

PARLIAMENTARY COUNSEL

Drafting Direction No. 4.8 Parliamentary amendments—various matters

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Note: Before the issue of the current series of Drafting Directions, this Drafting Direction was known as Drafting Direction No. 9 of 2004.

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Part 1—Introduction

1 This Drafting Direction deals with various matters relating to parliamentary amendments.

2 However, it does not deal with the matters listed in the following table. Those matters are dealt with in the documents listed in the table.

| Matters that relate to parliamentary amendments but are not dealt with in this Drafting Direction | | |
|--|--|--|
| Item | This matter: | Is dealt with in this document: |
| 1 | Sections 53 and 56 of the Constitution: parliamentary amendments that should be moved as requests parliamentary amendments that need Governor-General's messages | Drafting Direction 4.9 |
| 2 | Limits on what provisions can be inserted or amended by a single parliamentary amendment | Amending Forms Manual |
| 3 | Amending forms for parliamentary amendments | Amending Forms Manual |
| 4 | Sending finalised amendments to Parliament (with special procedures for Senate amendments) | Word Note 21 |

Part 2—Amendment of Bills on return to originating House

3 This Part deals with the situation in which a Bill that originated in one House of the Parliament (the *originating House*) is passed by the originating House, and is then returned to the originating House for consideration of amendments, or requests for amendments, made by the other House. The originating House's powers to further amend the Bill on its return are restricted by the Standing Orders of that House.

4 Senate Standing Order 126 applies to Bills originating in the Senate. Standing Order 126(3) is as follows:

- (3) An amendment shall not be proposed to an amendment of the House of Representatives that is not relevant to it, *and an amendment may not be moved to the bill unless it is relevant to, or consequent upon, the acceptance, amendment or rejection of a House of Representatives amendment.* (my italics)

5 House of Representatives Standing Order 160 applies to Bills originating in the House. It is as follows:

160 Further amendments to a bill must be relevant

The House may only amend a House bill which has been returned from the Senate if its further amendment is relevant to or consequent on the Senate amendments or requests for amendments.

6 The effect of the Standing Orders quoted above is that an attempt to move “new” amendments to a Bill when it returns to the originating House is out of order, and the amendments may only be moved if Standing Orders are suspended.

7 If you are asked to draft amendments that would offend the relevant Standing Order, you should draw the matter to your instructor’s attention and point out that the amendments can only be moved if Standing Orders are suspended. If the amendments are likely to be in any way controversial, it may be wiser in general not to proceed in a way which requires a procedural debate before the amendments can be moved (especially if the originating House is the Senate).

Part 3—Revised versions and replacement of amendments already circulated in the Parliament

Revised versions of amendments already circulated

8 If amendments that have been circulated in either House of the Parliament are revised, the revised amendments should be marked in the top right-hand corner as “REVISED” or “FURTHER REVISED”, to distinguish them from the amendments circulated earlier (and thus prevent confusion). The marking should be inserted by running the ParlAm Header macro, using the button on the OPC Bills 1 toolbar or the entry in the OPC Macros, Formatting menu (as described in Word Note 12). (If you are not sure whether a particular set of amendments that have been sent to the Table Office of a House of Parliament have been circulated, you can check with that Office.)

9 With Government amendments some confusion could arise if there were 2 sets of different amendments to the same Bill, and one set were revised. The use of the word “revised” on one set could lead members to think that the other (different) set had been superseded. In such a case the amendments should be consolidated if possible.

10 When asked to draft, revise, or otherwise advise on, a set of amendments to be moved by a private Member, it is important to ascertain whether another set of amendments has been circulated in the name of the same member.

Replacement of amendments already circulated

11 If you prepare a parliamentary amendment document (the *replacement document*) that is to replace a parliamentary amendment document (the *old document*) with a different file name that has already been circulated in either House of Parliament, you should ensure that the replacement document supplied to the Table Office indicates that it replaces the old document. In the replacement document, you should refer to the old document by the string of letters and/or digits that appears in the top right-hand corner of the first page of the old document.

Part 4—Keeping parliamentary amendment statistics

12 All drafters should keep statistics on the number of amendments drafted for moving in the Parliament.

13 Amendments should be classified according to whether they were drafted on the instructions of the Government or otherwise, and according to whether they were necessary to correct drafting errors in the Bill concerned, to give effect to changed policy or to give effect to a new policy.

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14 Drafters should ensure that there is no double counting of amendments arising from amendments being recorded by each member of a team.

15 This information should be recorded for each financial year. Drafters should provide the information to First Parliamentary Counsel as soon as possible after the end of each financial year. Drafters may also be requested to provide up-to-date information shortly before hearings of Senate Estimates Committees (usually around May and October).

16 Drafters should keep statistics of each amendment drafted (whether or not it inserts several new clauses or items), not each document containing amendments.

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15 November 2007