

How parliament can better reflect the will of the people

Key reforms to parliamentary processes

Position paper
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Summary

The previous election saw almost a third of voters support independent or minor party candidates, and recent polling is pointing to a similar outcome on Saturday. Even if there isn't an expansion of the crossbench, we may end up with a minority government for the first time since 2013.

Our parliament has evolved to function under decades of major party majority government, and relatively little attention has been paid to the need to update our parliamentary systems to function more effectively in a changing context and better reflect the will of voters.

One of the most important democratic reforms that could be implemented is to allow non-government bills to be voted on in the House of Representatives.¹

Private members' bills provide a way for non-government members of parliament to propose changes to legislation, and have been instrumental in landmark reforms such as the ban on tobacco advertising in 1989, the banking royal commission in 2017, and the legalisation of same sex marriage that same year.

However, despite the changing composition of parliament, its procedures have not kept pace. Numerous barriers remain for non-government MPs to have their bills voted upon – even when a majority of MPs are in support. Across the previous two parliaments, despite 147 private members' bills being tabled in the lower house, only one of them went to a vote.

Other jurisdictions have made a number of innovations to their standing orders - the processes by which their parliaments are run - to better enable private members to propose changes to legislation and ensure that in certain circumstances those bills are put to a vote.

Reforming its procedures should be the first priority of the incoming parliament. Many of the procedural reforms following the 2010 general election were implemented on the second day of the 43rd parliament.²

¹ A range of other important reforms are canvassed in recent reports by Browne (2024) in the [Democracy Agenda for the 48th Parliament](#) and the Susan McKinnon Foundation (2025) in [Opportunities to improve the operation and effectiveness of the Federal Parliament](#). This report seeks to build on this work and go into greater detail on the specific issue of private members' bills.

² House Standing Committee on Procedure, 2012, [Monitoring and Review of the Procedural Changes in the 43rd Parliament: 4th Report](#), p.5

This paper examines innovations made in the ACT, NSW and Tasmania – Australian jurisdictions currently with minority governments – and puts forward the following recommendations to the 48th federal parliament.

Recommendations

1. The House of Representatives should adopt standing orders that would enable votes to regularly occur on private members' bills brought before the House.
2. These standing orders allocate time to private members proportionally based on their presence in the parliament, along with mechanisms to prevent filibustering.
3. Following the implementation of these initial reforms, there should be an independent review to evaluate the efficacy of the reforms and recommend further changes.

Background

A private member is a member of parliament other than the Speaker or a Minister³, and private members' business involves motions and bills. While government MPs can also participate in private members' business, it is particularly important as a way for non-government and crossbench MPs to be active in parliament as otherwise they would be largely limited to responding to government motions and bills.

At the Commonwealth level, landmark reforms like the *Smoking and Tobacco Products Advertisements (Prohibition) 1989* and the *Marriage Amendment (Definition and Religious Freedoms) Act 2017* have been private members' bills. In some cases even where a private member's bill itself has not been legislated, they have preceded – or even catalysed – greater government action on an issue, such as the removal of the tax on sanitary products⁴ or the establishment of a national anti-corruption watchdog.⁵

Elements of private members' bills have also been incorporated into government legislation,

³ S.O.2, House of Representatives Standing Orders, August 2022

⁴ The removal of GST on period products came into effect on 1 Jan 2019. The Australian Greens introduced a private member's bill in the Senate in 2018 which passed.

⁵ Member for Indi, Dr Helen Haines, introduced a private member's bill for an anti-corruption commission in the 42nd parliament which almost went to a vote in the House of Representatives.

such as the Superannuation Guarantee Charge Amendment Bill in 2002 which made compulsory superannuation contributions payable quarterly rather than annually.⁶

A 2023 review of the policy success of private members' bills contended that

PMBs' role in the policy process should be examined not on the end result—that is, enactment, but on its effect on the legislative and government policy agenda. By submitting PMBs, MPs can turn the attention of the government, the media, or the public to a problem or a suggested solution, a necessary first step in the policymaking process.⁷

These examples showcase the positive role that private members' bills can make in our democracy. However, in the 116 years between federation and 2017, only 30 non-government bills have been passed into law. This is eclipsed by other jurisdictions including the ACT which has had 205 private members' bills become law since self government commenced in 1989.⁸

A key reason for this difference is that the federal voting system has tended to produce majority governments – when one party has a majority in the lower house, a private members' bill will only become law with the support of that party. This was the case for the examples mentioned above of prohibition on tobacco advertising and the legalisation of same-sex marriage.

However, if this was the only barrier to private members' bills becoming law then there should be plenty of examples of private members' bills going to a vote and being defeated by the governing party. Despite there being 147 private members' bills introduced in the House of Representatives across the previous two parliaments, only one of them went to a vote.⁹

This is because the standing orders in the House of Representatives – the rules by which parliament operates – pose a major barrier to private members' bills being even considered for a vote in the first place.

⁶ Elder and Fowler 2018, House of Representatives Practice, 7th Edition, p.585

⁷ Cavari et al 2022, Reevaluating the policy success of private members' bills, Research and Politics 10(2)

⁸ Skinner and Duncan 2022, Companion to the Standing Orders of the Legislative Assembly for the Australian Capital Territory, p.618

⁹ 83 private members' bills were introduced in the 46th parliament and 64 were introduced in the 47th. The only bill that went to a vote was the *Restoring Territory Rights Bill 2022*.

House of Representatives standing orders

Private members' business occurs every Monday of a sitting week and allows for private members to move motions or bills. However, motions and bills can only progress with the support of the Selection of Bills committee. Under the standing orders the Selection Committee consists of 14 members:

- the Speaker (as committee chair)
- the Chief Government whip
- the Chief Opposition Whip
- six government Members
- three opposition Members
- two crossbench Members.¹⁰

The government majority on the committee means a private members' bill will only go to a vote with the support of the government.

Another way for a private members' bill to go to a vote is if standing orders are suspended. It has been customary for private members' bills to go to a vote during government business through the suspension of standing orders rather than during private members' business.

However, the suspension of standing orders requires an absolute majority. In a 150 Member chamber, that equals 76 Members. Other than in a minority government scenario where the opposition and crossbench have a combined 76 seats, standing orders are therefore only suspended with the government's support.¹¹ Even then the bar remains high.

In practice, these rules combine to prevent private members' bills only ever being voted on when the government supports the bill in question. A consequence of this is that the government never has to take a position on a private members' bill that it does not support.

Senate standing orders

The Senate - which has not had a majority of one party or coalition since 2007 - has standing orders that allow for private members' bills to go to a vote.

¹⁰ S.O. 222(b), House of Representatives Standing Orders, August 2022

¹¹ There have long been concerns that the requirement for an absolute majority is unconstitutional. See Twomey, 2019, Minority government and the validity of standing order requirements for absolute majority votes, Public Law Review, 30(2)

There are opportunities for private members' bills to be brought for debate during general business on Wednesday and Thursday mornings. Private members' bills take precedence over motions.¹²

Although not stipulated in the standing orders, there is an informal roster arrangement where Senators are provided an allocation of general business time based on proportional representation.

These arrangements have enabled a larger number of private members' bills to be properly debated, with 37 of the 194 private members' bills across the previous two parliaments proceeding to a vote.¹³

It's worth noting that under both the House and Senate standing orders, private members' cannot introduce bills imposing or varying a tax or requiring the appropriation of revenue or moneys as this would be "contrary to the constitutional and parliamentary principle of the financial initiative of the Executive".¹⁴

Reforms in the 43rd parliament

The 2010 election delivered a hung parliament for the first time since the 1940's. One part of the negotiations between the major parties and members of the crossbench involved reform of parliamentary procedures. Eventually both major parties and the crossbench formed an 'Agreement for a Better Parliament', a document outlining various procedural changes that sought to give greater power to the legislature over the executive and ensure that all members of parliament – including non-government members – have an opportunity to participate fully in the affairs of the House.¹⁵

The Agreement led to a growth in time allocated to private members' business as well as the re-establishment of the Selection Committee that recommended which private members' bills be dealt with and when. Although the Agreement recommended there be time allocated in Government Business for private members' bills to be voted upon, there was no change to the standing orders in this respect. Instead, a custom developed where the Leader of the

¹² S.O.57, Senate Standing Orders, October 2022

¹³ [87 bills](#) and [107 bills](#) were introduced to the Senate in the 46th and 47th parliaments respectively

¹⁴ Elder and Fowler 2018, House of Representatives Practice, 7th Edition, p.582

¹⁵ House Standing Committee on Procedure, 2012, [Monitoring and Review of the Procedural Changes in the 43rd Parliament: 4th Report](#)

House would facilitate votes on some private members' bills by suspending standing orders during Government Business time.¹⁶

In its inquiry into the efficacy of the reforms, the House Procedure committee reflected on whether the growth in private members' business was preventing the government from pursuing its legislative agenda. It concluded that "in this instance it appears that the increase in time allocated to private Members' business has been no hindrance to the Government in proposing to the House, and advocating, its legislative objectives" whilst noting that this had been aided by an overall growth in the hours the chamber was sitting.¹⁷

Other jurisdictions

ACT Legislative Assembly

The ACT has had a long history of minority governments dating back to the election for the first Legislative Assembly in 1989. The strength of independent and minor party numbers has contributed to a significant number of private members' bills being passed into law, but it also has standing orders that enable a large volume of private members' business to be conducted.

The arrangements in relation to private members' business is as follows:

- There are opportunities for two items of private members' business each sitting day, meaning six items are dealt with each week.¹⁸
- The Standing Committee on Administration and Procedure determines the order of private members' business as well as assembly business, and is composed of the Speaker, the Government Whip, the Opposition Whip, and a representative of the Crossbench.¹⁹
- Through convention, the Administration and Procedure Committee allocates private members' business time proportionately based on their representation in the Assembly. This is not stipulated by the standing orders.
- The limitations on speaking time as well as the culture of collaboration fostered by the minority parliament prevent the filibustering of private members' bills.

¹⁶ Ibid, p.10

¹⁷ Ibid, p.45

¹⁸ SO 74 and SO 77, Standing orders and continuing resolutions of the Legislative Assembly for the Australian Capital Territory, February 2025

¹⁹ SO 16, *ibid*

- Once a private member's bill undergoes its second reading speech, it is automatically referred to a relevant committee for an inquiry prior to it being brought back to the Assembly for debate. The inquiry must be completed within three months.²⁰

Tasmanian House of Assembly

Following the State Election in March 2024, the Liberal Party governs in minority with the support of the crossbench. Of the 35 seats, the Liberal Party holds 14, Labor holds 10 and the remaining 11 are held by the Greens, Jacqui Lambie Network and independents.

A number of changes to the standing orders were ushered in following the election to provide greater detail and specificity regarding private members' business. The current arrangements are as follows:

- Private members' business occurs once a week on Wednesdays.
- Rather than having a committee to determine the order of business, there is a roster in the standing orders that specifies how much time is given to each private member or grouping of private members. For example, the Independent Member for Bass is allocated one hour of private members' business every third sitting week.
- Private members' can use this time to progress a bill to be voted upon, and there are provisions that ensure that once debate on a bill has commenced, the parliament will conclude debate on the bill that same sitting day. This ensures that bills are dealt with in a timely manner.²¹

Since the March 2024 election 13 private members' bills have been introduced, of which 6 have passed both houses.

NSW Legislative Council

Between 2019 and the 2023 state elections the NSW Legislative Council undertook a series of reforms as part of what some have described as a 'transparency agenda'. It was pursued by an unlikely alliance of Labor in opposition, the Greens, the Shooters Fishers and Farmers Party and the Animal Justice Party. The reforms included changes to how private members' business was conducted, such as a significant increase in the time allocated to private members' as well as more efficient use of the limited time available.

²⁰ SO 174, *ibid*

²¹ SO 42(a), Tasmanian House of Assembly Standing and Sessional Orders and Rules, September 2024

A 2024 paper by the Committee Director at the Legislative Council noted that

“members fully utilised private members' day to debate items that would not have been possible in previous parliaments. Ultimately, the measures discussed above substantially increased the amount of time available to members to consider PMB... With upwards of 15 items of private members' business being debated each week, controversial subjects are now more frequently canvassed, debated and decided.”²²

Many of these sessional orders were adopted into the standing orders at the commencement of the current NSW parliament. The arrangements are broadly as follows:

- Wednesdays are usually dedicated to private members' business.²³
- There is an informal roster to allocate time proportionately based on representation in the chamber.
- The order of business is determined by the Business Committee chaired by the government Whip. Every party and independent is entitled to be represented at each meeting and to participate in each meeting.²⁴
- Motions (not bills) are moved in 'shortform' by default, which limits them to 30 minutes and ensures they are dealt with swiftly.

Conclusion and recommendations

Private members' bills have played an important role in landmark reforms, both when the bills themselves have been legislated and also when they have catalysed government action on an issue of importance to the community. The Australian Senate as well as legislatures across the country regularly debates and votes on private members' bills. However, standing orders in the House of Representatives prevent private members' bills from being debated without the support of the government.

Given the growth in the non-major party vote and the increasing likelihood that the party that forms government will do so from a declining primary vote, it's important that non-government parliamentarians have the opportunity to put forward proposals to change our laws and to test for support in the parliament.

²² Barbar 2024, The transparency agenda: How the NSW Legislative Council strengthened its role as a House of Review in the 57th Parliament, ANZACATT Professional Development Seminar

²³ NSW Parliament, 2023, Know your house: a short guide to Legislative Council procedure, p.10

²⁴ S.O. 191, NSW Legislative Council Standing Rules and Orders, 2023

Important features of legislatures that enable votes on private members' bills include ample time for private members' business, a fair system for allocating this time, an ability for bills to be put to a vote irrespective of government support, and mechanisms to ensure that the limited time can't be filibustered.

These elements need to be balanced with the fact that the House of Representatives is the house of government and there needs to be ample time for government business.

Recommendations

1. The House of Representatives should adopt standing orders that would enable votes to regularly occur on private members' bills brought before the House.
2. These standing orders allocate time to private members proportionally based on their presence in the parliament, along with mechanisms to prevent filibustering.
3. Following the implementation of these initial reforms, there should be an independent review to evaluate the efficacy of the reforms and recommend further changes.