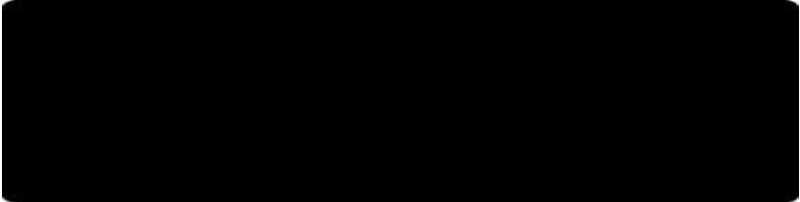




Office of the Leader
of the House of Commons



10 June 2016

I attach a Memorandum containing the Government response to the Procedure Committee's Third Report of Session 2015-16 (HC 684) *Private Members' Bills* which was published on 18th April.

I read the report with interest and would like to thank the Committee for the work it has done in this area. I look forward to meeting with you on Wednesday as part of your inquiry into Estimates.

Rt Hon Chris Grayling MP
Leader of the House of Commons

Charles Walker MP
Chair, Procedure Committee
House of Commons

Private Members' Bills (Third Report of Session 2015-16) - Government response

Introduction

The Government welcomes the Committee's inquiry into Private Members' Bills (PMBs) and notes the recommendations contained in its Report for amending the House's procedures in this area. Robust legislation is clearly the priority of both the Government and the Committee therefore, it is of great credit to this inquiry that members have explored a number of adjustments which could be made to improve procedures.

The Government believes that Private Members' Bills serve an important function in our Parliamentary process by enabling backbench Members of Parliament – rather than the Government of the day - to initiate legislation. The Government agrees that the procedures governing Private Members' Bills are complex and that there is scope for greater clarity. The Committee's Report makes a number of suggestions that will improve understanding of PMBs. To that end, the Government believes that a number of changes should be made to improve the process in line with the recommendations of the Committee.

The Government continues to believe that it is an important principle that PMBs, like all other legislation introduced before the House, should command sufficient support amongst Members if it is to become law. The Government is of the view that many of the problems identified by the Committee in its Report emanate from a lack of explicit Parliamentary support for individual Private Members' Bills. Consequently, the Government believes there is insubstantial evidence that the majority of Members would endorse a supplementary ballot system with prioritisation given to (up to) four slots to the Backbench Business Committee. However, the Government suggests that the Backbench Business Committee may wish to allocate time for a General Debate in the House to further consider this recommendation.

The responses to the Committee's recommendations set out below are based upon the above considerations.

Recommendations

Recommendation: We endorse the general principles which underlie our predecessor Committee's two reports on Private Members' Bills. We too find it regrettable that successive administrations have not responded effectively to concerns about the process, even when workable solutions have been proposed. The proposals in this report provide an opportunity for a new beginning to the PMBs process which, as it presently operates, brings increasing discredit on the House because of the way it is now largely reduced to an exercise in futility. (Paragraph 9)

The Government believes that the existing Private Members' Bill process continues to serve an important Parliamentary function, whereby legislation can be introduced by backbench Members and enacted, providing that it achieves sufficient support. Private Members' Bills have been successful in every session and other Bills have prompted governments to action, even when they have not made it into law via this route. Any changes to the current procedure must result in the delivery of both a good process and enable robust legislation. There remains little evidence that PMBs, that have support across the House, would benefit from having time limitations on their debate. Furthermore, those that command significant backing on the day, are able to deliver a decision. The Government therefore does not support this recommendation.

Recommendation: We recommend that Standing Orders should be amended to provide that the Question on second reading of a bill which is the first order of the day on the

first seven sitting Fridays in a session should be put from the Chair at the moment of interruption, if that business has not already been disposed of. (Paragraph 36)

The Government believes that it is an important principle for the House to have time to duly consider Bills. Where Bills have gained enough interest, Members have been able to ensure that the Question be put as it is possible to gain a closure motion with as little as just 15 per cent of all Members. The Government therefore does not support this recommendation.

Recommendation: We consider that the time has come for the ballot system to be supplemented with a scheme which encourages better preparation of legislation, on the basis of a sound case which can command widespread support across the House. Under our scheme, the Backbench Business Committee would have the responsibility to consider bids from backbenchers for bills to have their second readings debated in no more than the first four backbench legislative opportunities in each session. (Paragraph 41)

The Government does not currently agree to implement this recommendation. The Government remains concerned that the proposed change might be seen as taking opportunities away from backbench Members. The Government suggests that the Backbench Business Committee may wish to allocate time for a General Debate in the House to consider the Committee's recommendation.

Recommendation: We consider that a legislative proposition which has support on all sides of the House, backed by support from the public, will be more likely to result in engaged debates on sitting Fridays; and the criteria for the selection of such bills should be drafted to encourage Members to bring forward substantial and well thought-out measures for the House to decide upon. Realistically, the first opportunity for this system to be introduced is in the 2017–18 Session, but should the House approve the principle of the system early in the 2016–17 Session, then it would in practice allow parliamentarians, or groups of parliamentarians, to use the remainder of that session to lay the ground for well-founded legislative proposals to compete for the attention of the Backbench Business Committee at the beginning of the subsequent session.

The Government welcomes the Committee's suggestion and recognises the principle of gaining support from all sides of the House as being an essential element of the PMB process. However it believes that such a reform could only be considered if it commanded widespread support, and therefore we recommend that this is given due consideration as part of the debate recommended above.

We recommend that Standing Orders be amended, initially for the 2017–18 Session, to provide that the Backbench Business Committee shall determine up to four bills, to be set down as first order of business on the earliest sitting Fridays adopted by the House; and that a ballot then be held to determine Members to bring forward additional Private Members' Bills, up to the total number of such bills to be allocated priority in each session. (Paragraph 47)

The Government is not convinced that the majority of Members would endorse a supplementary ballot system with priority given to (up to) four slots to the Backbench Business Committee. The Government remains concerned that the proposed change might be seen limiting opportunities for backbench Members and therefore believes that the recommendation should be considered in debate as outlined above.

We recommend that, in the event that the House adopts the proposal on the role of the Backbench Business Committee outlined above, the Chair of the Backbench Business

Committee elected for the 2016–17 Session should continue to serve on that Committee for the 2017–18 Session, and that the relevant Standing Order be suspended accordingly. (Paragraph 49)

The Government does not believe it will be possible to implement such a change in a timely way given the proposal to debate these matters further.

We recommend that Standing Orders should be amended to provide for a maximum number of priority legislative opportunities allocated to Members on sitting Fridays. We further recommend that the total number of bills selected for priority consideration be reduced from 20 to 14. Of those 14 slots, up to four are to be filled by bills to be chosen on their merits by the Backbench Business Committee, and such bills shall have priority over ballot bills. (Paragraph 55)

The Government believes in giving Members the maximum opportunity to take forward PMBs and is concerned that this proposal would reduce opportunities for Members to develop policy and engage with departments and Ministers. PMBs may not always make progress, but Members have used them to either gain support for measures in legislation and/or gain other commitments from Ministers. The Government therefore does not agree with this recommendation.

We recommend the introduction of a system by which Members in charge of ballot bills and bills chosen by the Backbench Business Committee may, if they wish, demonstrate cross-party support for their bill by having the names of additional supporters published on the Order Paper on the day that the Bill's second reading is set down as an order of the day. This would require no change in Standing Orders. (Paragraph 58)

The Government agrees that the best way for Members to support a Bill is to attend debates and help PMBs make progress through the House. However, the Government does not agree with this recommendation as it could have the unintended consequence of undermining PMBs further, not least if members signalled support for a bill on the Order Paper, yet failed to participate in the debate.

We endorse the recommendations of our predecessors set out below:

a) We recommend that Future Business list Private Members' Bills only when they have been set down for a day on which Private Member's Bills have precedence.

b) We consider that what appears on the Order Paper should be only actual bills which a private Member desires that the House should debate.

c) We recommend that the expectation be removed that a bill will be immediately brought in if leave is granted after a motion is passed under the ten minute rule.

The Government accepts these recommendations.

d) We recommend that the possibility of a monopoly of the limited opportunities for debate of Private Members' Bills by a single Member be reduced by amending Standing Orders to permit that a private Member may present only a single bill on any one day.

The Government does not wish to restrict the opportunity for Backbenchers to present legislation and so does not agree with this recommendation. However, the Government

suggests that the Backbench Business Committee may wish to allocate time for a General Debate in the House to consider the Committee's recommendation.

e) We recommend that the deadline for printing a bill—that is, producing a fully drafted piece of legislation, in place of a “long title”—be brought forward to the Wednesday of the week prior to the day of second reading.

The Government accepts this recommendation.

f) We recommend that the Government engage constructively and at the earliest opportunity in discussions on money resolutions with Members actively seeking to get bills through the House, and demonstrate accountability for its undertaking to table such resolutions by responding fully to Parliamentary questions on such matters

The Government notes this recommendation. The Government always endeavours to engage constructively in discussions on money resolutions with Members whose Bills have been granted a Second Reading.

g) We recommend that the Government give a clear commitment that, where requested by a bill's sponsor, it will normally expect to table a motion to allow a public bill committee on a Private Member's Bill to be nominated while public bill committee proceedings on another Private Member's Bill are still active.

The Government accepts this recommendation.

h) We recommend that, in the Standing Orders and elsewhere where reference is made to them, the term “Private Members' Bills” be replaced with “backbench bills”. (Paragraph 62)

The Government does not accept this recommendation.

Recommendation: In addition, we recommend that the following changes to the practice of the House on giving notice of bills should be made:

a) Following the last sitting Friday of each session, Future Business should no longer carry notices concerning any Private Member's Bill, and a list of bills not disposed of should be separately published on the Bills before Parliament Website.

b) After the last sitting Friday of a session, any ten minute rule bill introduced should be ordered to lie upon the Table, and should not be printed.

c) All unprinted Private Members' Bills should be clearly indicated as such on Future Business and on the Bills before Parliament website. (Paragraph 63)

The Government accepts these recommendations.

In the longer term, we consider that the House should reassess its tolerance for Members introducing bills in dummy form—that is, presenting bills with a short and long title and list of supporters only. With the exception of the Finance Bill—the drafting of which is dictated by the timetable for preparation of the Budget—the presentation of legislation in dummy is a practice long denied to the Government in respect of primary and secondary legislation. (Paragraph 64)

In cases where the outcomes recommended above may be achieved by administration alone, we recommend that the necessary measures be taken with effect from the start of the 2016–17 Session. In all other cases we recommend that the House be given an early opportunity to express its view on the proposed changes. (Paragraph 65)

We make no recommendation here about alternative times for PMBs to be taken. Instead, we plan to address the sitting hours of the House in a separate exercise, taking the views of Members on existing sitting patterns and, like our predecessor Committee in 2012, proposing a series of neutral motions which will allow the House to come to a decision on its sitting patterns for the remainder of the Parliament. (Paragraph 70)

The Government notes these recommendations.