

# 2 Rules of debate

Not all motions moved in the Senate may be debated and not everything said constitutes debate (for a list of non-debatable motions, see [chapter 10](#) of *Odgers' Australian Senate Practice*, 13th edition). However, most business in the Senate is transacted through decisions made after debate on motions moved by senators.

The rules of debate are set out in the standing orders of the Senate and provide the basis for the orderly conduct of the Senate. Where necessary, standing orders are interpreted and applied by the President, Deputy President or Temporary Chairs, and rulings of the Chair are an important supplement to the standing orders. Rulings may be challenged and are therefore subject to appeal to the whole Senate (see [standing order 198](#)).

## 1. The call

To speak, a senator must first seek the call, which is allocated by the President in accordance with [standing order 186](#) and the practice of the Senate, as set out in the Procedure Committee's *Second Report of 1991* (see [chapter 10](#) of *Odgers' Australian Senate Practice*, 13th edition). Senators are usually called from each side of the chamber alternately and the Leaders of the Government and Opposition are given the call before other senators. For many debates there is also an unofficial speakers' list compiled by party whips, to guide the chair.

## 2. The right to speak

A senator may speak once on a substantive motion. If an amendment to the motion is moved, a senator who has already spoken to the motion may speak again to the amendment (for more detail on speaking to an amendment, see [chapter 10](#) of *Odgers' Australian Senate Practice*, 13th edition). The senator who moves a substantive motion may exercise a right of reply which then closes the debate. The question (for instance, "That the motion be agreed to") is put by the chair at the close of the debate. There is no right of reply on a procedural motion, such as a motion to suspend standing orders. In committee of the whole senators may speak more than once to a question.

## 3. Time limits

Time limits apply to senators' speeches. Twenty minutes is the maximum time for a speaker on any debate in the Senate. For special time limits, see the table at the end of this Brief Guide or [chapter 10](#) of *Odgers' Australian Senate Practice*, 13th edition. If, when a senator is speaking, a point of order is taken or a quorum is called, the time taken for those procedures does not come out of the speaker's time. Clocks in the chamber show the time remaining for a senator's speech.

## 4. May speeches be read?

[Standing order 187](#) provides that speeches may **not** be read but Presidents have ruled that senators may use "copious notes" and that reading is permissible in some circumstances (see [chapter 10](#) of *Odgers' Australian Senate Practice*, 13th edition). The rationale of the prohibition on reading

speeches is that it prevents proper debate. A similar rationale lies behind the convention that senators do not leave the chamber at the conclusion of their speeches but stay and listen to other contributions to the debate.

## 5. Quoting documents in speeches

A senator may read from a document for the purpose of quoting it in debate but may not use this technique to circumvent the rules of the Senate. For example, a senator may not quote a document in order to use unparliamentary language. When a senator quotes from a document, another senator, at the conclusion of the speech, may move that the document be tabled. If the senator quoting the document is a minister, he or she may prevent a motion for the tabling of a document by claiming that it is confidential ([standing order 168](#)).

## 6. Content of speeches

Speeches must be **relevant** to the motion being debated, except on the following motions:

- for the address-in-reply to the Governor-General's speech on the opening of Parliament;
- for the first reading of a bill which the Senate may not amend;
- for the adjournment.

Speeches must not:

- be tediously repetitive; or
- anticipate debate on a matter which appears on the *Notice Paper*.

The rule against anticipation is interpreted liberally because the large amount of business on the *Notice Paper* could prevent discussion of virtually any matter.

The *sub judice* convention is a restriction on debate which the Senate imposes itself whereby debate is avoided if it could involve substantial danger of prejudice to proceedings before a court, unless the Senate considers that there is an overriding requirement for the Senate to discuss a matter of public interest. The convention is normally applied where:

- there is a likelihood of real prejudice to proceedings which have commenced;
- the danger of prejudice outweighs the public interest in the matters being discussed;
- the proceedings are before a magistrate or jury, rather than a judge (or judges) alone.

For further detail, see [chapter 10](#) of *Odgers' Australian Senate Practice*, 13th edition.

## 7. Courtesies of debate

Senators are required to address the Chair. Any comments about other senators should be in the third person ("Mr President, the Senator opposite is mistaken to suggest..."). This is a long-established rule which facilitates orderly debate. Standing orders also encourage comity and mutual respect between the arms of government, the Commonwealth and state governments and the members of the Commonwealth, state and territory parliaments. It is not in order for senators to:

- speak disrespectfully of the Queen, the Governor-General or state governors;
- use offensive words against, or impute improper motives to, either House of Parliament, state or territory Houses of Parliament, or members of those Houses or judicial officers.

It is also not in order to reflect on a vote of the Senate ([standing order 193](#)).

Presidents have often ruled on unparliamentary language, a term used to refer to remarks which are contrary to standing order 193. For more detail, see [chapter 10](#) of *Odgers' Australian Senate Practice*, 13th edition.

## 8. Conduct during debate

The President is responsible for keeping order in the chamber. Senators must:

- acknowledge the Chair on entering and leaving the chamber (by a bow or nod);
- be seated and be silent when the President rises during a debate.

Senators must not:

- walk or stand between the Chair and the senator speaking or between the Chair and the Table;
- walk out of or across the chamber when the President is putting the question;
- stand in the chamber unless seeking the call;
- leave the chamber when a quorum has been called.

Eating, smoking, using noisy equipment, holding up placards or newspapers or displaying items with slogans etc have also been ruled as disorderly.

## 9. Interrupting the debate

A senator may interrupt another senator speaking only:

- to raise a point of order or privilege; or
- to call attention to the lack of a quorum.

Interjections are technically disorderly but may be tolerated in some circumstances. Points of order are usually determined immediately but the President may decide to determine a point of order at a later time. The President may also hear argument from senators on the point of order before determining it.

There is no ability to “gag” a senator (that is, move that a senator be no longer heard) under the procedures of the Senate but a motion that the question be now put (the “closure”) or a motion that the debate be adjourned may be moved by a senator who has not spoken in the debate at any time during a debate but not so as to interrupt a senator speaking. However, a minister may move either motion even if he or she has already spoken. These motions are determined immediately without debate or amendment.

## 10. Disorder

A senator who:

- persistently and wilfully obstructs the business of the Senate;
- is guilty of disorderly conduct;
- uses objectionable words and refuses to withdraw them;
- persistently and wilfully refuses to conform to the standing orders; or
- persistently and wilfully disregards the authority of the chair;

may be reported by the chair to the Senate (or “named”). If the offence occurs in committee of the whole, the chairman of committees may suspend proceedings and report the offence to the President. The reported senator is called upon to give an explanation or apology and a motion may

be moved that the senator be suspended from the sitting of the Senate. Periods of suspension are covered by [standing order 204](#). Disorder is very rare in the Senate but is ultimately a matter for the whole Senate to determine.

## 11. New senators' first speech

Certain conventions apply to a new senator's first speech:

- the chamber is expected to be well attended;
- the new senator is heard without interjection or interruption;
- the new senator, in turn, should not directly criticise other senators or provoke interjections or points of order;
- following the speech the new senator is congratulated by other senators.

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## Time limits on debate

<b>Bills</b>		
1st reading of non-amendable bill	15 mins	
2nd reading	20 mins	
In committee	15 mins	+ possible extension of 15 mins
3rd reading	20 mins	
Selection of Bills Committee—adoption of report	5 mins	(limit for debate: 30 mins)
Reference of a bill to a committee	5 mins	(limit for debate: 30 mins)
<b>Committee reports and government responses</b>		
Motions relating to report on Tuesday, Wednesday or Thursday	10 mins	(limit for debate: 1 hr)
Resumption, including Auditor-General's reports ( <i>Thursdays</i> )	10 mins	(limit for debate: 1 hr)
Motions moved by leave	10 mins	(limit for debate: 30 mins per motion, 1 hr for all motions)
<b>Debate</b>		
General	20 mins	
Extension of time ( <i>possible</i> )	10 mins	
In committee	15 mins	
In reply	20 mins	
<b>Documents</b>		
Motions to take note ( <i>Monday, Tuesday and Wednesday</i> )	5 mins	(limit for debate: 30 mins)
Resumption ( <i>Thursday</i> )	5 mins	(limit for debate: 1 hr – but subject to 2½ hours total for general business)
Motions moved by leave	5 mins	(limit for debate: 15 mins per motion, 30 mins for all motions)
<b>Matters of public importance or urgency motions</b>		
All speakers	10 mins	(limit for debate: 1 hr, or 90 mins if no motions are moved after question time to take note of answers)
<b>Questions without notice</b>		
Primary question	1 min	
Answering question	2 mins	
Supplementary question(s) (maximum of 2)	30 sec	
Answering supplementary	1 min	
Debate on motions relating to answers	5 mins	(limit for debate: 30 mins)
<b>Senators' statements</b>	10 mins	
<b>Suspension of standing orders</b>	5 mins	(limit for debate: 30 mins)
<b>Debate for the election of President of the Senate</b>	15 mins	
<b>Adjournment of the Senate</b>		
Monday, Wednesday and Thursday	10 mins	(limit for debate: 40 mins)
Tuesday	5 mins 10 mins 20 mins	(no time limit for debate)