



HOUSE OF LORDS

Procedure Committee

1st Report of Session 2009-10

Oral questions to Secretaries of State
Committee for Privileges and Standing
Order 78
Personal Bills Committee

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The Procedure Committee

The Procedure Committee is appointed each session to consider any proposals for alterations in the procedure of the House that may arise from time to time, and whether the standing orders require to be amended.

Current Membership

The members of the Procedure Committee are:

Baroness Anelay of St Johns
Lord Bassam of Brighton
Lord Brabazon of Tara (*Chairman*)
Baroness D'Souza
Lord Goldsmith
Baroness Gould of Potternewton
Lord Harries of Pentregarth
Baroness Hayman (*Lord Speaker*)
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Alternate members:

Lord Dubs
Baroness Hamwee
Lord Hunt of Wirral
Lord Palmer
Viscount Slim

General Information

General information about the House of Lords and its Committees is on the Internet at <http://www.parliament.uk/lords/index.cfm>.

Contacts for the Procedure Committee

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FIRST REPORT OF SESSION 2009-10 FROM THE PROCEDURE COMMITTEE

Oral questions to Secretaries of State

1. We have considered a proposal by the Leader of the House that, in addition to normal oral questions, time should be allotted for oral questions specifically addressed to Secretaries of State¹ sitting in the House of Lords. We support this proposal, which will enhance parliamentary scrutiny of the departments concerned. There are currently two Secretaries of State sitting in this House: Lord Mandelson (Secretary of State for Business, Innovation and Skills) and Lord Adonis (Secretary of State for Transport).
2. **We therefore recommend that, on one Thursday each month when the House is sitting, 15 minutes should be set aside for three oral questions addressed to the Secretary of State, immediately following the existing 30 minutes for oral questions.** Where there is more than one Secretary of State in the House of Lords, as at present, they would answer questions on different Thursdays within any given month. Only the Secretary of State would answer the questions—there would be no substitution by another Government minister or Whip.
3. Questions would be addressed to “the Secretary of State for [department]”, and would be required to address matters for which the Secretary of State was responsible. In accordance with current practice, the advice of the Clerks on departmental responsibility should be accepted.
4. The three questions would be chosen by a ballot held at 2pm on the preceding Monday. Each Member would be entitled to enter one question into the ballot, which would be opened in the Table Office one week earlier. Although we hope that this approach will bring about a degree of topicality, we do not propose any formal requirement for topicality. Notice of the dates and of the opening and closing of the ballot would be given in *House of Lords Business*.
5. No more than one question on a particular subject would be accepted for the ballot; priority would be given to the question tabled first. We do not at this stage propose to limit the number of questions that individual Members can ask over a session.
6. We emphasise that this would be an additional opportunity for scrutiny, with no impact upon existing procedures for oral questions. Members would be eligible to enter the ballot in addition to having up to one oral question and one topical question in *House of Lords Business*. There would be no restriction on the subject-matter of the oral questions immediately preceding Secretary of State’s questions. We expect no reduction in the readiness of Secretaries of State to come to the House in person to answer normal oral questions and private notice questions.
7. The Leader of the House has undertaken to schedule questions to the Secretaries of State from January to the end of the current Parliament. We propose that it should in the first instance be for the Usual Channels to decide whether or not to continue with the arrangements in the first months

¹ We understand this term to mean cabinet ministers in charge of Government departments.

of the new Parliament, pending a formal review by this Committee before the 2010 summer recess. This would enable the House at that point to decide whether to put the arrangements on a more permanent footing. If there were to be no Secretary of State sitting in the House of Lords, we expect that the arrangements would fall into abeyance, to be revived when necessary.

Committee for Privileges and Standing Order 78

8. The present text of Standing Order 78, which governs the appointment of the Committee for Privileges, is as follows:

78. A Committee for Privileges shall be appointed at the beginning of every session; sixteen Lords shall be named of the Committee, together with any four Lords of Appeal; in any claim of Peerage, the Committee shall not sit unless three Lords of Appeal be present.

9. The coming into force of relevant provisions² of the Constitutional Reform Act 2005, on 1 October 2009, has resulted in both the disqualification of the serving Justices of the Supreme Court from taking any part in the proceedings of the House, and, by virtue of the repeal of the Appellate Jurisdiction Act 1876, the abolition of the term “Lord of Appeal”. Standing Order 78 thus requires amendment.
10. We have therefore considered two related issues: the composition of the Committee for Privileges for the purposes of its normal work (that is to say, the consideration of questions of privilege and of matters relating to the Code of Conduct); and the future conduct of peerage claims.
11. On the first of these points, we consider it essential that, in its normal work, the Committee for Privileges should be able to call upon the expertise of retired senior judges as named Members of the Committee³. We believe that this requirement should be reflected in the wording of Standing Order 78.
12. On the second point, it is clear to us that the responsibility of the Committee for Privileges for deciding peerage claims was in its origins a component part of the wider judicature of the House of Lords. That residual element of the House’s judicature was unaffected by the passage of the Constitutional Reform Act 2005. Peerage claims are, and have always been, essentially judicial proceedings, and it is essential that they should continue to be decided by an appropriately constituted body. We therefore believe that the requirement in Standing Order 78 that three senior judges should be present should be retained, even though this will require the House to call upon the services of non-Members.
13. **To give effect to these two conclusions, we recommend the following new wording for Standing Order 78:**

78. A Committee for Privileges shall be appointed at the beginning of every session; sixteen Lords shall be named of the Committee, of whom two shall be former holders of high judicial

² See the Constitutional Reform Act 2005 (Commencement No. 11) Order 2009. Section 137 of the Act provides for parliamentary disqualification; part 5 of schedule 18 repeals the Appellate Jurisdiction Act 1876, which defined the term “Lord of Appeal”.

³ The Committee currently includes two former Lords of Appeal in Ordinary among its named Members: Lord Mackay of Clashfern and Lord Scott of Foscote.

office⁴. In any claim of peerage, the Committee for Privileges shall sit with three holders of high judicial office, who shall have the same speaking and voting rights as the members of the Committee.

14. The Lord Chief Justice and Master of the Rolls have confirmed their willingness to nominate senior judges to assist the Committee for Privileges in the event of any peerage claim arising. We are most grateful to them for this assurance. Our Chairman has also written to the Lord President of the Court of Session to seek the assistance of the Scottish judiciary.

The Personal Bills Committee

15. Personal bills are private bills which relate to the estate, property, status, or style, or otherwise to the personal affairs, of an individual. Under Private Business Standing Order 154 a Personal Bills Committee is appointed each session to perform preliminary scrutiny of personal bills—a task corresponding closely to that undertaken with regard to other private bills by the Chairman of Committees assisted by Counsel.
16. Personal bills, once common, are now extremely rare: the last personal act was passed in 1987, and the last time the Personal Bills Committee actually met to conduct scrutiny was in 1992. Nor is there any good reason why, in the event that a petition for a personal bill were to be presented, preliminary scrutiny could not be conducted by the Chairman of Committees assisted by Counsel; the bill would then be referred, as at present, to an opposed or unopposed bill committee for more detailed scrutiny.
17. **We therefore recommend the abolition of the Personal Bills Committee. Implementing this recommendation will require several changes to the Standing Orders relating to Private Business; these changes are set out in the annex.**

⁴ The term “high judicial office” is used in the sense defined in section 60(2) of the Constitutional Reform Act 2005.

ANNEX: AMENDMENTS TO STANDING ORDERS RELATING TO PRIVATE BUSINESS

We recommend the following amendment to Standing Order 151(2):

151 Personal bills defined

(1) All private bills relating to the estate, property, status, or style, or otherwise relating to the personal affairs, of an individual, which have been certified as such under the provisions of Standing Order 3 (Requirements as to proof before Examiner), are in these orders termed personal bills.

(2) The proceedings in this House in respect to personal bills shall be subject to the provisions of ~~the following twenty-one standing orders~~ **Standing Orders 152-174**, and to such general or special directions (if any) as may be given from time to time by the Chairman of Committees.

We recommend the deletion of Standing Orders 154, 155 and 156:

~~154 Appointment and duties of Personal Bills Committee~~

~~(1) At the commencement of every session the Chairman of Committees and six other lords, who shall be named by the House, shall be appointed a committee to be called the Personal Bills Committee.~~

~~(2) Every petition for a personal bill shall stand referred to the committee so soon as it has been laid on the table of the House; and in any proceedings on such a petition, three of the lords so appointed shall form a quorum.~~

~~(3) The promoters of a personal bill shall be entitled to be heard before the Personal Bills Committee by themselves, their counsel or agents, in favour of their petition for the bill.~~

~~(4) The committee shall, in the case of every personal bill the petition for which is referred to them by this standing order, report to the House whether the objects of the bill are proper to be enacted by a personal bill, and whether the provisions thereof are proper for carrying its purposes into effect, and what amendments (if any) are required therein.~~

~~(5) If the committee approve the proposed bill, the Chairman of Committees shall sign a copy of the same containing the amendments (if any) recommended by the committee.~~

~~(6) A copy of the committee's report and (in any case in which amendments are recommended by the committee) of the bill containing the amendments shall be supplied to the promoters of the bill or their agent.~~

~~155 Petitions for personal bills affecting private interests in Scotland to be referred to two judges of the Court of Session~~

~~(1) Every petition for a personal bill affecting private interests in Scotland shall be referred, by the Personal Bills Committee, to two judges of the Court of Session in Scotland, who—~~

~~(a) shall forthwith summon all parties before them who may be concerned in the consequences of the bill, and~~

~~(b) after hearing all the parties, and perusing the bill, and taking such proof of the allegations therein contained, and such consents of the parties interested, and such acceptances of trusts as may be tendered to them, shall report to the Personal Bills Committee the state of the case, and their opinion thereon, under their hands, and what amendments (if any) are required in the bill, and~~

~~(c) if they approve the proposed bill, shall sign a copy of the same containing the required amendments (if any).~~

~~(2) The report of the judges of the Court of Session in Scotland shall be delivered by the party or parties concerned to the Chairman of Committees for submission to the Personal Bills Committee.~~

~~(3) The Personal Bills Committee shall not report to the House on a petition for a personal bill, which has been referred under this standing order to two judges of the Court of Session, until the report of the judges thereon has been received and considered by the committee.~~

~~156 No personal bill to be read a first time until Personal Bills Committee has reported~~

~~No personal bill shall be read a first time until the report of the Personal Bills Committee on the petition has been made to the House.~~

We recommend the following amendments to Standing Orders 157, 159, 166 and 167:

157 Personal bills to be delivered to all persons concerned

(1) Subject to any directions given by the **Personal Bills Committee Chairman of Committees** a copy of every personal bill introduced into this House shall be delivered before the second reading to every person concerned in the bill.

(2) In case of infancy, the copy shall be delivered to the guardian, or next relation of full age not concerned in the consequences of the bill.

159 Interval between second reading and committee

~~No committee, other than the Personal Bills Committee, shall sit upon any personal bill until ten days after the second reading.~~

166 In other cases all persons interested to consent

(1) Subject to paragraph (2) and Standing Order 165 (Respecting consents to personal bills where petitioners and consenting parties can bar entail), the consent of all parties concerned in the consequences of a personal bill shall be proved to the satisfaction of the committee on the bill.

(2) The consent of any such parties shall not be required if the **Personal Bills Committee, when considering the petition for the bill, report committee on the bill consider** that their consent may be dispensed with on account of remoteness of interest, or for any other reason.

167 Appointment of guardian or protector of minor interested in personal bill

(1) In any case in which a person who has not attained the age of eighteen (in this order referred to as a minor) is or may be interested in the consequences of a personal bill, the Chairman of Committees may, if he thinks fit, require that the minor shall be represented in any proceeding in reference to such bill or to the petition therefor by a person to be appointed as, or in the nature of, a guardian or protector of the minor by the Lord Chancellor or the Lord Keeper of the Great Seal by writing under his hand.

~~(2) Nothing in this standing order shall prevent the Personal Bills Committee, if they think fit, from requiring that any minors, not protected as mentioned above, shall be represented in like manner.~~

We recommend the deletion of Standing Orders 171 and 172:

171 Consent to personal bills relative to estates in Scotland

~~(1) When a petition for a personal bill concerning estates in land or heritable subjects in Scotland has been referred under Standing Order 155 (Petitions for personal bills affecting private interests in Scotland to be referred to two judges of the Court of Session), to two judges in Scotland, any person, resident in Scotland concerned in the consequences of the bill may give his consent thereto before the two judges to whom the bill is referred.~~

~~(2) Such judges shall certify—~~

~~(a) that such person appeared personally before them, and, being aware of his interest in the bill, gave his consent for himself, and for those for whom he might be entitled to consent, and~~

~~(b) if any trustee is appointed by the bill, that such trustee appeared personally before them, and~~

~~accepted the trust proposed to be vested in him by the bill, and~~

~~(c) that the person so consenting or accepting the trust in their presence signed a printed copy of the bill;~~

~~and such bill, together with the certificate, shall be produced to the Personal Bills Committee.~~

172 Such consent to be personal, or disability to attend proved

~~It shall be a general instruction to the judges who shall meet to take the consent of heirs of entail or other persons concerned in the consequences of any personal bill relating to estates in land or heritable subjects in Scotland, that they take no notice of the consent of any person to such bill unless—~~

~~(a) such person appears before them, or~~

~~(b) proof is given to them by two credible witnesses that such person is not able to attend, and has in the presence of the witnesses signed a printed copy of the bill in testimony of consent thereto.~~