage, there will be less opportunity for members to submit their amendments as coherent alternative propositions and have them published on the New Zealand legislation website and printed on a Supplementary Order Paper; and as a result less likelihood that the Government will benefit from the effective arrangement of committee stages by the Business Committee.

**Making arrangements**

In 2011 the Standing Orders Committee responded to criticisms of the committee of the whole House stage by promoting constructive negotiations in the Business Committee about the arrangement of the House’s business in committee.\(^{274}\) Having recommended more legislative scrutiny in select committees, where the

---

272 Ibid at 44.
273 SO 301(3).
The Legislative Process

less formal environment with advisers and parliamentary counsel present allows detailed attention to matters of legislative quality, the Standing Orders Committee acknowledged a shift in the focus of the committee of the whole House away from consideration in detail. It sought to reflect this change in the conduct of the committee stage and the increasing flexibility for the Business Committee to make arrangements.

The Business Committee may determine how a committee of the whole House will consider a bill and whether the committee’s powers are to be extended or restricted in its consideration. The committee of the whole House could be authorised by the Business Committee to consider out-of-scope amendments in a similar way to the conferral of authority through an instruction. (See p 428.) The Business Committee may determine whether consideration will be issues-based or proceed by single amendments, and also the grouping of parts in committee stages. Two bills that are closely related can be taken together in committee for the purpose of debate (in technical terms, with the consideration of the first bill taken as a single question and extended to permit debate on the second bill, and then with consideration of the second bill limited so that its questions are put without debate). A local bill or a private bill can be set down for committee stage by the Business Committee together with a Government bill. The Business Committee can prescribe a deadline for the lodging of amendments to a bill, or a particular time at which questions will be put in committee.

Such determinations may be made before or after a bill is introduced and may be varied by a further determination of the Business Committee, a decision of the committee of the whole House, an instruction, or the member in charge postponing his or her bill. Pre-introductory consideration of the arrangements for a bill’s committee stage, along with the variation of determinations where necessary following select committee consideration, for instance, should allow a bill to be drafted with a logical and accessible part structure without adding to the time taken in part-by-part consideration in the committee of the whole House. The proposal of arrangements for the committee stage also fosters early consultation with party spokespeople. Arrangements for the committee of the whole House can be innovative, and the Business Committee is encouraged to try new approaches.

Dispensing with committee stage

The Business Committee has the power to dispense with the committee stage of a bill and determine that it should proceed directly to its third reading. If it so determines, the order of the day is altered and the bill set down for third reading accordingly. On occasion bills that are of a technical nature and would otherwise be considered for the omission of a committee stage must be committed solely for the purposes of being divided. To obviate this necessity, the Business Committee

275 SO 301(1).
276 See, for example: Business Committee determinations for 7 March 2012 and 18 October 2012 (Alcohol Reform Bill).
278 Ibid.
279 Business Committee determinations for 19 September and 28 November 2012 (Alcohol Reform Bill).
280 SO 301(2).
281 For example: the Parliamentary Privilege Bill was amended by the Privileges Committee to include five rather than two parts as drafted at introduction. The bill was made available for consideration by the committee of the whole House in an extended sitting, with third reading to be taken forthwith. By leave, the bill was debated in the committee stage as one question. See Business Committee determination for 23 July 2014; (22 July 2014) 700 NZPD 19347; and (30 July 2014) 700 NZPD 19737, 19748.
283 Ibid at 9.
284 SO 299. See, for example: Business Committee determinations for 21 March 2012 and 18 July 2012.
has been given the power to determine that a committee stage will not be held, and to instruct the Clerk to divide the bill in the way set out in a Supplementary Order Paper for the purpose.285

The Business Committee may make such a decision at any time between the order of the day for the committee stage being set down and the committee stage being held. Alternatively, the House itself may give leave to dispense with a committee stage and proceed immediately with the third reading of the bill. In the case of Imprest Supply bills and Appropriation bills dealing with Supplementary Estimates, no committee stage is held unless the Minister in charge of the bills requires one so that an amendment can be considered or, in the case of Supplementary Estimates, because a change to a vote has been recommended by a select committee.286

Revision bills and confirmation and validation bills also do not have a committee stage unless the Business Committee determines otherwise, the Minister in charge requires an amendment or amendments to be considered, or a member has lodged an amendment with the Clerk at least 24 hours before the House meets on the day on which the bill is read a second time.287 These types of bills generally proceed directly from the second reading to the third reading stage. In the case of revision bills and confirmation and validation bills, the third reading takes place without debate.288

Going into committee
As with the order of the day for the second reading of a Government bill, the time at which the order of the day for a bill’s committal is reached is largely in the hands of the Government. Members’, private and local bills are considered in the order prescribed by the Standing Orders. When the order of the day for going into committee on a bill is read, the Speaker leaves the Chair without any question being put and the House automatically resolves itself into committee.289

If a number of bills for committal stand consecutively on the Order Paper, the House usually goes into committee on all of them at the same time, depending on reasonable prospects of reaching the business in question.

INSTRUCTIONS
The task of a committee of the whole House on a bill is defined in the Standing Orders. Such committees are specifically given the power to make amendments that are relevant to the subject matter of the bill, are consistent with the principles and objects of the bill and otherwise conform to the Standing Orders and practices of the House.290 This power to make amendments defines the committee’s major task on a bill. A committee cannot make an amendment that is not relevant to the bill before it or that the Standing Orders otherwise forbid it to make, unless it is specially authorised by the House to do so. The House gives such special power by means of an instruction, which is a resolution of the House agreed to before it goes into committee.291

As well as instructions relating to the subject matter of a bill, an instruction may relate to the procedure to be followed by the committee while it considers the bill, for example, as to the order or manner of considering the bill’s provisions.

285 SO 309(4); (12 March 2014) 697 NZPD 16652 (Nga Punawai o Te Tokotoru Claims Settlement Bill).
286 SOs 331(4) and 342(3).
287 SOs 271(6) and 325(3).
288 SOs 271(6) and 325(4).
289 SO 170. This contrasts with the former position on the committal of a bill, where a motion was moved that the House “do resolve itself into a Committee of the Whole”. The debate on this motion for going into committee was formerly a substantive stage in the passage of a bill on which the main debate took place. Now, where a bill is concerned, no debate is possible at this point; the House goes into committee automatically.
290 SO 302(2).
291 SO 176.
However, this is now more likely to arise from a Business Committee determination or by leave of the committee itself.\footnote{See, for example: Business Committee determination for 11 March 2015 (Remuneration Authority Amendment Bill).} An unusual use of a procedural instruction was to direct the committee to take important decisions on the substance of the bill at the outset of the committee stage and to leave the detailed examination of the bill until after these decisions have been made, so that any amendments could be made in the light of the committee’s “in principle” decisions.\footnote{Sale of Liquor Amendment Bill (No 2) (211–2) (commentary, 5 July 1999) at i–iv ([1996–1999] AJHR I.24 at 471–474).} This approach has the potential to simplify consideration of bills, since only amendments that implement or were consistent with those initial decisions could then be moved. But generally bills justifying this sort of treatment will involve conscience issues where members vote on an amendment by choosing between several alternatives.\footnote{(29 August 2012) 683 NZPD 4851 and Business Committee determination for 21 March 2012 (Alcohol Reform Bill).}

The Business Committee can determine how a committee of the whole House will consider a bill,\footnote{SO 301(1)(a); Standing Orders Committee \textit{Review of Standing Orders} (27 September 2011) [2008–2011] AJHR I.18B at 44–45.} and may extend or restrict its powers.\footnote{SO 301(1)(b).} Thus it could broaden the scope of possible amendments, as long as the proposed amendments were not foreign to the subject matter of the bill. Such Business Committee determinations are thus similar in effect to instructions by the House.

When an instruction has been given in respect of a particular bill, the instruction endures for any second or subsequent occasion on which the House resolves itself into committee to consider the same bill, and does not need to be moved again.

\section*{Restrictions on instructions}

While an instruction is designed to extend the committee’s regular powers in respect of the way it can deal with a bill, it must not be completely foreign to the bill or it will not be a proper instruction.\footnote{(9 December 2010) 669 NZPD 16256–16257 Barker (Assistant Speaker); (1993) 534 NZPD 14421–14422 Gray (Taxation Reform Bill (No 2)).} This is particularly significant in the case of amendments. An instruction can be used to widen the scope for accepting amendments to admit some that would not otherwise be in order; it cannot be used to introduce a subject that is totally irrelevant to the bill.\footnote{Malcolm Jack (ed) \textit{Erskine May’s Treatise on the Law, Privileges, Proceedings and Usage of Parliament} (24th ed, LexisNexis, London, 2011) at 558–559.} Each bill (except for a specifically permitted omnibus bill) must relate to one subject area only.\footnote{SO 260(1).} It is not possible to confer power on the committee by way of instruction to introduce a new subject that should properly form the subject of a distinct measure. This rule is designed to prevent entirely new matters being tagged on to a bill with which they have no connection. In such a case the Standing Orders would need to be suspended.\footnote{See, for example: (2001) 591 NZPD 8613 (Fisheries (Remedial Issues) Amendment Bill).} Furthermore, the fact that a bill has progressed a significant distance through the legislative process must be borne in mind in considering the breadth of any instruction that might be moved. The House has given the bill a first and a second reading; the principle of the bill as it has progressed so far cannot be destroyed by introducing an amendment at the committee stage by way of an instruction.\footnote{(1931) 227 NZPD 437 Statham.}

\section*{Moving of instructions}

A member may not move an instruction that is the same in substance as an instruction that was agreed to or defeated in the same calendar year.\footnote{See, for example: (2001) 591 NZPD 8613 (Fisheries (Remedial Issues) Amendment Bill).} (The general rules for moving and debating instructions are described in Chapter 19.)
PROCEDURE IN COMMITTEE
Speaking in committee
On most questions in committee on a bill, a member may speak on up to four occasions for not more than five minutes on each occasion. In the broader debate associated with part by part consideration in the committee of the whole House, members, particularly the Minister or member in charge of a bill, may be allowed consecutive calls, but this is always at the discretion of the Chairperson. Multiple calls are designed to encourage exchanges between members and, most importantly, with the Minister or member in charge of the bill, who is not subject to any limitation on the number of speeches he or she may make. The Business Committee has arranged debates to facilitate such exchanges by reserving a particular number of calls for each Minister in the chair. With this goes an expectation that questions and issues raised by members in their calls will be addressed by the Minister. Interaction between the Minister and members is likely to result in a more informative debate.

The Minister or member in charge of the bill sits at the Table on the right of the Chairperson. Departmental officials or other advisers sit behind the member in charge, on the seats to the right of the Speaker’s Chair. Officials, while they may not come on to the floor of the House itself, can readily communicate with their Minister from this position while the committee stage is in progress. In the case of a Government bill, in the Minister’s absence another Minister may act as Minister in charge, but this may draw protests from other members as an acting Minister is not likely to have the detailed knowledge of a bill’s provisions required to respond to questions at the committee stage.

Delegation of functions
A committee of the whole House has no power to delegate or transfer its functions to other bodies or organisations. The committee cannot refer a provision or proposed amendment to a select committee, and such a motion, if moved in committee, will not be accepted by the Chairperson. Similarly, the committee cannot refer a provision to the Government with a recommendation for amendment. The committee’s job is to go through the bill and make its own decisions and it must discharge this task itself. It cannot adjourn its own sitting, or the consideration of a bill, to a future sitting, although it can report to the House what progress (or lack of progress) it has made and effectively end further consideration by the committee at that time.

Order of considering bill
Under the Standing Orders, if a bill is drafted in parts, the committee will consider it part by part. In this case, the bill’s provisions are considered in committee in the following order:
- the preamble, if there is one
- the parts and other provisions that are not preliminary clauses
- the schedules, if any (debated together with relevant parts or clauses and then voted on separately)

303 SOs, App A.
304 (3 November 2015) 709 NZPD 7664 Mallard (Chairperson).
305 (1990) 506 NZPD 915.
307 (1923) 201 NZPD 619 Statham (War Pensions Amendment Bill).
308 SO 180.
309 SO 181.
310 SO 303(1), (2).
311 SO 303(2).
the preliminary clauses, that is, the title clause, commencement clause and, if applicable, principal Act clause. 312

New parts to be inserted in the principal Act are not taken separately. They will be authorised by a clause in the bill, which will be considered along with the rest of the part containing the clause, not in a separate debate. 313 If the bill is not drafted in parts, the committee considers its provisions in sequence. 314

The committee may be directed by the House by way of instruction or by a determination of the Business Committee to consider the bill in another way—such as dealing with issues of principle first—or to consider parts in a different sequence. Alternatively, the committee itself may decide to consider the bill’s provisions otherwise than part by part. 315 Select committees in reporting a bill back to the House occasionally suggest that at the committee stage the bill’s provisions be considered in a different order from that in which they are drafted. 316

Debate

Except where otherwise provided, the same rules for debate apply in committee as in the House. 317 The Chairperson begins the debate on each provision as it is reached, by proposing that the provision (preamble, part or clause, as the case may be) stand part of the bill. 318 In proposing the question on a provision, the Chairperson reads only its number. 319 The proposing of each provision by the Chairperson, without a motion from the floor that such provision stand part, is an exception to the general rules on the process of debate. In this case the motions are in effect deemed by the Standing Orders to be moved, and the Chairperson is required to frame the necessary questions accordingly. Other motions may be moved in committee (for example to move a closure or to report progress to the House), but the basic work to be transacted by the committee is as prescribed by the Standing Orders and requires no mover to spark it off.

Debate on each provision must be relevant to the provision and must be confined to it. 320 An amendment that is outside the scope of a bill does not permit the scope of debate on a provision to be widened. 321

The debate terminates by the carrying of a closure motion or when no member wishes to speak. If no member seeks the call, the Chairperson puts the question on any amendments that have been lodged. Once the Chairperson has begun to do this there can be no further debate. 322

Preamble

If a bill does not have a preamble when it is introduced, one cannot be inserted by the committee of the whole House. 323 A preamble describes the circumstances that led to the bill’s promotion; if there is to be one, it should be prepared before the bill is submitted to the House, not concocted after the fact. In practice, few bills (except private bills and Treaty settlement bills) have preambles.

312 SO 3(1). A principal Act clause is one stating that the proposed Act amends a specified principal Act.
313 (17 September 2003) 611 NZPD 8814 Hunt (Smoke-free Environments Amendment Bill).
314 SO 303(3).
315 SO 303(1)(b).
317 SO 173.
318 SO 305(1).
319 SO 304.
320 (1924) 205 NZPD 728 Statham.
322 (1994) 544 NZPD 4965–4966 Gerard (Chairman).
Parliamentary Practice in New Zealand

Part by part consideration

The question proposed by the Chairperson at the commencement of each part is “That Part 1 (etc) of the bill stand part.”  
Debate may range widely over each part. The Chairperson will permit a longer debate on a large part with numerous subparts than on a more confined part. 
Any schedule or schedules of the bill relating to the part are debated along with the part. At the end of the committee’s consideration of all the parts, the questions on each schedule are then put separately but without any further debate.

Consideration clause by clause

If a bill is not drafted in parts, or if the committee is instructed by the House or the Business Committee to do so, or itself decides to do so, a committee considers the bill in sequence clause by clause. The schedules of a bill are considered along with any clauses to which they relate. It is a matter for the judgement of the Chairperson how long to permit for debate on each clause before accepting a closure motion.

Schedules

The schedules are debated along with the parts or clauses to which they relate, though they are voted on separately. They are subject to amendment on the same principles as the parts or clauses.

Preliminary clauses

The Standing Orders require that every bill include separate title and commencement clauses. These clauses, along with any principal Act clause, are known as the bill’s preliminary clauses. It is the practice not to include these clauses in a distinct part of the bill. They usually form the first three clauses of the bill, and are taken after all other provisions have been dealt with, unless the bill is drafted without a part structure, because they relate to the bill as a whole. The preliminary clauses are debated together, but the question on each clause is put separately. For bills drafted without a part structure, the Chairperson may allow a broader debate on the title clause, covering all the provisions of the bill, where the bill has not been to a select committee.

In principle, the debate on the preliminary clauses is limited to the elements of the clauses and any amendments proposed to them. The elements of the title clause, and thus the scope of the debate on it, are essentially limited to the bill’s name. However, members are accorded some latitude when debating the preliminary clauses at the end of the committee stage to summarise and make concluding remarks about the issues that they have raised during the committee’s consideration of the bill.

Although it is now usually considered towards the end of the committee stage, the title clause is still regarded as an important clause because, if the committee

324 SO 305.
325 (26 March 2003) 607 NZPD 4421 Hunt (Resource Management Amendment Bill (No 2)).
326 SO 303(2)(c).
327 SO 303(2)(d).
328 SO 303(1)(a)–(c), (3)(a).
329 SO 303(3)(b).
330 SO 303(2)(c)–(d), (3)(b)–(c).
331 SOs 255 and 256(1).
332 SO 3(1).
333 SO 303(2)(e).
334 (9 December 2008) 651 NZPD 533 Barker (Chairperson).
335 (1993) 534 NZPD 14901 Gray (Health and Disability Services Bill); (1997) 559 NZPD 1493 Braybrooke (Chairperson) (Taxation (Income Tax Rates) Bill).
336 (1992) 531 NZPD 12129 Anderson (Deputy Chairman) (Local Legislation Bill).
rejects it, this is an emphatic expression of the committee’s opinion against the bill. In such a case the committee either reports progress or goes on with the next bill before it (if there is more than one bill before the committee). The committee, when it comes to report, merely reports the rejection of the title clause, and the bill is dropped from the Order Paper.338

Postponement of provision

Subject to any direction by the House or any decision by the committee to the contrary, the member in charge of the bill has the right, as the bill is progressing through the committee, to require the postponement of consideration or further consideration of any provision of the bill.339 (Thus any provision of the bill that is under consideration or is to be considered may be postponed.) The member is not confined to using this power for any particular reasons, and does not have to give any reasons for doing so. However, it has been acknowledged that it is in the interests of good order for some reasons to be given to the committee, either informally through the whips or by way of a short statement at the time the member raises a point of order to require the postponement.340 The reasons given are not debatable. Any provision may be postponed by the member in charge in this way, including a new part offered by way of amendment by another member.341

The member postponing a provision can specify a point in the committee’s proceedings at which consideration of that provision is to be resumed. Alternatively, when a provision has been postponed, the committee may return to it when it decides by resolution to do so. If the member does not specify when a postponed provision is to be resumed and the committee does not deal with this itself, a postponed part or clause is considered when all other remaining parts or clauses (as the case may be), other than the preliminary clauses, have been considered,342 and a postponed preamble or schedule is considered when all other provisions of the bill have been dealt with.343 A provision postponed while the House is sitting under urgency may be resumed during that same period of urgency.344

Transfer of a provision

A provision may be transferred from one position in the bill to another.345 While it may often be possible to effect a transfer by way of amendment, this may sometimes not be the case because of the operation of the same question rule. For this reason a transfer may be effected by a motion moved when the provision to be transferred, or the part in which it is located, is reached. Such a transfer motion may be shown along with other amendments on any Supplementary Order Paper circulated to members. A part, subpart, clause, subclause,346 or schedule347 may be transferred to a new position in the bill.

Where the committee considers a provision out of sequence, either by leave or at the behest of the member in charge, this does not transfer the provision to a different position in the bill. Only a specific order of the committee to transfer the provision effects such a change.

338 (1927) 213 NZPD 1082–1083 (Legislature Amendment Bill (No 2)); (27 May 2009) 654 NZPD 3924 (Minimum Wage and Remuneration Amendment Bill).
339 SO 303(1)(d).
342 SO 303(4)(a).
343 SO 303(4)(b).
Division of a provision

A provision may be divided into two or more separate provisions on motion. Such a motion is taken at the end of the debate on the provision concerned but ahead of any amendments to it. The intention to move to divide a provision is shown as a proposed amendment on any Supplementary Order Paper circulated to members.

AMENDMENTS

Form of amendments

An amendment to a bill must be drafted with some precision; it is not an abstract motion. It is a form of words that may be embodied in law. An amendment must conform to legislative forms by referring solely to the provision before the committee (and not to the bill as a whole), and proposing to delete, insert or replace particular words. If a proposed amendment fails to do this it will not be accepted.

A proposed amendment may be framed as an amendment to the preamble or to a clause, a part or a schedule, or to insert a wholly new clause, part or schedule in the bill. New provisions are considered in their numerical order in the bill.

A new provision to be inserted in the bill is distinguished by a letter after its number, being that of the immediately preceding provision. For example, an amendment proposing to introduce a new clause after clause 22 of a bill would be numbered 22A.

Manner of lodging

A member may give notice of amendments he or she intends to move by lodging a written copy of them with the Clerk of the House, who then arranges for the amendments to be printed on a Supplementary Order Paper. This is a formal House document for the purpose of publishing and circulating proposed amendments or motions, which is prepared in accordance with the Standing Orders. The parliamentary counsel responsible for drafting the bill arranges for the preparation of Supplementary Order Papers setting out ministerial amendments. The Office of the Clerk prepares Supplementary Order Papers containing members' amendments. A Supplementary Order Paper may include an explanatory note explaining the purport of the amendments on it, but it is not required.

A Supplementary Order Paper is circulated to members, and published on the New Zealand legislation website at a time decided upon by the Minister or member. Authority to circulate a Supplementary Order Paper must be given explicitly by the member; it cannot be assumed by the Clerk.

When a member proposes amendments in writing without their being placed on a Supplementary Order Paper for circulation, six copies of the amendments must be handed to the Clerk at the Table. These copies are then available for perusal by other members.

351 SO 306.
355 SO 307(2).
Time for lodging

In general, there is no particular time at which proposed amendments must be lodged or circulated. They may be lodged at any time between the bill’s introduction and the conclusion of the debate on the provision to be amended. Thus, Supplementary Order Papers have been circulated as early as the introduction of a bill, and are occasionally themselves referred to a select committee for consideration. Now that the Government gives notice wherever practicable of the bills it intends to consider in committee, members have the time to prepare and lodge amendments. Once a closure motion on a question has been accepted by the Chairperson or the debate otherwise concludes, no further amendments may then be lodged (unless the closure motion is defeated and debate continues).

There are two time restrictions that members must comply with if their amendments are to be in order. In respect of any amendment that may have an impact on the Government’s fiscal aggregates, members must give notice of the amendment by lodging it with the Clerk at least 24 hours before the House meets on the day on which the amendment is to be moved. But this requirement only applies if the bill in respect of which the amendment is proposed is actually set down for its committee stage on that day. It does not apply, for instance, to a bill introduced under urgency and passed through all its stages, or to a bill that is before the House but has not yet reached its committee stage and whose committee stage is expedited by urgency. In such cases members would not have had notice that the time limit for the circulation of amendments affecting the Government’s fiscal aggregates was running against them.

The second time restriction relates to amendments to revision bills and confirmation and validation bills. If members have amendments to such bills, they must be circulated on a Supplementary Order Paper or lodged with the Clerk at least 24 hours before the House meets on the day on which these bills are read a second time, so that a committee stage can be held to consider the amendments.

An amendment is lodged with the Clerk for the purposes of these rules when the member gives authority for it to be circulated and thus made public. Authority to the Clerk to circulate an amendment can only be given when the amendment is in proper form. Circulation can be effected as a Supplementary Order Paper or in manuscript form.

Scheduling of amendments—grouping and selection

The Chairperson has the discretion to put a single question on a group of amendments that stand in the name of the same member and lend themselves to being grouped on account of their subject matter or because they form a single alternative proposition. Where amendments are proposed that in the opinion of the Chairperson are the same in substance, the Chairperson may select amendments on which to put a question in order to test the will of the committee.

Allowing Chairpersons to group amendments when putting questions is intended to encourage members to submit cohesive alternative propositions to be considered as whole packages; but this is very much dependent upon the Government giving notice of the bills to be considered in committee. The grouping and selection of amendments is at the option of the Chairperson, with the aim being to allow the effective consideration of a bill by the committee of the whole

356 SO 301(3).
357 SO 330(1).
358 SO 330(3).
359 SOs 271(5)(c) and 325(3)(b).
361 Ibid.
362 SO 307(4).
363 SO 307(5).
Parliamentary Practice in New Zealand

House. A failure by the Government to give notice of an intended committee stage, or the passing of a bill under urgency, is not conducive to such effective consideration and thus the Chairperson may be less inclined to exercise the option to group or select amendments.

A schedule of members’ amendments (as grouped and selected by the Chairperson) is prepared by the Clerk and published by 2 pm on the day on which a bill is to be considered in committee. There is no requirement for amendments to be included on the schedule. Its purpose is to inform members of the amendments that are to be debated and the questions on which there may be votes. The published schedule also assists in the chairing of the debate by making the Chairperson and members aware of who has proposed amendments, particularly those that propose alternatives to the bill’s provisions, and who might reasonably be seeking the call.

Proposing and debating amendments

A member who has proposed amendments in writing is deemed to have moved those amendments when they are circulated to members, and therefore does not formally move them. Members may refer to any amendment on a Supplementary Order Paper or any amendment in writing that has been handed in to the Table, as long as it is relevant to the provision then being debated. But they cannot speak on matters outside the scope of the part by the expedient of handing in an irrelevant amendment; the Chairperson still retains the right to maintain relevancy in debate. A similar rule applies to amendments to a clause when a bill is being considered clause by clause.

A member is not obliged to proceed with an amendment, though an amendment cannot be withdrawn without leave after a closure motion has been accepted.

ADMISSIBLE AMENDMENTS

A committee of the whole House may make amendments to a bill if they are relevant to the subject matter of the bill, are consistent with the bill’s principles and objects and otherwise conform to the Standing Orders and to the practices of the House. The permitted range of amendments that a committee may make to a bill are explored below by considering the kinds of amendments that are inadmissible on grounds of relevancy, inconsistency, direct prohibition by Standing Orders or lack of conformity to practice.

INADMISSIBLE AMENDMENTS

Amendments outside the scope of the bill

An amendment that is not relevant to the bill is often described as being outside the scope of the bill. Such an amendment is inadmissible. The bill cannot be turned into something that it is not or that it did not start out as.

Amendments outside the scope of the bill have been variously described as foreign to the bill, outside its purview, not within the leave to introduce the bill granted by the House, or inconsistent with the principles or object agreed to at second reading. The Standing Orders provide that a bill must relate to one

364 SO 307(1).
366 (1986) 470 NZPD 1052 Terris (Chairperson).
367 SO 302(2).
369 (1892) 78 NZPD 537 Steward (Land and Income Assessment Bill).
370 (1890) 69 NZPD 256 O’Rorke (Electoral Bill).
371 (1873) 14 NZPD 595 Bell (Provincial Officers Disqualification Bill).
372 (27 March 2013) 688 NZPD 9049 Roy (Chairperson) (Marriage (Definition of Marriage) Amendment Bill).
subject area only (except for those omnibus bills that are specifically permitted). Any attempt to introduce a second subject area into a bill would inevitably be outside the bill’s scope in any case.

When a bill is introduced it defines its own relevancy; that is, the boundary within which its details may be amended as a result of select committee proposals and by the committee of the whole House. A narrow view of the scope of a bill is not taken for the purpose of considering whether an amendment falls within it. If an amendment may be fairly associated with the clauses that are already in the bill, it is regarded as being within the scope of the bill. The test for admissibility is confined to whether the amendment is relevant to the subject matter of the bill, not whether it introduces new policy.

Examples of amendments ruled out of order as irrelevant to the subject matter of the bill have included an amendment to restrict liquor advertising when the bill dealt solely with the creation of a new type of liquor licence, and an amendment requiring the Social Security Commission to comply with ministerial directions when the bill dealt only with the rules for the payment of benefits and their amounts. In the latter case, an instruction was subsequently obtained from the House permitting the amendment to be made.

In considering whether an amendment is within the scope of a bill, any purpose clause is considered relevant, but it is not conclusive.

An amendment that is foreign to the provision it seeks to amend is also out of order. In such a case, if the amendment is within the scope of the bill, it can be proposed as an amendment to a more relevant provision or as a new provision.

Amendments to omnibus bills

Omnibus bills are bills that deal with more than one defined subject area. They are generally prohibited by the Standing Orders, though certain types of omnibus bills may be introduced. Because of their scope, omnibus bills raise special issues as to the amendments permitted to be made to them.

In principle, the scope of an omnibus bill is defined by its contents when it is introduced, just like that of every other bill. However, the Standing Orders themselves prescribe the subject scope of certain kinds of omnibus bills: Finance bills, confirmation and validation bills, Local Legislation bills, Māori Purposes bills, Reserves and Other Lands Disposal bills, revision bills, Statutes Amendment bills and taxation bills. Amendments to these bills are relevant if they fall within the scope of these bills as defined by the Standing Orders, even though their contents as introduced may be more limited.

Certain other omnibus bills are allowed by the Standing Orders. They are bills amending a number of Acts in order to implement a single broad policy, and bills amending a number of Acts in a similar way in each case. Amendments to these types of omnibus bill are relevant if they conform to the pattern of amendments that the bills are effecting. Not everything in an Act being amended by such a bill is opened up for amendment. Only amendments relating to the interrelated programme implemented by the bill, or that are of a similar nature (as the case may be) may be proposed.

373 SO 260(1).
374 (1987) 485 NZPD 1825 Terris (Chairman) (Finance Bill).
376 (24 November 1982) [1982] JHR 383–384 (Sale of Liquor Amendment Bill (No 2)).
377 (15 December 1977) [1977] JHR 588–589 (Social Security Amendment Bill (No 2)).
379 (1934) 239 NZPD 970 Smith (Chairman) (Customs Acts Amendment Bill).
380 SO 260(1).
381 SOs 262 and 263.
382 SO 262(1).
383 SO 263(a) and (b).
Omnibus bills that the Business Committee agrees may be introduced\textsuperscript{384} are of their own kind. Their scope can only be judged by their precise contents.

Omnibus bills may propose amendments to a number of different Acts when they are introduced. This is intrinsic to their omnibus character, which is represented in particular by Statutes Amendment bills.

An amendment may be made to add a substantive amendment to an Act not amended by the omnibus bill as introduced, as long as it is within the subject matter, objects and principles of the bill.

**Amendments of an omnibus nature**

Every bill must relate to a single subject area (except for permissible omnibus bills). No amendment that would introduce a second subject into a bill may be made. To do so would be to permit an amendment beyond the scope of the bill. In addition, no amendment can be made that would turn a bill that was not an omnibus bill at introduction into an omnibus bill. The assessment as to whether an omnibus bill is acceptable is made at introduction and not at subsequent stages.\textsuperscript{385}

**Amendments the same in substance as a previous amendment**

No amendment may be proposed that is the same in substance as an amendment that was agreed to or defeated in the committee of the whole House earlier in the same calendar year.\textsuperscript{386} The rule does not apply to an amendment where the question on the amendment was never actually put to the committee, for example because it was withdrawn.\textsuperscript{387}

The application of this rule received much attention during the committee stage of the Electoral Amendment Bill 1975. An amendment was moved proposing a number of electoral changes, including an amendment to one of the reserved provisions, which can be amended only by an affirmative vote of 75 per cent of the members of the House. The proposed amendment obtained a simple majority but not the support of 75 per cent of the members. It was declared lost. A further amendment was then moved resembling the first amendment in four out of five provisions but omitting the proposed change to the reserved provision. It was argued that this was substantially the same amendment as that which had already been negatived by the committee.

The Speaker, in ruling, held that it had been wrong to declare the first amendment to have been lost; only that part of it relating to the reserved provision had been lost. But he also held that the second amendment was not the same in substance as the first. It could only be the same if it had the same effect as the first. It was not substantially the same merely because it contained four out of the five points included in the other. The important thing to consider was the effect of the words of the amendment, not their quantity, and the second amendment minus the critical proposed change to the reserved provision was a very different proposition from the first.\textsuperscript{388} The effect of the amendment is what must be considered in deciding whether two amendments are substantially the same.

Where a select committee recommends amendments to a bill, their adoption or rejection by the House at the time the bill is read a second time does not preclude proposals for their further amendment in the committee of the whole House.

The Speaker has ruled that the “same in substance” rule allows the Chairperson to deal with a series of amendments to change a date, for instance. Further such amendments at the same place in the bill are not admissible when one such amendment has already been negatived by the committee.\textsuperscript{389} In 2011,

\begin{itemize}
\item \textsuperscript{384} SO 263(c).
\item \textsuperscript{385} (30 March 2010) 661 NZPD 10159 Roy (Assistant Speaker).
\item \textsuperscript{386} SO 264(b).
\item \textsuperscript{387} (1976) 407 NZPD 3880 Jack (Sale of Liquor Amendment Bill (No 2)).
\item \textsuperscript{388} (1975) 399 NZPD 3055 Whitehead.
\item \textsuperscript{389} (23 February 2010) 660 NZPD 9252 Barker (Chairperson).
\end{itemize}
after consideration by the Standing Orders Committee, this led to a change in the Standing Orders to allow the Chairperson flexibility to select representative amendments in order to test the will of the committee. If the committee votes down a representative selected amendment, the remaining “same in substance” amendments are ruled inadmissible.

Amendments inconsistent with the bill or a previous decision of the committee

The second reading is the time to debate the principles of the bill. Amendments in committee that attack the very principles already agreed to by the House at the second reading are not acceptable, nor are amendments that conflict with the provisions of the bill.

Thus in a bill to implement an agreement, amendments inconsistent with the agreement (which must be taken to have been endorsed in principle when the bill was read a second time) are not permitted.

No amendment that conflicts with a decision already taken by the committee on a provision or an amendment can be accepted. An amendment that has been lost in one part of the bill cannot be proposed again on another. Furthermore, when the committee has agreed that a provision shall stand part of the bill, it cannot propose to make an amendment that is inconsistent with that provision later in its consideration of the bill.

Further, an amendment, besides not being directly contrary to a previous decision of the committee, must also be consistent with the pattern of the bill as it has come before the committee. Thus, it was not in order to insert a clause of general application into a bill dealing with specific provisions applying to individual bodies. Nor could a new part containing substantive amendments to an Act be added to a bill when amendments to that Act had already been dealt with in an earlier part of the bill.

It is, however, not part of the Chairperson’s job to redraft a bill so that it is logically consistent. A bill as it comes before the committee may have contradictory provisions. That is for the committee to correct by amending the bill if it sees fit; it is not for the Chairperson to strike one of those provisions out of the bill. The Chairperson merely rules on the admissibility of amendments offered in committee, not on the sense or consistency of the bill as referred to the committee.

Amendments that are frivolous, vague or lacking form

Amendments that are frivolous, vague or lack legislative form are not in order. An amendment must clearly specify where in the bill it is proposed to be made. Where an amendment to a commencement date is proposed, it must provide certainty about when the Act is to come into force. An amendment that relies on an event of uncertain date, or one that may not take place, is not in order. Furthermore, the Standing Orders set out the form of the commencement clause and other preliminary clauses. Amendments that are not consistent with these requirements, such as the
addition of an expiry date to a commencement clause, are not in order.\textsuperscript{400} An expiry must be provided for in a distinct clause, which cannot be a preliminary clause.\textsuperscript{401}

An amendment to substitute the word "shall" for the word "may" in the title clause of a bill has been disallowed on the ground that it was frivolous. Normally the question of "shall" or "may" (the one being mandatory in connotation, the other permissive) would be a valid amendment, but not in the title clause, which merely fixes a method of citation.\textsuperscript{402}

Any amendment that is proposed to the title of a bill must be a serious and objective description of its contents. An amendment that is merely designed to criticise the contents of the bill will not be accepted.\textsuperscript{403} Thus amendments to the title of a pensions confirmation bill describing it as "betraying" senior citizens and to a tariffs bill describing it as breaking international agreements were not admissible.\textsuperscript{404}

Amendments that do not offer any significant change in the meaning of a provision have been ruled out of order.\textsuperscript{405} Such amendments simply seek to change the order of words in a particular clause or to substitute words with the same or very similar meaning.

An amendment that is too vague is not in order—for instance, an amendment providing that local authorities were to "have such resources as [would] enable them to engage adequate services … and to obtain and operate adequate technical facilities, plant, and equipment".\textsuperscript{406}

The subject matter of an amendment moved on the second reading of a bill may be proposed again in committee, provided that it is put into proper form and is not inconsistent with the principles or object of the bill agreed at the second reading.\textsuperscript{407}

## Amendments to delete part

When a bill is being considered part by part, an amendment proposing to delete a part altogether is not an acceptable amendment. The proper course, if this is desired, is to vote against the question "That [the part] stand part" when it is proposed by the Chairperson.\textsuperscript{408} However, it is usual to indicate on a Supplementary Order Paper that it is proposed to delete a part. Therefore, Supplementary Order Papers often show as a proposed amendment the deletion of a part. This is an amendment to the bill, although the mechanical process of deleting the part is not accomplished by an amendment, but by voting against the question that the part stand part. An amendment that is a direct negative of a part in the bill is equivalent to an amendment to delete it and is also out of order.\textsuperscript{409}

In nearly all cases, bills are considered part by part, making an amendment to omit a clause within a particular part admissible, as its deletion would not be a direct negative of the part. However, there can be no amendment to omit the only substantive clauses in a part or the single substantive clause in a two-clause part.\textsuperscript{410} But where clauses are being considered on their own, as the preliminary clauses

---

\textsuperscript{400} (23 February 2010) 660 NZPD 9267–9268 Barker (Chairperson).
\textsuperscript{401} SO 259.
\textsuperscript{402} (1913) 167 NZPD 88 Lang (Legislature Amendment Bill).
\textsuperscript{403} (2001) 597 NZPD 13703 Pettis (Chairperson) (Human Rights Amendment Bill); (2 September 2003) 611 NZPD 8269 Simich (Chairperson) (Immigration Amendment Bill); (23 February 2010) 660 NZPD 9247–9248 Barker (Chairperson).
\textsuperscript{405} (19 June 2012) 681 NZPD 3102–3103 Smith.
\textsuperscript{406} (1974) 395 NZPD 5234 Hunt (Chairman) (Local Government Bill).
\textsuperscript{407} (27 March 2013) 688 NZPD 9049 Roy (Chairperson) (Marriage (Definition of Marriage) Amendment Bill); (1880) 37 NZPD 578 O’Rorke (Property Assessment Bill).
\textsuperscript{408} (1996) 555 NZPD 12438 Gerard (Chairperson) (Tax Reduction and Social Policy Bill); (1997) 562 NZPD 3518 Revell (Chairperson) (Social Welfare Reform Bill); (2002) 604 NZPD 1744 Robertson (Chairperson) (Climate Change Response Bill).
\textsuperscript{409} See, for example: (2002) 604 NZPD 1744 Robertson (Chairperson); (9 December 2008) 651 NZPD 181 Roy (Chairperson); (1988) 490 NZPD 5638 (Finance Bill (No 3)).
\textsuperscript{410} (1991) 518 NZPD 3664 (Finance Bill (No 2)).
are, or where the bill does not have a part structure, an amendment to delete a clause is out of order.\textsuperscript{411}

**Insertion of a preamble**

A preamble cannot be inserted into a bill by way of amendment if the bill as introduced did not have one.\textsuperscript{412} A preamble describes the circumstances that led to the bill’s promotion; if there is one, it should be prepared before the bill is submitted to the House, not created later. But an existing preamble may itself be amended.

**Amendment of a purpose clause**

A purpose clause sets out the objects that the bill is intended to achieve. Any amendment to this clause is limited to helping to describe those objects, either by reflecting amendments made to other provisions of the bill as it has passed through the committee or by expressing better the original objects of the bill as it was introduced. Any proposed amendment to the purpose clause that is not linked in this way to the bill’s provisions is out of order. The scope of a bill cannot be widened by the device of amending a purpose clause.

**Amendments to deeds of settlement or agreements**

No amendment may be made to a deed of settlement or other agreement set out or referred to in a bill except to correct typographical errors or to reflect changes to the deed or agreement made by the parties themselves.\textsuperscript{413} A committee of the House cannot, by way of amendment to a bill, impose an agreement on parties that they have not reached themselves.

Deeds of settlement commonly embody a settlement between the Crown and Māori of a claim under the Treaty of Waitangi (though they are not confined to this subject). The task of a committee considering a bill to give effect to a settlement is to consider whether the provisions of the bill in fact give proper effect to the negotiated agreement. The committee could, for example, make amendments to ensure that the bill’s provisions work in a technical sense.\textsuperscript{414}

It is always for the House to decide whether to give legislative sanction to such a settlement or agreement.

**Amendments to bills implementing treaties**

Bills to incorporate international treaty obligations into domestic law often do so by including the text of the treaty in a schedule to the bill. No amendment may be made to the text of any international treaty or convention that is thus included in a bill except to correct errors in transcription.\textsuperscript{415} Such text has its own integrity as recording the agreement between the states that are parties to it. An amendment of the treaty or convention could be made only by any procedure prescribed by the agreement itself. But the provisions of the bill giving effect to the agreement can be amended, because it is for the House to determine how or whether it gives legislative effect to international agreements.\textsuperscript{416}

\textsuperscript{411} (1998) 571 NZPD 12084 (Ngāi Tahu Claims Settlement Bill).


\textsuperscript{416} Audrey O’Brien and Marc Bosc *House of Commons Procedure and Practice* (2nd ed, House of Commons, Ottawa, 2009) (Canada) at 770.
Select committee amendments subject to financial veto
Where a financial veto certificate has been given in respect of amendments recommended by a select committee, the amendments are omitted from the bill and the certificate also applies to prevent those amendments being moved again in the committee of the whole House.\(^\text{417}\)

Amendments having an impact on fiscal aggregates
Amendments that may have an impact on the Government’s fiscal aggregates must be lodged with the Clerk at least 24 hours before the House meets on the day on which they are to be moved. Failure to give notice in time means that they are out of order.\(^\text{418}\) (See pp 434–435.)

The onus is on a member wishing to avoid the impact of the rule, to give 24 hours’ notice.\(^\text{419}\) If there is any doubt about the amendment’s effect or a possibility that it may have a fiscal impact, an amendment lodged within the 24-hour timeframe will be ruled out of order.\(^\text{420}\) The Chairperson does not determine such a matter on a balance of probabilities; a possibility is sufficient. The Minister in charge of a bill often raises the issue on a point of order after receiving official advice, though it is finally for the Chairperson to rule.\(^\text{421}\)

Amendments subject to financial veto
An amendment that has been proposed may be the subject of a financial veto certificate before the question on the amendment is put.\(^\text{422}\) (See pp 515–519 for the giving of financial veto certificates.) Such an amendment is out of order and no question is put on it,\(^\text{423}\) though it may be debated along with the provision to which it relates. An amendment proposing a new part for which a financial veto certificate has been issued is out of order and no question is proposed on it. However, the issuing of the certificate may be debated later, in relation to other provisions of the bill.\(^\text{424}\)

Addition of provision fixing annual tax rates
A provision fixing annual tax rates can be in a stand-alone bill, or it can be part of a general taxation bill. But if such a provision is to be proposed to the House in a general taxation bill, it must be included in the bill as introduced. A matter of such constitutional import as the fixing of the annual rates of taxation cannot be added to the bill by way of amendment. (See Chapter 32.)

Addition of new clauses to Local Legislation bills
No clause may be added to a Local Legislation Bill by the committee of the whole House unless the clause has been provisionally approved by the Minister of Local Government and reported on by a select committee.\(^\text{425}\) A new clause proposed at the committee stage that has not been through these processes is out of order. But this does not prevent the substitution of a clause for a clause already in the bill, or the insertion of a clause incidental to or consequential on such a clause.\(^\text{426}\)

---

417 SO 329(3).
418 SO 330(1).
422 SO 329(2).
423 SO 329(2).
424 (5 December 2007) 644 NZPD 13575 Simich (Chairperson).
425 SOs, App C.cl 23(1).
426 SOs, App C.cl 23(2).
Amendments outside the scope of local bill or private bill notices

Local bills and private bills are advertised as being designed to effect stated objects, and people may be dissuaded from objecting to the passage of such a bill if they are satisfied with the advertised statement of objects. There is, therefore, a strict rule against a local bill or a private bill being amended while it is before the House in any way that is not within the scope of the notices advertising the intention to introduce the bill.\textsuperscript{427} If such an amendment is not within the scope of the bill it would not be in order in any case, but the rule goes further than that and prohibits amendments relevant to the subject matter of the bill but outside the advertised notices. (But the converse is not the case. A widely worded notice does not extend the scope of the bill beyond the subject matter of its provisions.) This restriction can be removed only by a suspension of the Standing Orders.

Where a local or private bill deals with land, it cannot be amended to encompass other land outside of the legal description or the plan lodged for inspection along with the bill. But the bill can be amended to deal with land specified in the notices in a different way from that originally proposed.

Amendments that should be included in a local or private bill

A Government bill or a Member’s bill can amend a local or private Act in a way that is consequential on the general legislative change being effected in the bill. But apart from consequential amendments, amendments to a local Act or a private Act should be made by a local bill or a private bill respectively.\textsuperscript{428} No amendment of a private Act or a local Act may be proposed to a Government bill or a Member’s bill, unless it is consequential on the other provisions of that bill.

Furthermore, no amendment that would have to be promoted by way of private or local legislation may be made to a Government or Member’s bill. Thus amendments to a bill to exempt specified establishments from the general smoke-free law should have been promoted in private bills since they were for the particular interest or benefit of a person or body of persons. They were out of order as amendments to a Government bill even though relevant to the subject matter of the bill.\textsuperscript{429} (Amendments applying to all establishments of a particular type—generic amendments—were in order even though there were only a few such establishments.\textsuperscript{430})

PUTTING THE QUESTION

Conclusion of the debate

At the conclusion of the debate on the provision before the committee, the Chairperson puts the question on any amendments that have been circulated or handed in, and then on the question that that provision stand part of the bill.\textsuperscript{431} The debate may conclude naturally or following the carrying of a closure motion. In the case of a natural termination of debate, the Chairperson pauses to ascertain if any member is seeking the call. If not, the Chairperson begins to put the question. Once the Chairperson starts putting the questions on any amendments, there can be no further debate on the provision.\textsuperscript{432} When the closure is carried or the Chairperson starts to put the questions on amendments, it is too late for an amendment on a Supplementary Order Paper or a manuscript amendment that

\textsuperscript{427} SO 302(3).
\textsuperscript{428} See, for example: (1907) 140 NZPD 59 Guinness (Costley Training Institution Act Amendment Bill); (1989) 504 NZPD 14723 Burke (Taxation Reform Bill (No 7)).
\textsuperscript{429} (12 November 2003) 613 NZPD 9977 Hunt (Smoke-free Environments Amendment Bill).
\textsuperscript{430} Ibid.
\textsuperscript{431} SO 307(3).
\textsuperscript{432} (13 May 2009) 654 NZPD 3382–3383 Smith; (1994) 544 NZPD 4965–4966 Gerard (Chairman).
has been handed in to the Table to be withdrawn by the member proposing it, but it may be withdrawn by leave.

**Manner and order of putting amendments**
The member in charge of a bill has the right to have all amendments to a provision in his or her name put as one question. Such amendments are dealt with after other amendments to the provision in question, unless the member in charge requests that they be dealt with first.

**Grouping and selecting amendments**
The Chairperson has the discretion to group and select amendments. The discretion to group a member’s amendments is an extension of the practice regarding the amendments of the member in charge, and it applies if the member’s amendments lend themselves to being grouped on account of their content or subject matter or because they form a single alternative proposition. The grouping of such amendments seeks to ensure effective consideration of a matter by focusing debate on the issues that are important to members, and the development of coherent alternative propositions, rather than expenditure of time voting on many related amendments.

Where multiple similar amendments are proposed to a single provision, the Chairperson may select one or more indicative amendments on which to put a question to test the will of the committee.

Apart from the special rights of the member in charge of a bill and the discretion of the Chairperson to group or select amendments, in principle, amendments should be dealt with in the order in which they would affect the provision concerned. But amendments can relate to the same place in a bill, and their texts can overlap. If this happens, an amendment from the member in charge (if it is not being taken together with other amendments from that member) is taken first. If other members’ amendments relate to the same place, they are taken in the order in which they were lodged with the Clerk.

The order in which amendments are dealt with can be significant in that a later amendment inconsistent with an earlier amendment that has been agreed to or defeated will be out of order. (See pp 438–439.)

The Chairperson does not read out the full text of amendments when putting the question on them. Members are expected to avail themselves of copies of amendments and study them. To assist members, the Office of the Clerk prepares a schedule listing the amendments that have been lodged on a given bill. The Chairperson will often give some description of the amendment by reference to its purport or its sponsor, so that members can follow which amendment they are being asked to vote on.

**RESOLVING THE QUESTION**
The question that an amendment be agreed to or that a provision of the bill stand part is resolved in the same way as any other question—by voice vote, party vote or personal vote. To be adopted, an amendment must be agreed to by a majority of those voting. However, where the question is whether an existing provision (even as amended) stand part of the bill, the provision does stand part of the bill even

---

433 (1986) 470 NZPD 1052 Terris (Chairman); (1994) 540 NZPD 1625 Gerard (Chairman).
434 (1986) 470 NZPD 1052 Terris (Chairman).
435 SO 308(1).
436 SO 308(3).
437 SO 307(4), (5). See also the discussion on p 437 on inadmissibility of amendments that are the same in substance.
438 SO 308(2)(a).
439 SO 308(2)(b).
on a tie.\textsuperscript{441} This is an exception to the general rule that on a tie the question is lost. If this rule were applied to the question that a provision stand part of the bill, the effect would be that the bill would be amended on a tied vote. Therefore the rule is set aside in this case.\textsuperscript{442}

There are three sets of circumstances, as detailed below, in which a question is not determined by a simple majority of votes on a party vote or a personal vote, as the case may be, and where unanimous concurrence or a qualified majority must be obtained for the amendment to be agreed to or for the provision to stand part of the bill.

**Clauses of a Statutes Amendment Bill**

In the case of a clause of a Statutes Amendment Bill (or of any bill divided from a Statutes Amendment Bill) the Chairperson, rather than putting a question, asks if there is any objection to the clause standing part. At this point any member may object to the clause standing part. If a member does so object, the clause is struck out of the bill.\textsuperscript{443}

**Reserved provisions**

The repeal or amendment of one of the reserved provisions of the electoral law can only be made if the proposal for repeal or amendment is passed by a majority of 75 per cent of all members of the House.\textsuperscript{444} (See Chapter 3.) This does not apply to the repeal of a reserved provision in a consolidating bill if the provision is at the same time to be re-enacted without amendment and the re-enacted provision is itself to be entrenched.\textsuperscript{445}

A proposal for the “amendment” of one of the reserved provisions is understood as including any provision extending or restricting the application of such a provision. It is not confined to an amendment making a textual change to a reserved provision. Such a proposal may be in a provision of the bill as originally introduced or as added to the bill following its consideration by a select committee. Alternatively, the proposal for amendment of a reserved provision may be in an amendment moved in the committee stage itself. In either case the proposal must be carried by the votes of 75 per cent of the members of the House, otherwise it is lost.

The requirement for a special majority cannot be used to defeat any part of the question before the committee other than a reserved provision. So if a proposed clause consists of subclauses, one of which amends a reserved provision, and the question “That the clause stand part of the bill” is carried but not by a majority of 75 per cent of the members of the House, the clause is not wholly lost. It stands part of the bill minus the subclause that amends the reserve provision.\textsuperscript{446} The same rule applies to any amendment that includes a number of proposals, some of which amend reserved provisions and some of which do not. To avoid this problem arising, reserved provisions should be considered separately from other provisions wherever possible.\textsuperscript{447}

A party vote or a personal vote that records 75 per cent of the members voting in favour is not necessary on every reserved provision. A question is decided in the first instance by a voice vote, and proceeds to a party vote or a personal vote only if there are members who do not acquiesce. A vote decided on the voices is deemed to be carried unanimously by the House, and no question arises as to the

\textsuperscript{441} SO 305(1).
\textsuperscript{443} SO 305(2).
\textsuperscript{444} Electoral Act 1993, s 268(1).
\textsuperscript{445} Electoral Act 1993, s 268(2).
\textsuperscript{446} (1975) 399 NZPD 3056 Whitehead (Electoral Amendment Bill).
\textsuperscript{447} Ibid.
Proposals to amend reserved provisions have been defeated even though they were supported by a simple majority vote of members. There is only one instance of a reserved provision being amended by contested vote. It involved the repeal and replacement of the provision for the method of voting. The proposal was carried by a vote of 79 to 13, four votes more than the 75 per cent majority of votes required.

Proposals for entrenchment

The reserved provisions of the electoral law are themselves “entrenched” in law, in that they can be repealed or amended only if the proposal for repeal or amendment is supported by a 75 per cent majority of members (or alternatively carried at a poll of electors).

The reserved provisions are the only examples of provisions entrenched in law in this way, but proposals to entrench other subjects in legislation are made from time to time. The House’s Standing Orders require that before a proposal for entrenchment may be adopted, the same level of support for the proposal must be demonstrated in the Parliament that is to adopt it as it proposes to require of any future Parliament that may wish to repeal or amend it. Thus, a proposal that would require a 65 per cent majority for amendment must be agreed to by the House in the first place by a 65 per cent majority.

This requirement for a qualified majority before a proposal for entrenchment may be carried applies to a provision in a bill or an amendment to a bill that it itself or any other provision can be amended or repealed only by a majority of more than 50 per cent plus one of all members. A requirement for a qualified majority below this threshold does not require to be carried in any special way.

The rule applies during the committee stage of a bill. Any provision or amendment that proposes entrenchment in this way must itself be carried by not less than the majority that it proposes, otherwise it is lost. Before putting the question on such a proposal the Chairperson draws the committee’s attention to the fact that a qualified majority vote will be necessary for the proposal to pass.

DIVIDING A BILL

A committee of the whole House has inherent power to divide a bill into one or more separate bills and to report the bills back to the House separately. Until recently it has been very common for a bill to be divided at its committee stage, either because it was introduced as an omnibus bill or because the bill’s main provisions result in consequential amendments to other Acts and it is more intelligible to enact them as separate pieces of legislation. However, the online publication of legislation has improved access to the legislative history of provisions and the text of amendment Acts, so the practice is now not to divide most omnibus bills. The following remarks apply to the few bills that are divided at committee stage.

449 (1975) 399 NZPD 3056 Whitehead (Electoral Amendment Bill).
451 See, for example: Flags, Anthems, Emblems and Names Protection Amendment Bill (14 March 1990), cls 3 and 4 (New Zealand flag and national anthem not to be altered except by a 65 per cent majority of members).
452 SO 266(1).
454 SO 266(2).
455 See, for example: (16 November 2004) 621 NZPD 17051 (Foreshore and Seabed Bill).
456 For one of the first examples of this practice, see the Social Assistance (Portability to Cook Islands, Niue, and Tokelau) Bill (enacted as the Social Assistance (Portability to Cook Islands, Niue, and Tokelau) Act 2015). This was an omnibus bill amending the New Zealand Superannuation and Retirement Income Act 2001, the War Pensions Act 1954 (now repealed), and the Social Security Act 1964, but its purpose clause applied to the entire bill. Ultimately the bill was not divided, despite an initial drafting intention to do so.
The committee’s power to divide a bill applies where a bill is drafted in parts or otherwise lends itself to division because it comprises more than one subject matter. A Supplementary Order Paper notifying members of the intention to move for the bill’s division must be circulated. Almost invariably such a Supplementary Order Paper is prepared by the member in charge of the bill, but one could be prepared by any member. This “break-up” or “split-up” Supplementary Order Paper must be separate from any other Supplementary Order Paper notifying proposed amendments to the bill. It cannot include amendments to the bill’s substantive provisions (including the substance of the commencement clause); it must be confined to showing how it is proposed to divide the bill, setting out the enacting formula and title and commencement clauses for each new bill that is proposed.

Any break-up Supplementary Order Paper is taken at the very end of the committee stage when the bill has been fully considered by the committee. The member who has circulated the Supplementary Order Paper moves that the bill be divided in the manner set out on the Supplementary Order Paper. This is a debatable motion and it is itself subject to amendment. The debate is a narrow one, confined to whether the bill should be divided. It is not an opportunity to re-canvass the issues raised by the bill.

If the motion to divide a bill is carried, the Chairperson will report the several bills into which the bill has been divided back to the House as separate bills.

In some cases it may be necessary to confer the power to divide a bill on the committee of the whole House. If the intention is that the committee should divide a bill that is not drafted in parts or one that concerns a single subject matter (as is required of all bills apart from omnibus bills), an instruction giving the committee power to divide is necessary. In the absence of such an instruction, it is not competent for the committee to divide a bill, even by leave, before the whole bill has been considered.

If a bill is divided following an instruction, circulation of a Supplementary Order Paper is not required (though it is usually still done); the member in charge of the bill moves a motion to divide the bill following consideration of the parts or clauses that are to form a separate bill.

## INTERRUPTION OF COMMITTEE STAGE

The committee stage of a bill may be interrupted by the time arriving for the committee to report progress before the adjournment of the House, or for an extension of a sitting of the House (9.55 pm on a Tuesday and a Wednesday, 5.55 pm on a Thursday), or by a motion to report progress being carried. Any member may move that the committee report progress. This motion can be moved only by a member who has been called to speak to the question before the committee. It cannot be moved on a point of order. Such a motion is put forthwith without amendment or debate. If carried, the motion concludes the committee’s consideration of the bill on that day. A member may also move that the Chairperson obtain the Speaker's ruling on a matter of procedure. The question on this motion is also put forthwith without amendment or debate.

457 SO 309(1).
458 SO 309(1).
459 SO 309(2).
460 SO 309(3).
461 (1993) 537 NZPD 17235 (Electoral Reform Bill).
463 SO 52(1).
464 SO 181(1).
465 (1985) 468 NZPD 8439 – 8441 Terris (Chairman).
466 SO 181(3).
467 SO 178.
carried, this motion temporarily interrupts the committee stage while the ruling is obtained.

Occasionally the Government moves to report progress in order to get on with other business on the Order Paper, or to precipitate the conclusion of a sitting under urgency. Where the House has gone into committee on several bills, an order to report progress on one of them does not dispose of them all, and the Chairperson is obliged to deal with the others before leaving the Chair. However, when such a motion is carried the committee usually (but not always) intends the Chairperson to leave the Chair and report progress on all bills before it, and it is not necessary for a motion to be put separately and carried in respect of each.

If it is desired to consider the bill later in the same sitting, the member in charge of the bill may move that the committee report progress and sit again “presently”. No other member may move to report progress in any way other than that prescribed in the Standing Orders.

The Chairperson has the authority to suspend proceedings temporarily in limited circumstances: grave disorder, in accordance with a decision of the House or a determination of the Business Committee, or in the event of an emergency.

CONCLUSION OF COMMITTEE STAGE

When all the provisions of a bill have been considered and any motion to divide the bill has been dealt with, the committee stage of the bill is at an end. The Chairperson informs the committee that the bill will be reported to the House with or without amendment, as the case may be, and, if the bill has been divided, states that the several bills will be reported. The Chairperson then leaves the Table preparatory to the Speaker resuming the Chair in the House. There is no question before the committee in these proceedings at the conclusion of a committee stage; the Chairperson merely informs the committee of what is occurring pursuant to the Standing Orders.

REPORT OF THE COMMITTEE

Making the report

When reporting, the Chairperson stands at the Speaker’s right. The report is a single report, which may relate to a mixture of completed and uncompleted bills. If consideration of a bill has been completed, the Chairperson reports it to the Speaker with or without amendment as the case may be. Where applicable, the Chairperson also reports that the bill has been divided into specified separate bills. On a bill that has not been fully considered, the Chairperson reports that the committee has made some progress or (if a bill was not reached at all) no progress. The Chairperson then moves that the report be adopted.

Adoption of report

The Speaker puts the question that the report be adopted. There is no amendment or debate on this question.

Once the report is adopted, the completed bills are set down for third reading. Those bills whose committee stages have commenced but not been completed are set down for further consideration in committee on the next sitting day. They are listed on the following day’s Order Paper as “Committee stage continued”.

---

468 (1911) 156 NZPD 241-242 Guinness.
469 See, for example: (15 December 1977) [1977] 1 JHR 589.
470 SO 181(2); (1988) 495 NZPD 8634 Burke.
471 SO 177.
472 SO 182(2).
473 SO 183.
474 SO 183.
Those bills that were committed but not reached by the committee are set down for consideration in committee next sitting day.\textsuperscript{475}

If the title of the bill has been amended, the amendment becomes effective from the moment the report is adopted by the House. Consequently, on the following day's Order Paper, where the bill appears for third reading, it will be referred to by its new title, which is used in all subsequent references to the bill.

In the unlikely event of the House refusing to adopt a report from the committee of the whole House, the order of the day for further consideration in committee would be retained, for the committee to report again on a subsequent sitting day.

**RECOMMITTAL**

It may be desirable, after a bill has been considered in committee and before it is read a third time, to give the bill's detailed provisions further consideration. A defect or an oversight may be discovered in the bill that can be put right only by an amendment to one of its provisions; or the member in charge of the bill may wish to put forward further amendments to it. Amendments are not possible during the third reading of the bill but the House can order the bill's recommittal to a committee of the whole House for further consideration.

**Moving for recommittal**

A motion for recommittal of a bill may be moved when the order of the day for third reading is called by the Clerk.\textsuperscript{476} The motion may be a general recommittal motion, or it may limit the purpose of the recommittal in some way. Any member may move this motion. If more than one member wishes to move it, the Speaker usually gives priority to the member in charge of the bill.\textsuperscript{477} In cases of competing motions between other members, the Speaker has preferred, in one example, the member who indicated that he wished to recommit the bill for a wider purpose than a competing member.\textsuperscript{478} There can be only one such motion at each sitting at which a bill is reached, for the House will have taken a definite decision whether or not to recommit the bill on the first recommittal motion that is moved. If the motion is lost and the third reading is not completed that day, a further recommittal motion can be moved when the bill is next reached.\textsuperscript{479} It can also be moved while the bill is being passed through all its stages under urgency. A motion to recommit a bill is not subject to amendment or debate.\textsuperscript{480}

**Effect of recommittal**

If a bill is simply recommitted, it is referred back to the committee of the whole House forthwith for further study as a whole, and the committee goes through it again fully, as already described, this time in its amended form resulting from its first committee consideration. The order for recommittal may, however, go on to prescribe the purposes for which the bill has been recommitted. If it does so, the committee carries out only those assigned tasks.\textsuperscript{481} But recommittal must be for a purpose connected with the business of the committee. There cannot, for instance, be a recommittal to enable the Government to consider a matter; the recommittal must relate to the bill's examination by the committee.\textsuperscript{482}

A bill may be recommitted for consideration of only one of its provisions or for consideration of specified amendments, such as those notified on a Supplementary

\textsuperscript{475} SO 310.

\textsuperscript{476} SO 311.

\textsuperscript{477} (1994) 543 NZPD 3954 Tapsell (Maritime Transport Bill).

\textsuperscript{478} (1986) 472 NZPD 2580–2581 Wall (Homosexual Law Reform Bill).

\textsuperscript{479} Ibid, at 2581–2582.

\textsuperscript{480} SO 311.

\textsuperscript{481} (1913) 165 NZPD 789 Lang (Land Laws Amendment Bill).

\textsuperscript{482} (1926) 211 NZPD 201 Statham (Education Amendment Bill).
Order Paper.\textsuperscript{483} In such cases, the committee's work is confined to considering the provision or amendments referred to in the order for recommittal. The committee is not bound to accept any amendments referred to it for consideration; it can agree or disagree with them as it sees fit.\textsuperscript{484} The committee can also reverse a decision it had taken when it previously considered the bill.\textsuperscript{485} But it is not possible to recommit a bill in order to consider a new provision or other amendment that was ruled out of order by the Chairperson when the bill was first considered in committee;\textsuperscript{486} such a recommittal would be futile. Nor can a bill be recommitted to consider an amendment outside the scope of the bill. If it is desired that the committee reconsider a bill for the purposes of considering amendments outside its scope, an instruction must first be given to the committee authorising it to do this.\textsuperscript{487} Such an instruction (on recommittal) would require notice and is debatable.

Where a bill is recommitted for consideration of certain amendments, only those amendments (and any amendments to them) may be considered. In such a case, when the amendments to a part (or clause if the bill is not drafted in parts) have been disposed of, the question is put that that part as amended stand part. When the committee of the whole House has fully considered a bill on recommittal, the bill is reported back to the House and is set down for third reading on the next sitting day.

**SETTING BILL DOWN FOR THIRD READING**

A bill fully considered by the committee of the whole House is set down for third reading on the next sitting day. The bill is reprinted if any amendments have been made in committee.\textsuperscript{488} The bill is not reprinted if the third reading is taken immediately following the committee stage either because the Standing Orders provide for its third reading forthwith or because urgency has been taken for its entire passing or for its committee and third reading stages.\textsuperscript{489} The third reading of a bill cannot be held until copies of the reprinted bill are available to members.\textsuperscript{490} Leave has been given for a bill to proceed to its third reading without being reprinted (in the case of a bill of over 2,000 pages) where this was not regarded as necessary given the minor nature of the amendments and the cost involved.\textsuperscript{491} The Speaker may dispense with the reprinting of a bill if the amendments are of a minor textual nature.\textsuperscript{492} The bill stands on the Order Paper as an order of the day awaiting its third reading. The order in which Government bills are taken is largely a matter for the Government to determine. Members', private and local bills are considered in the order prescribed by the Standing Orders. There is no three-sitting-day stand-down period before the third reading can be held, as there is between the report of a select committee and the second reading of a bill.

**Referral to a select committee**

When the order of the day for third reading is reached any member may move to have the order discharged and for the bill to be referred to a select committee for further consideration. There is no amendment or debate on this question.\textsuperscript{493}

\begin{itemize}
\item \textsuperscript{483} (1898) 104 NZPD 565 O’Rorke (Old-age Pensions Bill); (8 August 2007) 641 NZPD 10953 (Weathertight Homes Resolution Services (Remedies) Amendment Bill).
\item \textsuperscript{484} (1898) 102 NZPD 412 O’Rorke (Water-supply Bill).
\item \textsuperscript{485} (1880) 37 NZPD 606 O’Rorke (Beer Duty Bill).
\item \textsuperscript{486} (1909) 147 NZPD 606 Guinness.
\item \textsuperscript{487} (8 August 2007) 641 NZPD 10938 (Weathertight Homes Resolution Services (Remedies) Amendment Bill).
\item \textsuperscript{488} SO 267(2).
\item \textsuperscript{489} SO 267(2)(a) – (b).
\item \textsuperscript{490} SO 267(4)(b).
\item \textsuperscript{491} (18 March 2004) 616 NZPD 11775 (Income Tax Bill).
\item \textsuperscript{492} SO 267(2)(c).
\item \textsuperscript{493} SO 74(1)(a), (2).
\end{itemize}
BILLS REQUIRING CROWN CONSENT

Members’, local or private bills that contain any provision affecting the rights or prerogatives of the Crown cannot be passed unless the Crown indicates its consent to the provision.\(^{494}\) If any question arises, the Speaker determines whether a bill affects the rights or prerogatives of the Crown. The Clerk will consult Parliamentary Counsel before the consent of the Crown is sought.

This consent is communicated by way of a message from the Governor-General, which is announced to the House by the Speaker. The message can be given at any stage before the bill’s passing but it must be given before the bill can be read a third time. The Crown’s consent to a bill passing includes agreement to any amendments that may be made to it during its passage. A separate message is not required for the amendments. Amendments may be made to a bill that have the effect of converting the bill from one that would not otherwise require the Crown’s agreement into one that does require it. Such amendments may be made before any message is announced; but, if the bill is to pass, a message must be forthcoming before the bill can be read a third time.

FINANCIAL VETO OF BILLS AWAITING THIRD READING

A bill awaiting its third reading is subject to financial veto by the Government, on the ground that it would have more than a minor impact on the Government’s fiscal aggregates if it became law.\(^{495}\) (See pp 515–519 for the giving of financial veto certificates.) The financial veto may relate to the whole bill or to a particular provision or provisions.\(^{496}\) To be effective, it must be given before the third reading debate commences.

If a financial veto certificate relates to the whole bill, the third reading debate may still be held, but at the conclusion of the debate the Speaker does not put any question on it and the bill will consequently lapse.\(^{497}\) In the case of a financial veto certificate relating only to a particular provision or provisions, the bill may be amended (by being recommitted) to remove the provision or provisions objected to, in which case the bill proceeds normally. But, if it is not so amended, at the conclusion of the third reading debate no question is put on it and it lapses in the same way as if the financial veto certificate had applied to the whole bill.\(^{498}\)

THIRD READING

When the order of the day for the third reading of a bill is reached, the Speaker calls upon the member in charge to move the motion “That the … Bill be now read a third time”.\(^{499}\) Another member may act for an absent member but only a Minister may act for an absent Minister in charge of a Government bill. The debate is limited to 12 speeches, each of a maximum duration of 10 minutes.\(^{500}\)

The third reading debate is narrower in scope than the second reading debate. Members must confine themselves to the general principles of the bill as it has emerged from the committee of the whole House.\(^{501}\) Members may discuss

\(^{494}\) SO 313.

\(^{495}\) SOs 326(1) and 328(1).

\(^{496}\) SO 328(2).

\(^{497}\) SO 328(3). See, for example: the Parental Leave and Employment Protection (6 Months’ Paid Leave) Amendment Bill. A financial veto certificate was issued in respect of the bill (see: (16 June 2016) 715 NZPD 12075), and the third reading debate was held (see: Order Paper for 29 June 2016, and (29 June 2016) 715 NZPD 12296–12313). No question was put at the end of the third reading debate, and the bill was not on the Order Paper for the next sitting day; see: Order Paper for 30 June 2016.

\(^{498}\) SO 328(3).

\(^{499}\) SO 312(1).

\(^{500}\) SOs, App A.

amendments made to the bill by the committee and may allude to, but not discuss at length, amendments moved unsuccessfully in committee. Amendments ruled out of order in committee by the Chairperson cannot be discussed. Any other matter that arose during the committee stage and is relevant to the bill may be referred to. Although members may advance general arguments as to why the bill should or should not pass, they must confine themselves to matters covered in the bill, and they may not go through the bill clause by clause giving detailed arguments on its contents. The third reading debate is in the nature of a summing-up.

Amendments
The question for the third reading is open to amendment in any way that is relevant to the motion, for example, by deferring the third reading or declining to agree to it for a specified reason. It is not permissible to move an amendment to refer the bill back to a select committee. If this is desired, it can be done by discharging the order of the day before the third reading debate commences.

Cognate bills
Where a bill has been divided at the committee stage, the several bills emerging from it may, at the option of the member in charge, be taken together for the purposes of debate on their third readings. This option is almost invariably exercised. The several bills are called on together for their third reading, the member in charge moves a single third reading motion and there is one debate instead of several. This option applies only to bills divided by the committee of the whole House, not to bills divided by a select committee (which often move through their subsequent stages quite independently of each other anyway). The option to take the third readings together applies to taking all of the several bills together. It is not an option to take some of them together and others separately, unless such a course of action is agreed to by the Business Committee. If the option is not exercised the bills are all dealt with separately.

Although there is a single debate, the question for the third reading of each bill is put separately at the conclusion of the debate. However, the third readings are often dealt with as one question unless it is intimated to the Speaker that members want each bill or some of the bills to be voted on separately.

Third reading without debate
Revision bills and confirmation and validation bills that have been set down for third reading following their second reading or committee stage (if any) are taken immediately without debate, as are Imprest Supply bills.

PASSING OF THE BILL
When the bill has been read a third time, it has been passed by the House. Formerly a separate question was put after the third reading, asking the House to agree that the bill “do now pass”, but the passing of a bill is now held to occur when the House agrees to its third reading. The bill at that point is not yet law. It has been passed by one constituent of Parliament, the House of Representatives. It is now prepared by the Clerk of the House for submission for the Royal assent.

504 (1962) 333 NZPD 3422, 3429 Algie (State Services Bill).
505 (1950) 290 NZPD 1225 Oram (Tenancy Amendment Bill).
506 SO 312(2).
507 Business Committee determination for 5 March 2014 (bills divided from Te Tau Ihu Claims Settlement Bill).
508 SOs 271(6) and 325(4).
509 SO 314.