

Report on the Study Visit by Officers of Rajya Sabha Secretariat to the Australian Parliament

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CHAPTER I

INTRODUCTION

1.0 Man's spirit is immortal. His never ending quest for learning motivates him not only to acquire basic knowledge and skill of his specific area of activity but also explore and seek expertise to function more effectively. Training and attachment programmes acts as a stimulus for improving knowledge and skills. Training that too of the nature of study visits provide ample opportunities for interactions and exchange of ideas, which help in understanding the systems and practices followed in other countries and identifying their best practices worth replicating in our systems.

1.1 Of late, a number of initiatives have been taken in the Rajya Sabha Secretariat to provide to its officers an exposure to the Parliamentary systems in other countries. The Exchange Programme for a study visit to Australia with a two weeks attachment from 19th-30th October, 2009 with the Australian Senate and ACT Assembly at Canberra and NSW Parliament in Sydney was a sequel to such initiatives. In fact, it was an outcome of the review exercise of the customised training programme being offered by Royal Institute of Public Administration, London.

1.2 The first venue of the Exchange Programme was the Federal Parliament at Canberra. The building of the Parliament is a wonderful architectural piece housing the House of Representative, Senate and the Department of Parliamentary Services. It is built in a sprawling area surrounded by natural beauty and picturesque landscape. The House of Representatives has 150 members. The Chamber comprises Public Gallery, Speaker's Gallery, Press Gallery and a gallery exclusively reserved for students. The Senate Chamber is similar to that of House of Representatives. There are 76 members in the Senate. The Chairman of the Senate is known as President and is elected by the Members of Senate. The Members of the Cabinet including the Prime Minister also have their offices in the Parliament building. Each member of both the Houses has a separate chamber (Office) in the building with supporting staff and infrastructure provided and maintained by Department of Parliament Services. Not far away is the old Parliament building which is again a master piece monument now converted into a democracy museum.

1.3 The schedule of the programme was so meticulously conceived and well structured that it could provide a clear overview of the functioning of Australian Parliament. The attachment commenced from 19th October 2009 at 9.30 a.m. with a tour of the Parliament House and the Senate exhibition. It was followed by two separate sessions about overview of Senate and the Senate Committees. Every day the attachment would commence at 9.30 hrs and continue up to 16:30 hours covering interactions on various procedural aspects of both the Senate and the House of Representatives. The delegation also had the privilege of having an hour long discussion with Ms. Julie Owens, M.P. and Chair of the Australia India Parliamentary Group on her experiences as a representative of Parramatta Parliamentary Constituency.

1.4 Our delegation got a warm reception in the Federal Parliament from the Secretariats of both Houses. The officers attached with our delegation as well as the faculty extended warm response to the delegation. The working atmosphere in the Federal Parliament appeared to be more informal with no barriers of protocol. Every

member of the delegation was quite participating and it was really nice to have useful interactions with the Clerks as well as the other senior officers of both the Houses. The delegation was taken to witness the proceedings of both the Houses and also the Main Committee, the second chamber of House of Representatives. It was again a unique experience to witness proceedings of the Main Committee and the Parliamentary Committees which were open for public and the Press. While at Canberra the delegation also got an occasion to visit the Australian Capital Territory Assembly and interacted with the Clerk and other senior officials of that Assembly on the functioning of that legislature.

1.5 During the briefing meeting prior to the departure of the delegation Secretary General had suggested that the delegation may look into one or two specific aspects of the procedure being followed in the Australian Parliament for a detailed study. The delegation had then decided to study the procedural aspects of two specific subjects, viz. the Questions and Parliamentary Committees in the Federal Parliament. These findings have been elaborated in Chapter II & III respectively.

1.6 Certain administrative aspects of the working of Australian Federal Parliament viz. the performance appraisal and placement of employees was found to be interesting and these are discussed in Chapter IV. Another interesting feature noted was their education programme for students, conducted by the Parliamentary Education Office. This is briefly described in Chapter V.

1.7 The delegation also visited Sydney from 28th to 30th October, 2009. At Sydney the Delegation got an opportunity to witness the proceedings of both Houses i.e. Legislative Assembly and Legislative Council of New South Wales Parliament. This bicameral institution is also characterised by a strong Parliamentary system. The delegation received a warm response in NSW Parliament as well. The basic features of the functioning of NSW Parliament and ACT Assembly have been highlighted in Chapters VI and VII respectively.

1.8 A good response from High Commission of India at Canberra and Consulate-General at Sydney was quite helpful to the delegation throughout the attachment programme. The members of the delegation got opportunities to interact with the High Commissioner, Deputy High Commissioner at Canberra and Consulate General of India at Sydney. In fact the commendable logistic support from the High Commission as well as Consulate General played a significant role in making the Exchange Programme a grand success.

1.9. The Group also took time to identify some of the best practices being followed in the Australian Parliament worth replication in our system. These are discussed in Chapter VIII.

CHAPTER II

QUESTIONS

2.0 In the Australian system of government as in ours, the Ministers who together administer the Executive Branch of government are responsible, answerable and accountable to the Parliament for their actions. In keeping with this concept of responsible government, Ministers may be called on to explain their administrative actions. There are several parliamentary devices for achieving Ministerial accountability, one of which is asking of questions.

2.1 Australian Parliament sits four days in a week. Time of commencement of the session on Monday and Tuesday is at 12.30 PM, while on Wednesday and Thursday it starts its sittings at 9.30 A.M. But Question time is at 2 PM on all the days. As per well established practice, Ministers of one House cannot go to other House for answering questions. Thus there is no grouping of Ministries as we have in our houses of Parliament. Ministers of one House reply to questions which concern Ministries/Departments under the control of Minister of the other House, besides replying to questions of Ministries/Departments under their own jurisdiction.

SENATE

2.3 Asking questions in the Senate, the upper House of Australian Parliament, is quite simple. There are just three sections in the Standing Orders (equivalent to Rules of Procedure and Conduct of Business in the Rajya Sabha) dealing with procedure of asking questions. These are reproduced at Annexure-I. One unique feature provided in the said Standing Orders is asking 'questions without notice'. This is equivalent to our starred question asked during Question Hour. But there is no prior notice to the Minister unlike in our starred questions. Second rule is regarding conditions of admissibility. This is somewhat similar to our rules of admissibility like, it should not contain names of persons and should not have arguments, inferences, imputations, epithets, ironical expressions or hypothetical matters. Besides that, it should not ask for an expression of opinion, for a statement of the government policy or for legal matters. Notices of 'Questions on notice', which is similar to our questions for written answer, are delivered to the Clerk and same get included in the Notice paper, which is equivalent to our list of Business. There is no separate Question List. But, there is no limit on the number of words in a question with notice. Questions when replied are included in Hansard (Debates) for printing.

2.4 In the Australian system each Senate minister also represents one or more ministers in the House of Representatives and responds to questions concerning matters for which House ministers are responsible and vice-versa is for Ministers of House of Representatives. A list of Senate, House of Representatives ministers and the portfolios they represent is published in the Notice Paper.

2.5 Questions may be put to a minister relating to the public affairs with which he or she is officially connected, to proceedings pending in Parliament, or to any matter of administration for which the minister is personally responsible or in respect of which he or she represents another minister. A question must seek information, or press for action within a minister's responsibility. The Chair will disallow any question where it is clear that it is not within a minister's responsibility.

2.6 From time to time the Senators have been appointed by the government to assist ministers in their work. They are known as parliamentary secretaries, and while they may perform many of the functions of a minister in the Senate, they may not be asked or answer questions without notice relating to matters within the responsibility of ministers.

Time limits on questions and answers

2.7 Since September 1992 time limits have been imposed on questions and answers at question time. Senate Standing Order 72 provides that:

- (a) the time period for asking of each question shall not exceed one minute and the answering of each question shall not exceed four minutes; and
- (b) the time period for asking of each supplementary question shall not exceed one minute and the answering of each supplementary question shall not exceed one minute.

Duration of question time

2.8 While the Standing Orders prescribe no limit to question time it usually lasts for an hour. It is a long-established practice for question time to be terminated by the Leader of the Government in the Senate asking that further questions be placed on notice. The basis of the practice is that it is competent for ministers to ask that any questions be placed on the Notice Paper and that ministers, in any case, are not bound to answer questions.

Ministers not obliged to answer questions

2.9 While Senators have the right to ask questions of ministers and certain other Senators, there is no corresponding obligation on those questioned to give an answer. President Baker ruled on 26th August, 1902 that there was 'no obligation on a Minister or other member to answer a question', and in 1905 he ruled: 'It is a matter of policy whether the Government will answer a question or not. There are no Standing Orders which can force a Minister or other Senator to answer a question'. Other Presidents have stated that answers are 'optional' or 'discretionary'. However, political reality dictates that ministers must seek to demonstrate that they have a firm understanding and command of the matters for which they are responsible by answering questions in a competent manner. In party political terms it is important that a minister performs well at Question Time.

Supplementary questions

2.10 Following a minister's reply, the questioner or any other Senator may, at the discretion of the Chair, be called to ask a supplementary question in order to elucidate the reply. Usually there is only one supplementary question by the questioner, but the number of supplementary questions and the questioners are at the discretion of the Chair. Supplementary questions must be actually and accurately related to the original question and must relate to or arise from the answer. It is not in order to ask a supplementary question of another minister. Any supplementary question must be directed to the minister initially answering the question and when a minister has asked that a question be put on notice, a supplementary question may not be asked.

Answers

2.11 A minister may reply to a question relating to matters for which he or she is officially responsible in a personal or representative capacity and replies must be confined to those areas of responsibility. Ministers must accept full personal responsibility for answers given on behalf of others, and ministers have been censured by the Senate on this basis.

Motion to take note of answers

2.12 Motion to take note of answers provide the Senate with an opportunity to debate answers which are regarded as unsatisfactory or which raise issues requiring debate. Such a motion may be moved without notice or leave at the conclusion of question time and may relate to one or more of any answers given that day. A Senator may speak for not more than five minutes on a motion and the total time for debate on all such motions on any day must not exceed 30 minutes, not including any time taken in raising and determining any points of order during the debate. The procedure is used on most sitting days, usually by non-government senators.

Question time and party politics

2.13 Question time provides non-government Senators, the opportunity to gain political advantage by asking questions which seek to embarrass the government. Most opposition questions are therefore aimed at exposing perceived weaknesses in government administration and policies. A strategy frequently used by the opposition is to ask a coordinated sequence of questions on a topic on which the government is seen to be vulnerable, or to focus its questions on a particular minister. Many reputations have been made and lost during the question time.

2.14 On the other hand, it is in the government's interest to have its own backbenchers ask questions to enable ministers to give answers which boost the government's image. Ministers therefore frequently provide their backbench colleagues with questions which, when asked at question time, enable a minister to make an announcement or statement to the government's advantage. Such questions are known colloquially as 'Dorothy Dixers' after a newspaper columnist, Dorothy Dix, who published answers to questions purportedly from readers, but which she allegedly wrote herself.

Questions on notice

2.15 In addition to the questions asked orally in the Senate chamber each sitting day, Senators may also at any time address written 'questions on notice' to ministers and other Senators. In a typical year senators ask about 1000 questions on notice. These questions and the answers to them are not usually read in the chamber, though they are published in Hansard.

2.16 Questions on notice may be submitted to the Clerk through the Senate Table Office where the questions are checked to ensure they are in conformity with the Standing Orders before being placed on the Notice Paper. If a question contains material which does not conform to the Standing Orders, the current practice is for an officer of the Senate to discuss the matter with the Senator who submitted it. The problem is usually

resolved at this point by the rephrasing or withdrawal of the question. If the matter cannot be resolved at this level, the question may be referred to the President of the Senate for determination.

2.17 Each question on notice is allocated a number and the text of each question is published in the next issue of the Notice Paper. As soon as practicable, questions are forwarded to the appropriate ministers' offices and to the relevant departments where replies are drafted for consideration by the minister. When a reply is approved by the minister it is delivered to the Clerk, again through the Table Office. The Table Office supplies a copy to the Senator who asked the question and arranges for the question and the reply to be printed in Hansard. A senator who has received a copy of a reply to a question on notice may, by leave, immediately after question time, ask the question and have the reply read in the Senate, but this procedure is seldom used.

Thirty day rule

2.18 Unless a question is withdrawn it remains on the Notice Paper until it is answered or the Parliament is prorogued. A Senator who asks a question on notice and does not receive an answer within 30 days may, at the end of question time, seek an explanation. If an explanation is provided by the responsible minister the senator may move a motion to take note of the explanation. If the minister does not provide a satisfactory explanation as to why the question has not been answered the senator may move any motion, usually a motion for an order for the answers and explanations to be tabled by a specified date. Ministers may be censured for the delay in answering. This procedure encourages ministers to ensure that questions are answered within the 30 day limit.

HOUSE OF REPRESENTATIVES

2.19 The House of Representatives, which is equivalent to our Lok Sabha has somewhat more elaborate provisions regarding questions in the Standing Orders. These are reproduced in Annexure-II.

Types of questions

2.20 In the Australian House of Representatives the standing orders allow for two types of questions to be asked of Ministers – oral questions (without notice) and written questions (on notice). Oral questions are those asked in the House during the period commonly known as Question Time. These questions are expected to be answered by Ministers immediately. Written questions are questions on notice which are lodged by Members and published in the Notice Paper. The replies to these questions are provided in writing. Written questions are asked by Members to obtain detailed information from Ministers about government activities and administration.

Genesis of Question without Notice

2.21 In the House of Representatives the practice of Members asking oral questions developed in a rather *ad-hoc* manner. The original Standing Order relating to the routine of business referred only to 'Questions on notice', a period during which Ministers read to the House answers to questions, the terms of which had been printed on the Notice Paper. However, from early in the first Parliament, questions without notice were also

asked during question time. In response to a query on the matter, the first Speaker made a statement to the effect that although there was no provision in the Standing Orders for questions without notice, there was no prohibition on them, and if a Minister chose to answer, the Chair would not object.

2.22 From the outset it was held that Ministers could not be compelled to answer oral questions. Rulings were given to the effect that questions without notice should be on important or urgent matters, the implication being that otherwise they should be placed on the Notice Paper. Over the years more and more time was taken up with questions without notice but it was not until 1950 that 'Questions without notice' replaced 'Questions on notice' in the routine of business under the Standing Orders.

2.23 Over the decades, the nature of Question Time has changed to focus less on seeking information and more on calling the Government to account for its actions and probing the political skills of Ministers. This change has gone hand in hand with changes in the reporting of the House, the televising of Question Time and an increasing use of Question Time footage in television news bulletins.

Written Questions

2.24 Members may also seek information from the Government by delivering questions in writing to the Clerk to be placed on the Notice Paper. In the case of written questions (questions on notice) neither the question nor answer, which is also received in writing, is read to the House. There is no restriction on the number of written questions a Member may ask, either each day or in total. In recent years, an average of 16 questions has been placed on the Notice Paper each sitting day.

2.25 The rules governing the form and content of questions are usually applied more strictly to written questions because of the opportunity to examine them closely. The Speaker is responsible for ensuring that questions conform to the Standing Orders, but, in practice, this task is performed by staff of the House. Officials in government departments check each day's Notice Paper for questions and arrange for answers to be drafted for their Minister to consider. When the Minister approves an answer it is forwarded to staff in the House who send a copy to the Member who asked the question and arrange for the question and answer to be printed in Hansard. In addition copies are supplied to the press.

2.26 There is no time limit by which questions must be answered. While most are answered promptly, some remain unanswered for many months. In an attempt to address this problem the House had adopted a procedure under which, if a reply has not been received after 60 days, the Member concerned may ask the Speaker in the House (usually after Question Time) to write to the Minister involved, seeking reasons for the delay.

2.27 Questions remain on the Notice Paper until answered, unless the Member asking the question becomes a Minister or ceases to be a Member. A question may also be withdrawn by the Member at any time. The question(s) remaining on the Notice Paper lapse when the Parliament is prorogued or the House is dissolved. In recent Parliaments some six percent of written questions have lapsed in this way.

Are there any questions?

2.28 Question Time commences at 2 p.m. each day with the Speaker calling on 'Questions without notice' and asking 'Are there any questions?' Several Members from both sides of the House stand to catch the Speaker's eye, but the first call is always given to an opposition Member. This Member, often the Leader of the Opposition, proceeds to ask his or her question. Subsequent questions follow, Members standing in their places to ask questions, Ministers replying from the Dispatch Box at the Table.

2.29 The allocation of the call to ask a question is at the Speaker's discretion but as per the established practice it alternates from the left to the right of the Chair, that is, between government and non-government Members. When the Opposition has the call, preference is given to the Opposition Leader and Deputy Leader if they seek the call but, apart from this, the Speaker allocates the call between Members as evenly as possible over a sitting period.

Ministers' presence

2.30 Although there is no rule to this effect, all Ministers are expected by the Prime Minister to be present. If a Minister is otherwise engaged on urgent public business, sick, or overseas, the Prime Minister will explain this before the first question is asked, and indicate which Minister will answer questions in place of the absentee. Ministers who are members of the House cannot attend Question Time in the House. A Minister in the House represents each of the Senate Ministers and is expected to be able to answer questions on that Minister's behalf.

Ministerial responsibility

2.31 Questions may be put to a Minister relating to matters for which he or she is responsible for officially connected in the areas of public affairs or administration. A Minister may also be questioned on proceedings pending in the House for which he or she is responsible. With the exception of questions to the Prime Minister or Ministers representing Senate Ministers, questions may not be put to one Minister about the ministerial responsibilities of another. The Prime Minister has of course overall responsibility for the Government, but it is not unusual for the Prime Minister to refer questions addressed to him to the Minister directly responsible.

2.32 Ministers have no warning of the questions to be asked by opposition Members and must prepare themselves as best they can. They receive daily briefings from their departmental staff on emerging issues and other matters on which they might expect to be questioned. Government Members, as a courtesy, usually inform Ministers of the questions they intend to ask.

Questions to private Members and the Speaker

2.33 An oral question of a strictly limited nature may be asked of a Member who is not a Minister—for example, a Member who has given notice of a private Member's bill may be asked when the bill is to be introduced or when copies will be available; a committee chair may be asked when a report will be tabled. Questions of this kind are rare. More

commonly, and usually at the end of Question Time, questions may also be put to the Speaker on matters of parliamentary administration.

Duration of Question Time

2.34 The duration of Question Time, and indeed whether it occurs at all, is within the discretion of the Prime Minister (or another senior Minister if the Prime Minister is not present) who may stop Question Time at any time, even without any questions having been asked, by asking that questions, or further questions, be placed on the Notice Paper. However, the Government is in these circumstances subject to the pressure not only of private Members from both sides of the House but also of public opinion. A Government that frequently refused to allow Question Time to proceed, or frequently restricted it to less than an hour, would be exposed to considerable criticism. In practice Question Time occurs on every sitting day and in recent times it has usually continued for well over an hour. However, only rarely the Question Time has not proceeded or been cut short.

A demanding time for the Chair

2.35 Oral questions by their very nature may raise significant difficulties for the Chair. The necessity to make instant decisions on the application of the rules on the form and content of questions is one of the Speaker's most demanding tasks. In addition, points of order often arise in relation to Ministers' answers, and there is often a degree of disorder in the House during Question Time.

Rules regarding admissibility

2.36 The Standing Orders restrain questioners from giving unnecessary information or introducing or inviting argument and thereby initiating a debate. In addition to these specific rules, the content of questions must comply with the general rules applying to the content of speeches. Since the general nature of Question Time has evolved over the years Speakers have tended to be somewhat lenient in applying the Standing Orders with the result that, for example, breaches of only minor procedural importance have not prevented questions on issues of special public interest. In addition, some latitude is generally extended to Opposition Leaders in asking oral questions and to the Prime Minister in answering them.

Format of Answers

2.37 The Standing Orders and practice of the House have been criticized in that the restrictions applying to the form and content of questions do not apply correspondingly to answers; for instance, Ministers have not been prevented from introducing argument into their answers. The only provision in the standing orders which deals explicitly with answers is the requirement that an answer shall be relevant to the question.

2.38 The test of relevance can be difficult to apply. The interpretation of 'relevant' has at times been very wide, and in practice the word has been frequently accepted by the Chair as meaning relevant in some way or relevant in part, rather than directly or completely relevant. Nevertheless, points of order contesting the relevance of a Minister's answer have been upheld and Ministers have been asked to resume their seats as their answers were not relevant.

2.39 The Speaker has no specific power under the Standing Orders to require a Minister to conclude an answer on the grounds of its length, but may attempt to exercise persuasion.

A highlight of the sitting day

2.40 Question Time provides an opportunity for Ministers to display their political skills and to portray their stewardship of government in a positive light. Other Members, especially the opposition shadow ministry, through skilled questioning, hope to reveal weaknesses in the performance of Ministers and represent themselves as an alternative government. Thus, Question Time can be seen as the Government and the alternative government both seeking to demonstrate to the House and to the public that their ability to govern is better than that of their opponents-an important part of responsible government and the political process.

2.41 The importance of Question Time is manifested by the fact that at no other time in a normal sitting day is the House so well attended. Question Time is usually an occasion of heightened interest to the news media and visitors to the public galleries which are generally full to capacity at this time. Question Time is shown on national television and excerpts are often included in nightly television news bulletins. It may also be available on the Parliament's internet site (www.aph.gov.au) which has a live telecast of all of the proceedings of the House.

CHAPTER III

COMMITTEE SYSTEM IN AUSTRALIAN FEDERAL PARLIAMENT

SENATE COMMITTEES

3.0 Like many Parliaments, the Senate has delegated responsibility for certain tasks to its Committees. Most Senators are actively involved in the work of three or four of these Committees.

3.1 Senate Committee has several purposes. They examine important or controversial issues of the day. They advise the Senate in its task of making and amending laws and they monitor the way in which the government administers those laws. As the executive branch of government (the ministry and the public service) is ultimately accountable to the Parliament, Senate committees keep a watchful eye on government decision-making. They also provide an opportunity for organizations and individuals to make representations to Parliament and to have their views placed on the public record.

3.2 Senate committees fall into two categories- Select and Standing. These Committees are appointed under the relevant Standing Order (Rules of Procedure and Conduct of Business of Australian Parliament)

(1) Select Committee

A Select committee is the one appointed by the Senate to inquire into some specific matter and to report back to the Senate within a set time. Once a select committee has submitted its final report to the Senate its work is done and it ceases to exist.

A Select Committee is created, as required, to enquire into and report upon a particular matter. It may be established at any time by a Resolution of the Senate which will specify the Committee's composition, terms of reference and powers. Select Committees often enquire into controversial and politically sensitive matters. Where a particular policy area is considered to merit continuous review, a Select Committee may have an extended life. A notable example is Senate Select Committee on Superannuation which was first appointed in 1991 was re-appointed successively with slight name changes but with the same functions and powers over a twelve year period.

(2) Standing Committees

A Standing Committee is a permanent committee of the Senate. It stands – or remains- for the life of the whole of any one Parliament, its members being appointed at the commencement of each Parliament. There are three groups of Standing Committees:-

1. Domestic Committees
2. Legislative Scrutiny Committees
3. Legislative and general purpose standing committees

I. Domestic Committee

There are 9 Committees :-

- (a) Appropriation and Staffing
- (b) Broadcasting and Parliamentary proceedings
- (c) House
- (d) Library
- (e) Privileges
- (f) Procedure
- (g) Publications
- (h) Senates' interest
- (i) Selection of Bills

Except the last Committee i.e., Selection of Bills, all the other eight Committees deal with matters relating to internal operations of the Senate. It is interesting to mention that the Privileges Committee enquires into matters relating to power and immunities of the Senate, including the protection of witnesses before the Senate Committee whereas Senators Interest Committee dealt with their pecuniary and other interests. The last one i.e., Selection of Bills is also classified as a Domestic Bill. It recommends to the Senate which bills should be referred to a committee for detailed inquiry and public consultation, to which committee, and at what stage of their passage they should be referred, and the date by which the committee should present its report. This is the most common method by which bills are referred to committees. The Selection of Bills Committee meets weekly when the Senate is sitting.

II. Legislative Scrutiny Committees

All Bills and Subordinate legislative instruments that come before Parliament are scrutinized by either the Scrutiny of Bills Committee or the Regulations and Ordinances Committee to ensure that they conform to certain principles mainly concerned with Civil Liberties.

(i) *Regulations and Ordinances Committee*

This Committee seeks to ensure that the Government's power to make the delegated legislation is not in any way misused. While all delegated legislation is made under the authority of an Act of Parliament and has full force of law, none of it is actually debated in Parliament unless a motion is brought forward for its disallowance. By examining all delegated legislation to check that it does not impinge on civil liberties or exceeds the terms of the Act under which it is made, the Regulation and Ordinances Committee operates as an important Parliamentary check on Executive Power. This Committee with the assistance of an independent Legal Advisor meets every week that the Senate sits to check all its disallowable legislative instruments tabled in the Senate (around 2000 per year)

(ii) *Scrutiny of Bill Committee :*

The Scrutiny of Bill Committee examines all Bills before they are debated by the Senate to ensure that the personal liberties and civil rights are not infringed. The Committee then issues a report drawing the attention of the Senate to any defective provisions it may have found in a Bill. The Committee's Report issued every week when the Senate is sitting, frequently result in legislation being amended to remedy such defects.

III. Legislation and General Purpose Standing Committee

Central to the Senates Committee System are the Legislative and General Purpose Standing Committee. These Committees examine Legislation, Government Administration and References of general nature. Since 1994 Estimates (Annual and additional estimates, contained in the documents presenting the particulars of proposed expenditure and additional expenditure, are referred to the legislative and general purpose standing committees for examination of report) function has been subsumed by these Standing Committees. The departments and the agencies allocated to these Committees are as follows:-

Legislative and General Purpose Standing Committees	Departments and agencies
Community Affairs	Families, Housing, Community Services and Indigenous Affairs; Health and Ageing
Economics	Treasury; Innovation, Industry, Science and Research; Resource, Energy and Tourism
Education, Employment and Workplace Relations	Education, Employment and Workplace Relations
Environment, Communications and the Arts	Environment, Water, Heritage and the Arts; Broadband, Communications and the Digital Economy
Finance and Public Administration	Finance and Deregulation; Human Services ; Parliament; Prime Minister and Cabinet (including Climate Change)
Foreign Affairs, Defence and Trade	Defence (including Veterans' Affairs); Foreign Affairs and Trade
Legal and Constitutional Affairs	Attorney General; Immigration and Citizenship
Rural and Regional Affairs and Transport	Agriculture, Fisheries and Forestry; Infrastructure, Transport, Regional Development and Local Government

These Committees examine any bills or Draft bills referred to them and also carry out the work of enquiring into and reporting on twice the yearly estimates of proposed government expenditure. In addition, they have specific mandate to monitor the

performance of departments and agencies. These Committees also enquire into and report upon any other matters referred to them by the Senate, usually particular aspects of public policy.

(3) Joint Committees

A Joint Committee is the one on which both Senators and Members of the Other House i.e., House of Representatives serve. Joint Committees are established where it is considered that the matter should be the subject of simultaneous enquiry by both the Houses.

Joint Committees may be Statutory, Select or Standing Committees. Joint Statutory Committees are established by Statutes (an Act of Parliament). Joint Select or Standing Committees are established under the standing order of each House. The powers and proceedings of Joint Committees are determined by Resolution of both Houses. A proposal for a Joint Committee of the Senate and the House of Representatives agreed to by the Senate is forwarded to other House by message. The proceedings of a Joint Committee are reported to the Senate by one of the Senators appointed to serve on the Committee.

Establishment and Membership of Senate Committees

3.3 The Senate Standing Orders specify the Membership of Standing Committees and number of positions to be allocated to Senators from Government, Opposition, Minority Parties and Independents. Usually, these Committees consist of six to ten Senators. The Chair of a Committee or a Deputy Chair when acting as Chair has a casting vote if the vote is tied. When the votes on any question before a Committee are equally divided the Question shall be negatived.

3.4 Senators who are interested in the work of a particular committee but are not members of it may be appointed by the Senate as participating members, which gives them all the rights of membership except the right to vote on matters before the committee. Senators may also be appointed to committees as substitute members, to replace an existing member for a specified time, for a particular inquiry or for the consideration of certain issues. Unlike participating members, substitute members have voting rights in respect of those matters for which they are substitute members.

3.5 The membership of select committees is specified in the resolution establishing them. They have varied between five and nine members and the chairmanship of the committees may be held by Senators from any of the political parties. The size of statutory committees is specified in the legislation which authorizes their establishment. Joint Committees, because they consist of members of both Houses of Parliament, are larger, ranging in size from 10 to 30 members. Except or otherwise provided the senators to serve on a Committee shall be nominated by the mover, and if one Senator so requires, they shall be selected by ballot.

3.6 When positions on a committee need to be filled, the political parties arrange for an appropriate number of their senators to be nominated (through the party whips). The non-government nominees are usually determined by agreement between the opposition,

minor parties and independent senators. The nominations are then proposed to the Senate, which formally appoints those senators named in the motion. A senator wishing to resign from a committee must similarly seek the formal permission of the Senate to be discharged from attendance on the committee.

3.7 Legislative, General Purpose Standing Committees, Appropriations and Staffing Committee and Scrutiny of Bills may appoint subcommittees consisting of three or more of its members and refer to any such subcommittee matters which the committee is empowered to consider.

Quorum

3.8 In each Committee and Sub-Committee unless otherwise provided, a quorum shall be a majority of the Members of the Committee or subcommittee.

Powers of committees

3.9 The direction and extent of a Senate committee's inquiry is determined by its terms of reference. Committees do not have powers of their own: they possess only the authority delegated to them by the Senate itself.

3.10 The Senate has the power to take evidence under oath. It can also require that people attend, and that documents be produced. These powers support one of the Senate's major functions: to inquire into any matters of concern as a necessary preliminary to debating and legislating about those matters. The Senate delegates the inquiry function, together with the necessary powers, to committees. As a result of this delegation of power, committee powers are extensive. Committees may 'send for persons and documents' which means that they may summon witnesses and require them to produce documents. However, committees' powers of compulsion are rarely used. Committees usually invite witnesses to make oral and written submissions and to provide documents. Witnesses usually welcome the opportunity to appear at a committee's hearing, as the hearings provide a forum in which individuals and groups may put their view directly to the Parliament. Committees may move from place to place and meet in public or private session. Senate committees may also meet and conduct business during the prorogation of Parliament or when the House of Representatives has been dissolved for the purposes of a general election.

The inquiry process

3.11 The senators serving on a committee are assisted by a small secretariat consisting of a secretary and research and clerical staff. The secretary is a committee's principal adviser on committee procedures and manages all aspects of the committee's research and operations. The secretary works closely with, and at the direction of, the chair of the committee. On behalf of committee members, the secretariat staff arranges hearings, prepares questions to be asked of witnesses if required, analyses and summarises submissions and evidence, conducts research, prepares draft reports and monitors government and other responses to reports.

3.12 Committee inquiries are usually advertised in the national press, reaching the people and organizations most likely to make submissions. The committee conducting the

inquiry will also seek submissions from government and non-government agencies known to have an interest in the matter under inquiry. Persons or organizations with a specialist knowledge or interest may be specifically invited to make submissions.

3.13 Committees analyse the material submitted to them, sometimes with the assistance of expert advisers. Some witnesses who have made submissions are invited to attend public hearings so that submission material can be further investigated and tested. A Committee is authorized to hold meetings by electronic communications without the Member of the Committee or witnesses being present in one place provided both are able to speak and hear each other contemporaneously. The electronic participation of a member is counted for the purpose of quorum.

3.14 As well as hearing evidence in Canberra, committees frequently travel to other cities and regional areas to listen to witnesses. In this way, they are able to obtain first-hand experience of the issues under consideration. Committees may also arrange informal briefings, seminars, and site inspections to augment their formal evidence-gathering.

3.15 Committees generally prefer to take evidence in public hearings. The purpose of a public hearing is to provide an opportunity for the Committee to clarify and test the evidence already provided and to examine other points of view with a witness. The hearing of evidence by Committees usually takes place in public and such meetings are often attended by members of the general public and by media representatives. Witnesses are required to tell the truth and occasionally they may be asked to make an oath or affirmation to confirm this. Where there is a risk, however, that the exposure of some evidence in a particular committee inquiry could be contrary to the public interest for reasons including possible prejudice to court proceedings, national security or individual privacy, a committee may decide to hear evidence in private (*in camera*).

3.16 The examination of all witnesses, including those heard *in camera*, is recorded in a transcript of evidence (*Hansard*). Witnesses may apply at any time for all or part of their evidence to be heard in private and the committee must consider such applications. Although the Senate and its committees have the power to publish evidence taken *in camera*, normally this course is not taken. However, the Senate or a committee may subsequently decide to publish *in camera* evidence because the reasons for keeping such evidence confidential no longer exist. It is an offence punishable by the Senate to publish evidence taken *in camera* without permission.

3.17 Witnesses may also request to be accompanied by and consult a lawyer during their appearance before a committee. If permission is given for a lawyer to attend a committee hearing, the lawyer is not permitted to represent the witness by giving the witness' submission or giving oral evidence on behalf of the witness. The lawyer cannot examine or cross-examine any witness, or intervene during the committee's examination of any witness. A witness accompanied by a lawyer must be given reasonable opportunity to consult with the lawyer during the hearing.

3.18 Public servants appearing as witnesses before committees have the same rights and responsibilities as other witnesses. Government guidelines for public servants appearing as witnesses before committees state that public servants are required to fulfill their accountability obligations by providing full and accurate information to the Parliament (and its committees) about the factual and technical background to policies

and their administration. Further, privilege resolutions of the Senate provide certain rights for witnesses. For example, Commonwealth or state public servants are not to be asked to give opinions on matter of policy and must be given reasonable opportunity to refer questions to a superior office or to a minister.

Media Coverage

3.19 Filming or recording of public hearings of Parliamentary Committees requires the consent of the Committee. As a matter of fact, there are set guidelines for filming and photography and General Media Rules in Australian Parliament House and its precincts. As regards telecast of Parliamentary proceedings, television filming in the Chambers and Committee rooms is exclusive responsibility of Parliamentary staff. The live television “feed” of proceedings of both chambers is broadcast directly to the Offices in Parliament House including Press Gallery offices, various other agencies, institutions and media outlets. However, filming is permitted at Press Conferences held in Committee rooms and other areas used for this purpose

Committees and Parliamentary Privilege

3.20 The proceedings of committees are recognised as proceedings of Parliament and attract the same privileges and immunities as Parliament itself. This means that witnesses receive very wide protection and immunity enabling them to give evidence freely and honestly without fear of recrimination. Parliamentary privilege also means that witnesses cannot be sued or prosecuted for what they say in evidence to a committee.

3.21 In fact, Parliamentary Privileges in Australia are codified in The *Parliamentary Privileges Act 1987* which defines as an offence any ‘improper interference with the free exercise by a House or committee of its authority or functions, or with the free performance by a member of the member’s duties as a member.’ Examples of offences under this Act include interference with the authority of the Senate or a committee, and refusing to give (or prevent others from giving) evidence to a committee

3.22 Matters of privilege, usually relating to alleged interference with senators or committees, are considered by the Committee of Privileges. The committee may call and examine witnesses and report to the Senate on whether in its opinion any of the Senate’s rights have been transgressed. The Parliamentary Privileges Act authorises the Senate to impose a penalty of imprisonment for a period up to six months or a fine of up to A \$5,000 (for individuals) or A \$25,000 (for corporations) if it considers that an offence has been committed. The Parliamentary Privileges Act also provides that papers and documents presented to, and published by, a committee attract absolute privilege because they are proceedings in the transaction of parliamentary business. All documents received by a committee during an inquiry are presented to the Senate and remain in the custody of the Senate after the committee has conducted its inquiry.

Reporting and follow-up

3.23 Senate standing order requires the chair of a committee to prepare a draft report and submit it to the committee for consideration. In practice, the chair gives drafting instructions to the secretary who prepares a draft with secretariat assistance. After a final report has been agreed to, committee members may add a minority or dissenting report or

attach relevant conclusions and recommendations. While committees usually attempt to reach consensus, dissenting reports are not uncommon.

3.24 The process of reporting is completed when a copy of the report, signed by the chair, is formally presented to the Senate. Until that time the report is under embargo and its contents may not be revealed. Debate may take place after the report has been tabled, and at other times specifically programmed by the Senate. Committee reports may also be presented to the President of the Senate or his deputy when the Senate is not sitting. The report is then deemed to have been presented to the Senate and publication is authorized.

3.25 For reports on matters on which the Senate has power to act, the presentation of a report may be followed by a motion that it be adopted or agreed to. Reports from select and legislative and general purpose standing committees, however, frequently recommend changes to policies, legislation and administrative practices matters which cannot be carried by the Senate acting alone. The usual practice with such reports, therefore, is for a senator to move that the report be noted. This motion enables further debate to occur.

3.26 The Senate orders substantial committee reports to be printed and they are incorporated in the Parliamentary Papers Series.

3.27 Governments give careful consideration to reports and frequently act on committee recommendations. Since 1978, successive governments have undertaken to respond to committee reports within a specified period currently three months. In 1994 the Senate passed a resolution that the government response should also address any minority or dissenting report and any matter added to the report by a member or participating member of the committee. Since 1981 the President has tabled a six-monthly report which monitors whether government responses have been provided to committee reports or not. The government also tables a similar report every six months.

The value of the committee system in Senate

3.28 The Senate's comprehensive committee system has significantly strengthened the Australian parliamentary system of government. It assists the Senate to perform its law-making and inquiry role more effectively and to keep the government accountable for its actions.

3.29 Committees also provide a formal channel of communication between Parliament and the public and this encourages greater community participation in the parliamentary process. Travelling to stakeholders in town and country, committees also hear local views on government policy. Media attention is drawn to matters that might otherwise have been overlooked.

3.30 The importance of the committee system is reflected in the increasing volume of work carried out by Senate committees. In the twenty years from 1970 to 1990, Senate committees tabled an average of 32 reports annually. In the years 1999 to 2005, the number increased almost fourfold, to an average of 111 reports a year. This trend makes it clear that senators regard the committee inquiry and estimates processes as an invaluable aid to their work.

Committee System in House of Representatives

3.31 Our exposure to Committee System of House of Representatives was not much as compared to Senate Committee. However, it is more or less similar to that of Senate committee system. Broadly, the Committees appointed by House of Representative are:- Standing, Select, Joint, Statutory, Domestic, Investigatory and General Purpose Standing Committee. The power and functions of these Committees are similar to that of Senate Committee. The only difference is existence of a Committee called the 'Main Committee' in the House of Representatives. It is a Committee established to be an alternative venue to the Chamber for debate of a range of business (i.e. the second reading and consideration in detail stages of bills, committee and delegation reports, and papers presented to the House). It is not an investigatory committee and cannot hear witnesses or take evidence. Normally it is Chaired by the Deputy Speaker.

3.32 To conclude, the important points emerging from the above study report on the Committee System in Australian Federal Parliament are as under:-

- The Senate and House of Representatives finds it useful to delegate responsibility to certain task to Parliamentary Committees. These Committees keep a watchful eye on Government decision making.
- Senate Committee appointed under relevant Standing order fall into two categories- Select and Standing.
- Select committee is the one appointed by the Senate to inquire into some specific matter and to report back to the Senate within a set time.
- A Standing committee is a permanent committee of the Senate. These Committees are Domestic, Legislative Scrutiny, Legislative and General purpose standing and Joint Committees.
- Domestic Committees namely Appropriation and Staffing, Broadcasting and Parliamentary proceedings, House, Library, Privileges, Procedure, Publications, Senates' interest and Selection of Bills deal with matter relating to internal operations of the Senate.
- Legislative Scrutiny Committees scrutinized all bills and Subordinate legislative instruments that come before Parliament to ensure that they conform to certain principles mainly concerned with Civil Liberties.
- Legislation and General Purpose Standing Committees examine legislation Government Administration and References of general nature.
- Joint Committees are established where it is considered that the matter should be the subject of simultaneous enquiry by both the Houses. These are administered by both the Secretariat alternately irrespective of their appointment by any House
- Senate estimates hearings meet three times a year to scrutinize how the government has spend the Budget funds. The House of Representative does not hold estimates hearings.
- The Senate Standing Orders specify the Membership of Standing Committees and number of positions to be allocated to Senators from Government, Opposition, Minority Parties and Independents. There is provision of appointment of a

substitute member in a Committee that means he replaces an existing member for a specified time, for a particular inquiry.

- The Joint Committees are larger ranging in size from 10 to 30 Members.
- Quorum in a Committee or sub-Committee shall be a majority of Members of the Committee or sub-Committee.
- The direction and extent of a Senate committee's inquiry is determined by its terms of reference. Committees do not have powers of their own: they possess only the authority delegated to them by the Senate itself.
- Senate Committees may also meet and conduct business during the prorogation of Parliament or when the House of Representatives has been dissolved for the purposes of a general election.
- The senators serving on a committee are assisted by a small secretariat consisting of a Secretary and research and clerical staff.
- Committee inquiries are usually advertised in the national press, reaching the people and organisations most likely to make submissions
- A Committee is authorized to hold meetings by electronic communications without the Member of the Committee or witnesses being present in one place provided both are able to speak and hear each other contemporaneously. The electronic participation of a Member is counted for the purpose of quorum.
- Apart from hearing evidence in Canberra, the Committees frequently travel to other cities and regional areas to listen to witnesses.
- There are set guidelines for Filming or recording of public hearings of Committees requires the consent of the Committee.
- Parliamentary Privileges in Australia are codified in The *Parliamentary Privileges Act 1987*.
- The importance of the committee system is reflected in the increasing volume of work carried out by Senate committees. In the twenty years from 1970 to 1990, Senate committees tabled an average of 32 reports annually. In the years 1999 to 2005, the number increased almost fourfold, to an average of 111 reports a year. This trend makes it clear that senators regard the committee inquiry and estimates processes as an invaluable aid to their work.
- The Committees of Senate and House of Representative are more or less similar in nature and functions. However, the only difference is existence of a Committee called the 'Main Committee' in the House of Representatives. It is a Committee established to be an alternative venue to the Chamber for debate of a range of business (i.e. the second reading and consideration in detail stages of bills, committee and delegation reports, and papers presented to the House). It is not an investigatory committee and cannot hear witnesses or take evidence.

CHAPTER IV

HUMAN RESOURCES MANAGEMENT

4.0 The employees of the Secretariats of the Federal Parliament as well as the New South Wales Parliament are employed on full-time, part-time and casual basis, as per the agreement entered into by the employee and the employer. Full time workers are permanent employees with a guarantee of on-going employment. They are entitled for at least the minimum wages, sick leave as well as four weeks of paid annual leave. Part-time employees too are permanent employees with a guarantee of on-going employment. They too receive at least the minimum wages, have cumulative sick leave entitlements and also four weeks of paid annual leave. The regular hours of work of part-time employees are less than 150 hours over a 4 week period. Casual workers are not permanent employees and, therefore, have no guarantee of on-going employment. No advance notice of termination of service is required, in their case.

RECRUITMENT & SELECTION PROCESS

4.1 The following selection principles apply:

- For ongoing re-assignment of duties, actions must be undertaken without patronage, favouritism or discrimination. However, a merit selection process is not required, as other factors such as the desire to achieve staff rotation or the personal development of employees are also legitimate objectives. In the small number of vacancies that are not advertised, there are generally at least three managers involved in the selection process – the gaining director/secretary, the gaining SES manager and the losing SES manager. These people weigh up the relative fairness of advertising the job as open to other eligible staff and the development opportunities for the individual to be selected.
- For promotions or ongoing engagements, action should be in accordance with the merit principle and based on an assessment of relative efficiency or suitability, respectively. In practice, the merit principle requires, so far as is practicable, that all those who are eligible should have a reasonable opportunity to apply, and selection should occur via fair and open competition.

PERFORMANCE COMMUNICATION SCHEME

4.2 Under the Parliamentary Service Act 1999, a list of values that Parliamentary departments and their employees must uphold is set out. The Performance Communication Scheme is the departments' framework for promoting regular two-way communication and feedback, and arranging individual performance and development.

4.3 The Scheme ensures a clear understanding of individual performance expectations and goals and how individual employees contribute to the achievement of the department's corporate plan and a fair and objective basis for recognizing and rewarding effective performance.

4.4 There are three formal stages in the Scheme's annual cycle, *i.e.* in May, October and April. At the start of the cycle in May, the Supervisor and staff member develop a Performance Agreement. In the mid-cycle, *i.e.* in October, the staff member completes the Review of Professional Development, Supervisor completes the Performance Assessment, staff member completes feedback to Supervisor and then Supervisor and staff member review the Performance Agreement. Then in the End-Cycle, *i.e.* in April, the staff member completes Review of Professional Development, Supervisor completes Performance Assessment and staff member completes feedback to Supervisor.

4.5 At the end of each assessment, the Supervisor must record the overall assessment rating on the human resource information system. This enables managers to monitor timely completion of assessments and assists with timely processing of salary increases and any salary advancements.

4.6 Every individual employee is assigned a defined role to perform, which he/she is expected to perform to the best of his/her ability and satisfaction. All employees desirous of joining the services of the Australian Parliament have to enter into an Agreement known as Department Employee Collective Agreement. The purpose of the Department is to support the Houses and Parliament as a whole by providing advice and services of the highest possible standard. In terms of the Agreement, the Department and its staff agree to work together in pursuit of business excellence.

4.7 The Agreement is made between the Clerk of the House and staff of the Department. It covers the terms and conditions of employment of staff of the Department who are employed under the Parliamentary Services Act, 1999 but does not apply to Senior Executive Staff and staff whose salary is paid by another agency.

4.8 In case of dispute, it is the responsibility of the parties to the Agreement to take reasonable and genuine steps to settle the dispute by discussion, and if need be by negotiation. The staff may discuss the matter with the immediate supervisor/next higher level of management in case of disagreements over matters covered by the Agreement. In case the matter still remains unresolved, the persons concerned may arrange further discussions involving more senior levels of management as appropriate. If the matter still remains unresolved, then it may be referred to a mediator, who can make recommendations to the Clerk and if still further the matter remains unresolved, then it may be referred to the Australian Industrial Relations Commission.

Unsatisfactory Work Performance

4.9 Under the Scheme, the staff agrees to have their work performance assessed in accordance with the Department's Work Performance Management Guidelines. This helps in improving the Department's performance through the development of a stronger performance culture. At the individual staff member's level, it helps the staff to plan and develop career goals and learning needs, scope to receive rewards where work performance contributes to organizational improvements, the ability for individuals to develop a clear picture of their role and purpose within the Department.

4.10 Where performance consistently falls below expected standard, the manager will provide the staff member with a written advice to improve performance, within a twelve week period. During this twelve week period, the staff member's work is assessed by a

person appointed by the Clerk from outside the immediate work area. At the end of the period, the person appointed will forward to the SES Manager an assessment of whether the staff member has met the expected standard of performance. If the staff member has met the expected standard, no further action would be taken. If performance fails to meet the expected standard, then the SES Manager would write to the staff member, asking him to show cause as to why his services should not be terminated. Then the SES Manager will decide whether to terminate the employment or take some other action, such as transfer or reduction in classification.

Selection and Advancement of Staff

4.11 The Clerk seeks to balance the departmental operational requirements *vis-à-vis* the career aspirations and development needs of the staff. The SES Manager will determine whether staff is to be recruited on an ongoing basis or for a particular period. Besides, the Department provides opportunities for all staff to develop and enhance their skill and knowledge to meet the current and future skill requirements of the Department and the Parliamentary Services. Training is provided to all staff to set work and development objectives.

Flexible Employment Options

4.12 To enable staff to balance their work and life commitments, they are provided with the greatest possible flexibility in their attendance pattern. The Department thus encourages part-time, job-sharing, part-year employment, home-based working arrangements etc.

Salary Structure

4.13 Salary is paid according to the value of work performed by assessing it against the work level standards for each classification level. There are two broad bands within the classification level. The broad bands allow access to additional remuneration in case of higher performance at individual levels.

4.14 There are eight level classification structures *i.e.* Executive Levels 1-2 and Parliamentary Service Levels 1-6. Salary progression from one broadband to another or to either of the Executive levels will be by a merit selection process only and salary progression within the bands and within classification levels will be decided on the basis of “meet requirements” of their work performance. Casual basis staff will receive 20% loading on the standard rate of pay in lieu of recreation, personal, miscellaneous leave and public holidays.

4.15 All staff except Executive Band 1 level staff will receive pay increase of \$500 plus 4% of their base rates of pay from when the agreement comes into operation. To be eligible for pay rise, substantial achievement as determined by the Clerk is necessary.

4.16 Besides salary, staff is entitled to a number of allowances like Executive Allowance @ \$197.57 per night or as an alternative to Executive Additional Leave to Executive Band 1-2 employees. The Executive Additional Leave is granted on an hour for hour basis up to a maximum of 150 hours per year. This may accrue for four years,

after which staff will be deemed to be on leave. Meal allowance is granted to staff working outside normal business hours.

Travelling Allowance

4.17 While travelling on official duty, the entitled class is economy, while official travel on business overseas, will be in business class. Besides equipment expenses are payable for undertaking short term missions overseas, to assist with cost of travel equipment and other items purchased as a result of the mission. A staff member travelling for official purposes is provided with a Corporate Credit Card to meet charges on accommodation, meal and incidental expenses.

Working Hours

4.18 The normal working hours are 7.30 AM to 7.30 PM from Monday to Friday. Overtime is payable for work performed beyond normal working hours. Executive level 1-2 staff is not eligible for overtime payments. However, they are eligible for time off in lieu of additional hours of work put by them. This apart, all staff except Executive level 1-2 are covered by flexitime, which allows for flexible working hours arrangements.

Leave

4.19 Staff has access to recreation leave, purchased leave, personal leave, and miscellaneous leave. The annual recreation leave credit will be twenty working days for each full year and its counts as service for all purposes. Staff may elect to purchase at least one week's additional leave per year up to a maximum of ten weeks, with the approval of the Clerk. Purchased leave will also count as service for all purposes. Personal leave is granted by the Clerk to staff who are ill, or to enable them to take care of family members who are ill, for bereavement purposes and other emergent situations. Staff cannot be paid personal leave while on paid maternity leave. Besides, Clerk may approve miscellaneous leave with or without pay for reasons not covered by other leave types such as war service sick leave, study commitments, etc.

Voluntary Retrenchment

4.20 Where there is excess staff, the Clerk invites staff to volunteer for termination by giving one month to make an election. Such staff who elect for voluntary retrenchment are entitled to be paid a severance benefit.

BROCHURE FOR NEW STAFF MEMBERS

4.21 The Department of the Senate of the Australian Parliament have brought out a Booklet entitled "An introduction to the Senate and Parliament House for New Staff Members." The Booklet showcases the role and functions of the Parliamentary Departments. It gives an insight into the building of the Parliament House, how to access it, the parking facilities available, the general services and facilities available to the staff such as the Aussies' General Store, Staff Dining Room, Queen's Terrace Café, ATM facilities, the Post Office, Nurses Centre, the Parliament Shop etc. In fact, it is a store house of information for new staff members.

CHAPTER V

THE PARLIAMENTARY EDUCATION OFFICE

5.0 The Australian Parliament has a very detailed programme for educating the school children on parliamentary systems and democracy. This responsibility is carried out by the Parliamentary Education Office. The details of their programmes are available in their website <http://www.peo.gov.au>.

5.1 The Parliamentary Education Office offers innovative educational programmes to schools, teachers and students, including customised programmes by request. The office delivers role-play programmes at the Parliament House. Each year over 90,000 students participate in the role-play programmes. The role-play gives students the opportunity to experience what it's like to be a parliamentarian or an official working in the Federal Parliament. The role-play explores four main functions of the federal Parliament: -

- Making and amending laws;
- Representing the people;
- Forming the Government;
- Scrutinising the work of the Government.

5.2 The role-plays are facilitated by experienced educators and take place in a simulated parliamentary setting, complete with costumes and props.

5.3 In addition to the standard role-play programmes, the Parliamentary Education Office can develop customised programmes to match the experience, interests and needs of specific groups. Customised programmes are arranged by negotiation, and are delivered in both Australia's Parliament House and in schools and institutions around Australia.

5.4 Programmes are also developed with universities as well as Technical and further education colleges, to satisfy individual course needs. University programmes is targeted at pre-service teachers to assist with the development of strategies for teaching about Parliament.

5.5 Through role-play, students experience the: -

- Process of law making;
- Role of committee of inquiring in the scrutiny of legislation;
- Importance and value of being informed and involved; and
- Practical application of the knowledge to their future work.

CHAPTER VI

THE NEW SOUTH WALES PARLIAMENT

AN INTRODUCTION

6.1 The Parliament of New South Wales is Australia's oldest legislative body. Earlier, New South Wales was a British Colony under the control of a Governor appointed by British Government. A Legislative Council comprising of Government officials used to advise the Governor on legislative matters. However, by 1843, 2/3 of the body of the Council began to be elected by adult males who had to meet certain property requirements. But in the year 1856, the New South Wales Parliament became bicameral with a fully elected Legislative Assembly and an appointed Legislative Council. In 1858, the right to vote was extended to all adult males. In the year 1901, New South Wales became a sovereign state of the Commonwealth of Australia. In 1902, the Constitution of New South Wales was adopted and women gained the right to vote and by 1980, the Legislative Council too became a fully democratically elected House.

COMPOSITION

6.2 The Parliament of New South Wales is made of two Houses – the Legislative Assembly or Lower House having a green colour theme and the Legislative Council or Upper House with a red colour theme.

A BRIEF OVERVIEW OF THE LEGISLATIVE COUNCIL

6.3 The Legislative Council is the Upper House of the New South Wales Parliament and is also referred to as House of Review. It plays an integral part of the legislative and democratic processes of the New South Wales. It has almost similar powers as that of the Legislative Assembly but with a few limitations in respect of financial bills. Other functions are the review and scrutiny of finances, policy and administration of executive government, which is largely done through inquiries by Committees of the Legislative Council.

6.4 The first Legislative Council had only five appointed members to advise the Governor but today there are 42 members elected by the people through proportional representation. The members have an eight year term with one half of the members being elected every four years.

Working of Committees

6.5 An integral part of the work performed by Members of the Council is serving on Parliamentary Committees. Committees allow Members to examine issues in detail and with more public inputs. On receipt of an inquiry, a Committee conducts background research and calls for written submissions from relevant experts in the field. Thereafter, Committee holds public hearings, where Members of the Committee can speak directly to people about the issues that are relevant to the inquiry. The public can make submissions, give oral evidence and obtain copies of the Committee reports.

Department of the Legislative Council

6.6 The role of the Department of the Legislative Council is to provide procedural, analytical and administrative support to the Members of the Council to enable them to effectively perform their parliamentary duties.

6.7 The Department is headed by the Clerk of the Council, who is the Chief Executive Officer and his job is to provide expert advice and counsel on parliamentary law, practice and procedure to the President, Ministers and Members of the House and also manage the operations of the Department.

6.8 To assist the Clerk, there are the Table Office which prepares the Minutes of Proceedings of the House, the Notice Paper etc., the Procedural Training and Research Office, which provides research services and procedural advice. Besides, they also deliver training and professional development programmes to the Department Staff. Then there is the Chamber and Support Services Office whose job is to ensure the effective and efficient functioning of the House. They also deliver presentations on the functions and history of the Legislative Council to schools and other community groups and also assist in visitor inquiries etc. Last but not the least, there is the Committee Office which provides research, procedural and administrative support to various Committees of the Legislative Council.

A BRIEF OVERVIEW OF THE LEGISLATIVE ASSEMBLY

6.9 The Legislative Assembly or Lower House has 93 members, elected by single member Constituency, where voting is by the optional preferential system. Most legislation is initiated in the Legislative Assembly. The party or coalition with most seats is invited by the Governor to form the government. The leader of that party subsequently becomes the Premier of New South Wales and their senior colleagues become ministers responsible for various portfolios.

6.10 The term of the Legislative Assembly is four years unless the House loses confidence in the Government or fails to pass an appropriation Bill for the ordinary annual services of Government, or the Governor decides to dissolve the Assembly in accordance with constitutional conventions. The method of voting for the Legislative Assembly is known as Optional Preferential. The name of each candidate and their party affiliation is shown in the ballot paper. The voter places the number "1" in the square next to the name of the candidate who is the voter's first choice. No other vote needs to be made but the optional preferential part gives the voter the option of allocating further preferences. Should a Member resign or die mid-term, then a by-election is held in that particular constituency only to elect a new Member.

6.11 The Legislative Assembly plays a vital role in the functioning of the House. Money Bills are initiated from the Legislative Assembly. Bill appropriating revenue for the ordinary annual services of the Government can be presented to the Governor for assent even if the Legislative Council has not agreed to it. The daily operations of the Assembly are laid down in the standing orders. The standing orders are the main rules by which the House operates and are required to be approved by the Governor.

Department of the Legislative Assembly

6.12 The Department of the Legislative Assembly aims to provide excellent service to ensure optimum support for the functioning of Parliament. It is comprised of seven functional areas *i.e.* the Office of the Clerk, the Procedure Office, the Committees Office, Members' Services, Employee Services, Chamber and Support Services and Parliamentary Accounts.

Department of Parliamentary Services

6.13 It is a service department that supports the work of Parliament. It is the principal support agency for Parliament House – a building where more than 1000 people work. It works in close co-ordination with the Department of Legislative Council and the Department of Legislative Assembly to support operations of the Parliament and its Committees. Besides it also provides Hansard and Broadcasting Services for the Parliament and IT, Library and Research Services to Members of Parliament, Parliamentary Committees and other building occupants.

The Speaker

6.14 The Speaker is the Presiding Officer of the Legislative Assembly and is often described as the Assembly's "independent and impartial representative". The Speaker's role is to maintain order in the House, put Questions after debate and conduct divisions. In maintaining order, the Speaker interprets and applies the Standing Orders and practice of the House by making rulings and decisions. The Speaker's decisions are, however, subject to the will of the House exercised through a motion of dissent. He conveys the messages and addresses from the House to the Governor. He also has extensive administrative powers as he, along with the President of the Legislative Council, is responsible for the overall direction of the Parliament. The Speaker is also responsible for the operation of the Department of the Legislative Assembly.

6.15 Section 31 of the Constitution Act, 1902 empowers the Speaker when not presiding to take part in any debate or discussion and vote on any question which may arise in the Legislative Assembly. However, in accordance with Section 32 of the Constitution Act, 1902 when presiding, the Speaker can only exercise a Casting Vote, when the votes are equal.

Deputy Speaker and Assistant Speaker and Temporary Speakers

6.16 Deputy Speaker and Assistant Speaker are elected from amongst the members by motion. Deputy Speaker holds office until a successor is elected even after expiry of the term of the Legislative Assembly. The Assistant Speaker holds office for the duration of Parliament. Deputy Speaker and Assistant Speaker have the same authority as the Speaker when presiding in the chair.

6.17 In the most unlikely event of all three officeholders being absent from the House at any given point of time, the Standing Orders authorizes the House to elect an Acting Speaker so long as a quorum is present.

6.18 At the beginning of each Parliament, the Speaker nominates not more than five Members who will be Temporary Speakers. They relieve the Speaker, Deputy Speaker and Assistant Speaker on a temporary basis, whenever required.

Parliamentary Secretaries

6.19 Under Standing Orders, Parliamentary Secretaries are empowered to act on behalf of Ministers in the House except in respect of certain functions, such as arranging government business, replying to Questions without notice or moving a motion of adjournment of the House. However, they can introduce Bills and move motions for their passage, reply to private member's statements, move motions to suspend Standing Orders without leave and also table papers.

The Committee System in New South Wales Parliament

6.20 An important part of the work performed by Members of the New South Wales Parliament is serving on Parliamentary Committees. The Committees investigate specific matters of policy on government administration or performance. Each Committee has its own defined area of operation so that they are able to specialize and build up a body of expertise among their Members. The Committees help Members to access a wide range of community and expert views so that through the Committee process, the House is able to be better informed of community issues and attitudes.

Types of Committees

Standing Committees: These are Committees appointed for the life of House.

Select Committees: These are appointed as the need arises for a specific purpose. Once the Committee has carried out its investigation and presented its final report, it ceases to exist.

Joint Committees: They draw their Membership and report to both Houses.

Statutory Committees: These are ones that are established by an Act of Parliament, that is by statute.

Domestic or internal Committees: These are the ones whose functions are concerned with the powers and procedures of the House.

Investigatory Committees: These are Committees with investigatory powers.

General purpose Standing Committees: These are investigatory or scrutiny Committees, appointed to inquire into and report upon any matters referred to them by the House or a Member.

Question Time

6.21 Question Time is one of the most significant parts of a day. Question Time has a theatrical quality which attracts press and visitors because it can at times be controversial for the Government. It is that time in particular, when the Opposition gets opportunity to ask questions that scrutinize the Government's programmes and to receive answers.

6.22 There are two types of questions – Questions without Notice and Questions on Notice.

Questions without Notice: These are questions asked in Question Time. Ministers do not receive notice of the questions to be asked.

Questions on Notice: These are questions asked of Ministers in writing and the answers are also given in writing. They are tabled in the Parliament but are not the subject of any Parliamentary debate in themselves. There is no limit to the number of these questions.

CHAPTER VII

ACT ASSEMBLY, CANBERRA

COMPOSITION

7.0 The Legislative Assembly for the ACT is the legislative government of the nation's capital territory. It is a unicameral parliament, having one chamber with 17 MLAs. These members are elected from three multi-member electorates namely Brindabell, Ginniderra, and Molonglo. The first and second electorates elect 5 Members each and the third electorate elects 7 Members. Members are elected through proportional representation system for a term of four-year. In the current Assembly the Australian Labour Party has 7 Members, the Canberra Liberals Has 6 Members and the Greens has 4 Members. The Assembly first sat on 11 May 1989 in a temporary Chamber. The last elections were held on 18th Oct., 08. The ACT has a fixed elections date i.e. the third Saturday of October after every four years. The next elections are due on the 20th October, 2012. Unlike other parliaments in Australia, to fill a casual vacancy (created by the death or resignation of a Member), the ACT Parliament does not hold a by-election. Instead, the new Member is chosen by recounting the votes received by the vacating Member to establish which candidate is next preferred by these voters (the people who originally voted for the vacating Member). For a candidate to be considered in this process, he must have contested the original election and also have indicated that he wish to contest the casual vacancy.

Speaker and Deputy Speaker

7.1 The Speaker is elected by the Members on the first sitting after a New Assembly has been elected. The Speaker is the Presiding Officer of the Legislative Assembly and is supposed to act with both authority and impartiality. The main role of the Speaker is to run the proceedings of the Assembly through the interpretation and application of the Standing Orders. A Deputy Speaker is elected by Members and performs the duties of the Speaker during the Speaker's absence. There is a practice in ACT Assembly when Speaker is required to take participation in the matters of Parliamentary procedures, in that case, he has to vacate the Chair first and then, can participate in such proceedings.

Executive

7.2 The 17 members elect the Chief Minister, who is the head of the Government. The Chief Minister appoints up to four ministers, to assist in making decisions on the day-to-day running of the Territory. The present Chief Minister is Mr. Jon Stanhope. The Government takes day-to-day decision to run the Territory and implements the laws passed by the Assembly. The Executive determines its policies through a cabinet system of meetings of all Ministers, chaired by the Chief Minister. Cabinet considers all important questions of Government policy, administration and legislation. Other Members are called non-Executive Members. They may participate in all kind of proceedings including voting, moving motions, introducing Bills (called Private Members' Bills), asking questions, raising matters of public importance and lodging

petitions. The Members who belong to the ruling party and, not Members of the Executive, are called Government Backbenchers.

Opposition

7.3 The largest non-government party forms the Opposition. The Opposition's role is to question Government's policies and administration in order to highlight its weaknesses and deficiencies, and to provide alternatives. The Opposition has its spokespersons on most areas of government activity. These Spokespersons are called as Shadow Ministers. In the chamber the individual Shadow Minister asks questions to the concerned Minister and debates issues relating to his areas of responsibility.

Cross-Benches

7.4 The Assembly Chamber is built in the form of a horseshoe. Minor party Members and Independents sit on the cross-benches in the curved part of the horseshoe. This shows that they don't belong to either the Government or the Opposition. When the ruling party does not command a majority of seats, these Members may hold the 'balance of power', which means that their vote may decide the outcome of an issue before the Assembly when the Government and Opposition are opposed on that issue.

Dual Character

7.5 The Assembly is unique among other parliaments in Australia. It is the only parliament which is responsible for the management of state/territory responsibilities such as health, education, policing and industrial relations as well as local government responsibilities such as the maintenance of roads, rubbish and recycling. This system of government is characterized into 3 different levels or spheres. These 3 spheres developed in Australia at different times. By 1900 there were 6 self governing Australian colonies. Within the colonies, local governments began to be established in the second half of the nineteenth century. In referendums held in the 1890s the people of the 6 colonies voted 'YES' to federation under the Australian Constitution. In 1901 the 6 colonies became the 6 states of the Commonwealth and joined together to form the new nation of Australia, with a Federal or Commonwealth Government which added a third level of government. These two territory governments (the Australian Capital Territory (ACT) and the Northern Territory (NT), were created by legislation of the National Parliament; the NT in 1978 and the ACT in 1988.

Committee System

7.6 The Legislative Assembly has a strong committee system. Standing Committees are formed at the beginning for an Assembly's term and exist until the next election. Committees reflect the representation of all groups and parties in the assembly. Accordingly, every Committee has one representative each from the Government, the Opposition and the Crossbench. The Committees have 3 to 5 Members.

7.7 Subjects for inquiries can be referred to a committee by the Assembly when there is a lot of community concern about a particular issue or when community views are sought on a particular subject. Committees can also self take up matters which appear to be of public importance or matters which have been raised before them by the

constituents. The Committees generally take evidence from individuals, experts in the field, representatives of groups and organization, as well as government departments. Committee proceedings are treated to be the proceedings of parliament and are given the same protection from legal action as proceedings in the Assembly itself. Evidence before the committee attracts the protection of parliamentary privilege.

Electorate Offices

7.9 Members of the Assembly do not have separate electorate offices. Their offices, located at the Assembly building, are used for both parliamentary and electorate purposes. Members meet with citizens (constituents) on matters of local or personal concern, answer correspondence and telephone and email enquiries.

Acts and Ordinances

7.10 ACT laws passed by the Legislative Assembly are called Acts and the laws made by the Federal Parliament in relation to the ACT are called Ordinances.

Standing and Temporary Orders

7.11 The standing and temporary orders are the formal rules which govern the conduct of business in the Legislative Assembly and its committees. The ACT Legislative Assembly currently has 275 standing orders, which the Assembly able to amend, add or delete such orders at its discretion.

Sittings

7.12 Usually the Assembly meets from February to June from August to December. During these months the Assembly usually sits for one or two weeks – on Tuesdays, Wednesdays and Thursdays and on some Fridays- then suspends sittings for two or three weeks. In total it sits approximately 14 weeks each year.

Question without Notice

7.13 All Members have the opportunity to ask questions from the Chief Minister or Ministers without any prior intimation about the details of the question. Question time is an opportunity for non-Executive Members to ask about Government actions and for Ministers to respond.

Parliamentary Education

7.14 The Parliamentary Education Unit within the ACT Legislative Assembly promotes an understanding and appreciation of the role and significance of the Assembly as a parliament to visitors. Programs are held at the Assembly or off-site on request and according to availability of venue. Members may also be invited to speak to school and community groups by arrangement through the Member's office.

CHAPTER VIII

BEST PRACTICES.

8.0 The delegation during the process of studying the systems and practices followed in the Australian Parliament also took time to identify some of their best practices worth emulation in our system. It was noted that, while as Parliamentary democracies, we share many commonalities in procedures with the Australian system, there are certain interesting aspects of their practices and procedures that we could look at to see if they would work here. Some of these are discussed below.

REGISTER FOR LEGISLATIVE INSTRUMENTS

8.1 In India, rules, regulations, bye-laws, schemes or other statutory instruments which fall under the category of Subordinate Legislation are notified in the Gazette and also laid on the Table of both Houses of Parliament. These are also scrutinized by the Committee on Subordinate Legislation. However, these documents, many of which directly affect the lives of the common man, are not easily available to him for perusal and understanding of the legal requirements. This is especially so of old notifications, since getting hold of an old Gazette is a herculean task. As a result the common man many a time remains blissfully ignorant of the law of the land.

8.2 In Australia they have enacted a law for the purpose called “*Legislative Instruments Act 2003*”. This Act *inter-alia* provides for registration of all legislative instruments with a registry set up under the Attorney General’s Office. These documents are then made available for view on the web site of the Registry.

8.3 The object of this Act is to provide a comprehensive regime for the management of Commonwealth legislative instruments by:

- (a) establishing the Federal Register of Legislative Instruments as a repository of Commonwealth legislative instruments, explanatory statements and compilations;
- (b) encouraging rule-makers to undertake appropriate consultation before making legislative instruments;
- (c) encouraging high standards in the drafting of legislative instruments to promote their legal effectiveness, their clarity and their intelligibility to anticipated users;
- (d) improving public access to legislative instruments;
- (e) establishing improved mechanisms for Parliamentary scrutiny of legislative instruments; and
- (f) establishing mechanisms to ensure that legislative instruments are periodically reviewed and, if they no longer have a continuing purpose, repealed.

A copy of the Act can be viewed at <http://www.comlaw.gov.au>

8.4 The Ministry of Law and Justice may be asked to look into the feasibility of setting up a similar Register of legislative instruments and enacting an appropriate legislation for the purpose in India.

PARTICIPATION IN COMMITTEE PROCEEDINGS BY ELECTRONIC COMMUNICATIONS

8.5 The Standing Orders of the Senate of Australia provides as follows:

30 (3) A committee is authorized to hold meetings by electronic communication without the members of the committee or witnesses being present in one place, provided that:

- (a) when a committee deliberates, members of the committee constituting a quorum are able to speak to, and hear, each other contemporaneously;
- (b) when a witness gives oral evidence, members of the committee constituting a quorum are able to hear the witness contemporaneously and to put questions to the witness in each other's hearing and
- (c) the chair of such a meeting takes care to ensure that a quorum is maintained during the meeting and that the standing orders and rules of the Senate are observed.

8.6 The above provision enables the members to participate in the committee proceedings through videoconferencing, etc. While it may be difficult to adopt such a procedure in India, the possibility of introducing video-conferencing for hearing outstation witnesses could perhaps be explored.

INTRODUCTORY BOOKLET FOR NEW STAFF MEMBERS

8.7 In the Australian Senate all new staff members are provided a booklet giving a brief outline of the various departments, its functions, the various facilities available for the staff, etc. This enables the new staff member to get a proper orientation about his new work environment.

8.8 The Rajya Sabha Secretariat could consider introducing a similar booklet for its new entrants.

DEFINING THE ROLE OF VARIOUS OFFICERS AND STAFF IN THE SECRETARIAT

8.9 The administrative system in the Australian parliament provides for clearly defined roles and functions for each of the officers and staff of the Secretariat. This ensures a clear understanding of individual performance expectations and goals and how individual employees contribute to the achievement of the Secretariat's corporate plan.

8.10 Adopting a similar, but suitably adapted, system of defining the role and duties of each officer will be a useful proposition. This assumes significance in this secretariat since the officers generally perform only a supervisory role and do not traditionally do much original work.

PARLIAMENTARY EDUCATION

8.11 The Australian Parliament has a very detailed programme for educating the school children on parliamentary systems and democracy. This responsibility is carried out by

the Parliamentary Education Office. They conduct mock Parliament Sessions for school children under the guidance of professional school teachers, who are engaged on a contract basis. They also provide a lot of information to the students in the form of booklets, videos, etc and through their dedicated website. The children are also allowed to watch the proceedings of the House from a sound proofed glass chamber, so that the accompanying teachers can explain things without disturbance to the House, while the students watch the proceedings.

8.12 In India, the Ministry of Parliamentary Affairs has been conducting Youth Parliament Competitions successfully for the past several years. But there is scope for replicating some of the programmes being followed by the Parliamentary Education Office of Australia.

ANNEXURE-I***Senate Procedures******Questions seeking information*****72 Questions without notice**

- (1) At the time provided questions may be put to ministers relating to public affairs.
- (2) A question may be put to the President in relation to matters for which the President has responsibility.
- (3) (a) The asking of each question shall not exceed one minute and the answering of each question shall not exceed 4 minutes.
- (b) The asking of each supplementary question shall not exceed one minute and the answering of each supplementary question shall not exceed one minute.
- (4)(a) After question time motions may be moved without notice to take note of answers given that day to questions.
- (b) A senator may speak for not more than 5 minutes on such a motion.
- (c) The time for debate on all motions relating to answers to questions without notice on any day shall not exceed 30 minutes.

(amended 13 February 1997, 10 March 2009)

73 Rules for questions

- (1) The following rules shall apply to questions:

questions shall not contain:

- (a) statements of fact or names of persons unless they are strictly necessary to render the question intelligible and can be authenticated;
- (b) arguments;
- (c) inferences;
- (d) imputations;
- (e) epithets;
- (f) ironical expressions; or
- (g) hypothetical matter;

questions shall not ask:

- (h) for an expression of opinion;
- (i) for a statement of the government's policy; or
- (j) for legal opinion;

questions shall not refer to:

- (k) debates in the current session; or
 - (l) proceedings in committee not reported to the Senate.
- (2) Questions shall not anticipate discussion upon an order of the day or other matter which appears on the Notice Paper.
 - (3) The President may direct that the language of a question be changed if it is not in conformity with the standing orders.
 - (4) In answering a question, a senator shall not debate it.

74 Questions on notice

- (1) Notice of a question shall be given by a senator signing and delivering it to the Clerk, fairly written, printed, or typed. Notice may be given by one senator on behalf of another.
- (2) The Clerk shall place notices of questions on the Notice Paper in the order in which they are received.
- (3) The reply to a question on notice shall be given by delivering it to the Clerk, a copy shall be supplied to the senator who asked the question, the publication of the reply is then authorised, and the question and reply shall be printed in Hansard.
- (4) A senator who has received a copy of a reply pursuant to this standing order may, by leave, immediately after questions without notice, ask the question and have the reply read in the Senate.
- (5) If a minister does not answer a question on notice asked by a senator within 30 days of the asking of that question, or if a question taken on notice during a hearing of a legislative and general purpose standing committee considering estimates remains unanswered 30 days after the day set for answering the question, and a minister does not, within that period, provide to the senator who asked the question an explanation satisfactory to that senator of why an answer has not yet been provided:
 - (a) at the conclusion of question time on any day after that period, the senator may ask the relevant minister for such an explanation; and
 - (b) the senator may, at the conclusion of the explanation, move without notice— That the Senate take note of the explanation; or
 - (c) in the event that the minister does not provide an explanation, the senator may, without notice, move a motion with regard to the minister's failure to provide either an answer or an explanation.

(amended 13 February 1997, 8 September 2003, 9 November 2005, 14 August 2006: with effect from 11 September 2006)

House of Representatives Procedures

Questions seeking information

Oral and written questions

97 Daily Question Time

- (a) Question Time shall begin at 2 pm on Monday, Tuesday, Wednesday and Thursday, at which time the Speaker shall interrupt any business before the House and call on questions without notice.
- (b) The business interrupted shall be dealt with in the following manner:
 - (i) if a division is in progress at the time, the division shall be completed and the result announced; or
 - (ii) the Speaker shall set the time for resumption of debate.

98 Questions to Ministers

- (a) A Member may ask a question in writing of a Minister (but not a Parliamentary Secretary), to be placed on the Notice Paper for written reply.
- (b) During Question Time, a Member may orally ask a question of a Minister (but not a Parliamentary Secretary), without notice and for immediate response.
- (c) A Minister can only be questioned on the following matters, for which he or she is responsible or officially connected:
 - (i) public affairs;
 - (ii) administration; or
 - (iii) proceedings pending in the House.
- (d) Questioners must not ask Ministers:
 - (i) for an expression of opinion, including a legal opinion; or
 - (ii) to announce government policy, but may seek an explanation about the policy and its application, and may ask the Prime Minister whether a Minister's statement in the House represents government policy.

99 Questions to other Members

During Question Time, a Member may ask a question orally of another Member who is not a Minister or Parliamentary Secretary. Questions must relate to a bill, motion, or other business of the House or of a committee, for which the Member asked is responsible.

100 Rules for questions

The following general rules apply to all questions:

- (a) Questions must not be debated.
- (b) A question fully answered must not be asked again.
- (c) For questions regarding persons:
 - (i) questions must not reflect on or be critical of the character or conduct of a Member, a Senator, the Queen, the Governor-General, a State Governor, or a member of the judiciary: their conduct may only be challenged on a substantive motion; and
 - (ii) questions critical of the character or conduct of other persons must be in writing.
- (d) Questions must not contain:
 - (i) statements of facts or names of persons, unless they can be authenticated and are strictly necessary to make the question intelligible;
 - (ii) arguments;

- (iii) inferences;
- (iv) imputations;
- (v) insults;
- (vi) ironical expressions; or
- (vii) hypothetical matter.

(e) Questions must not refer to debates in the current session, or to proceedings of a committee not reported to the House.

101 Speaker's discretion about questions

The Speaker may:

- (a) direct a Member to change the language of a question asked during Question Time if the language is inappropriate or does not otherwise conform with the standing orders;
- (b) allow supplementary questions to be asked to clarify an answer to a question asked during Question Time; and
- (c) change the language of a question in writing if the language is inappropriate or does not otherwise conform with the standing orders.

102 Lodging questions in writing

- (a) A Member lodging a question for the Notice Paper must deliver it in writing to the Clerk at the Table or to the Table Office.
- (b) The question must be authorised by the Member.
- (c) Questions for the next Notice Paper shall be lodged by the cut off time determined by the Speaker, otherwise they will be included in the Notice Paper for the following sitting.

103 Questions to Speaker

At the conclusion of Question Time, Members may ask questions orally of the Speaker about any matter of administration for which he or she is responsible.

104 Answers

An answer must be relevant to the question.

105 Replies to written questions

- (a) A Minister's written reply to a question must be delivered to the Clerk. The Clerk shall provide a copy of the reply to the Member who asked the question, and the question and reply shall be published in Hansard.
- (b) If a reply has not been received 60 days after a question first appeared on the Notice Paper, the Member who asked the question may, at the conclusion of Question Time, ask the Speaker to write to the Minister concerned, seeking reasons for the delay in answering.

* including Assistant Ministers who are Parliamentary Secretaries