Factsheet P10
Procedure Series
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Programming of Government Bills

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Allocation of time motions control the amount of time the House will spend on particular items of business, usually Bills. The motion may provide that one or more stages of a Bill be completed either by a fixed date, or by a fixed number of sittings (either of the House, or a Committee, or both).

Today, these take two forms. **Programme Orders** are a relatively recent innovation and provide a more sophisticated tool to timetable the progress of a Bill through the Commons. They are moved directly after a bill's second reading and set out timetabling for future stages in the Commons. **Guillotine motions**, which are also Government inspired, usually set a limit for completion of a particular stage of a Bill. They are generally introduced on an *ad hoc* basis to combat actual or perceived delaying tactics from the Opposition.

Since the start of the 2000-01 session most government bills have been subject to programme orders with the guillotine used rarely. This Factsheet describes the history and procedure relating to such motions.

Timetabling of Government Bills

Before 1998, there were two ways in which the House of Commons could timetable bills:

- Allocation of time (commonly called "guillotine") motions - a practice which dated back to 1887 and which had been used by governments, with varying frequency, when voluntary agreements could not be reached to speed up or secure the passage of a bill and to prevent what they saw as obstructive tactics.

- The "usual channels" – voluntary, informal, unpublished and ultimately unenforceable agreements between the government and opposition Whips.

In July 1997, the Select Committee on the Modernisation of the House of Commons added a third option to this list by proposing the introduction of the "programme motion".

This Factsheet will look at the original proposals of the Modernisation Committee and how they have been implemented. It will then go on to look at how guillotine motions work and their history.

Programme Motions

In July 1997, the Modernisation Committee published a report (HC 190 1997-98) on the Legislative Process, putting forward cross-party recommendations on reform of the process. One area the Committee considered was the arrangements for programming of legislation:

> We have explored the possibility of using arrangements for programming legislation which are more formal than the usual channels but more flexible than the guillotine. [Ref: HC 190, 1997-98, p. xxii]

For a trial period, during the 1997-98 Session, certain bills were selected, through the usual channels, to be subject to a "programming motion". The first programme motion was put down on 13 January 1998 in respect of the *Scotland Bill* and was hailed as the "first ever all party programme motion".[1]

The Committee had recommended that a programme motion should be debated for a maximum of 45 minutes. In the case of the *Scotland Bill*, the motion was considered without debate. [HC Deb 13 January 1998 c254]

The Report stated that the amendable programme motion should include:

- the committee option to be followed
- the date by which the bill should be reported from committee
- the amount of time proposed for report stage and third reading
- in defined circumstances, provisions for carrying-over to a subsequent session

In its second report of 1999-2000, *Programming of Legislation and Timing of Votes* HC 589, the Select Committee of the Modernisation of the House of Commons examined the effect of its previous recommendations as well as looking at the timing of votes. Motions for new sessional orders on programme motions were debated in the House on 7 November 2000 and passed. Their provisions were applied to almost all government bills introduced in the 2000-01 Session.

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[1]   Cabinet Office Press Notice 13 January 1998

The Committee reviewed the situation in April 2001. Its first report of 2000-01, *Programming of Legislation*, noted that "in practice, every programme motion in this Session has faced opposition, irrespective of content". Its recommendations included:

- an indication in advance of second reading of the date by which the government proposed a bill to be reported from its standing committee
- Programming sub-committees to have the power to recommend an alternative 'out date' from committee and the amount of time the House should spend on the remaining stages of the bill.

These recommendations were incorporated in revised sessional orders debated and passed by the House on 28 June 2001. The revised orders gave more power to programming committees and programming sub-committees but limited proceedings in these committees to two hours. They also reduced the amount of time normally available for debate on programme motions in the House. These orders had effect until the end of the 2001-02 session but were renewed again on 29 October 2002 (for 2002-03) and on 6 November 2003 (for 2003-04).

In 2003 the Modernisation Committee produced the Programming of Bills report,[2] in which it states that "we intend to keep the operation of the Sessional Orders relating to programming under review" The report goes on to make proposals relating to how the system is operated within the context provided for within the Sessional Orders rather than proposing changes to the Orders themselves. The recommendations are given below:

Responsibility for the effective use of programming
It is important for all sides to recognise that programming is here to stay and, if it is implemented correctly, can help to enhance the legislative process in a number of ways.

We believe that the Government, in the form of the Ministers and Whips responsible for each bill, bears the primary responsibility for ensuring that programming works effectively. However, it is also incumbent on the Opposition and backbench Members to engage constructively in the process to ensure that bills receive proper scrutiny.

Late amendments
The Government must ensure that, where a large volume of new material is to be inserted into the bill at committee stage, it is tabled in plenty of time to be taken into account by the programming sub-committee when it plans the detailed timetable for the committee stage. Where large numbers of late amendments are tabled unavoidably, especially if they relate to entirely new, unanticipated issues, the programming sub-committee should meet as a matter of routine in order to consider whether or not to propose a revised out-date. The Government should support such proposals.

Timing
Long delays between the out-date and report stage should be avoided; such delays suggest that an unnecessarily short initial programme has been proposed. If it becomes clear during the committee stage that a bill's report stage will be later than

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[2] Select Committee on Modernisation of the House of Commons: Programming of Bills, HC 1222 2002-03

originally anticipated, this should be communicated to the programming sub-committee, so that it might propose a later out-date to make better use of available time.

The programming sub-committee
We recommend that, in the case of lengthy bills, the programming sub-committee should not normally make detailed proposals about the allocation of time to the bill until after several sitting of the standing committee, and should keep the operation of knives under careful review.

Remaining stages
The size and complexity of some bills mean that two days or more may sometimes be necessary in order to give a bill proper scrutiny at report stage.

Programming in the wider context
Finally, we have already referred to the importance of seeing legislative reform as a package, rather than seeing individual components such as programming in isolation. Programming alone will not deliver better scrutiny of bills, pre-legislative scrutiny is also an essential part of improving the consideration of legislation.

In 2004, in response to a report from the Procedure Committee,[3] the Government proposed that the programming of bills should become a permanent feature.[4] The House endosed the Government's proposal on 26 October 2004 and the Standing Orders became effective from the beginning of the 2004-05 Session.

During the 2005-06 Session, the Modernisation Committee undertook an inquiry into *The Legislative Process*.[5] Although it did not undertake a major review of programming, it felt that there was "one area where … the operation of programming might be improved, and that is in the timing of the programme motion". The Committee said that as the programming motion was considered immediately after second reading, "there is no opportunity to take account of what might be said during the second reading debate when determining the 'out-date' for the bill".

Their report noted that the Procedure Committee, in 2004, and witnesses to its inquiry had suggested a delay between the second reading and considering the programme motion "in order to take account of the second reading debate" and that the Modernisation Committee had previously recommended that "the government should be sympathetic to requests from standing committees to extend the time available to consider the bill, and that the programming sub-committee should not normally make detailed proposals about the allocation of time in standing committee until several sittings of the standing committee had taken place".

The report recommended that "the initial Programme Motion moved after second reading should contain only a provision for committal and a provision that proceedings on the bill may be programmed. The out-date should be established by a second Programme Motion, moved one or two days later".[6]

[3]   Procedure Committee, *Programming of Legislation,* 14 July 2004, HC 325 2003-04
[4]   Procedure Committee, *Programming of Legislation: The Government's Response to the Committee's Fourth Report,* 21 October 2004, HC 1169 2003-04
[5]   Modernisation Committee, *The Legislative Process*, 7 September 2006, HC 1097 2005-06,
[6]   Modernisation Committee, *The Legislative Process*, 7 September 2006, HC 1097 2005-06, paras 46-49

When the report was debated on 1 November 2006, the Government did not bring forward proposals to allow a second programme motion.[7]

In 2006-07, the Modernisation Committee again briefly considered the subject of programming in its report *Revitalising the Chamber: the role of the back bencher*. The Committee reported evidence from Members and from Professor Philip Cowley that argued that programming caused problems. But it then countered that "Programming has become much less prescriptive and is used to ensure full debate" before presenting various statistics to show that there had been a reduction in the groups of amendments not reached or debated in committee and at report stage. It also cited a decrease in the number of divisions on programme motions, both in the Chamber and in committee, in arguing that "The Government works hard to make Programming consensual and opposition to Programming has decreased". However, it accepted that "In using programming there is a potential tension between facilitating business and protecting the rights of opposition parties" and then recommended that "the operation of programming is kept under review".[8] The report was debated in the House of Commons on 25 October 2007.

Current Procedures for Programme Orders

Notice of programme motions must be given before second reading and they are moved immediately after second reading. They are not usually debatable but those which are debatable may be amended. If a supplementary motion is made to reduce the amount of time allocated to any stage of a bill, or if it is not in accordance with a recommendation of the programming committee or sub-committee, then it is debatable for up to 45 minutes.

Business covered by a programme order may continue for the time allocated regardless of standing orders requiring sittings to be brought to an end at certain times (i.e. it is treated as "exempted business" for the time allocated).

When the time allocated expires, only certain questions may be put, as specified in the sessional orders. In broad terms, they are:
- the question under discussion;
- questions on amendments moved or motions made by a Minister or on any amendment selected by the Chair for separate division;
- other questions necessary to dispose of the business.

When a programme order covers proceedings which take place in the House itself (committee of the whole House, consideration (report stage) or third reading), a programming committee is appointed, consisting of the Chairman of Ways and Means and up to eight other members, nominated by the Speaker. The function of the committee is to divide the bill into various parts and allot to each part such time as it considers appropriate. Proceedings in the programming committee are limited to two hours. The House may debate the programming committee's resolution for up to 45 minutes and, if it is agreed to, it has effect as if it were included in the programme order. The sessional order providing for the appointment of a programming committee is usually disapplied.

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[7] HC Deb 1 November 2006 c304
[8] Modernisation Committee, *Revitalising the Chamber: the role of the back bencher*, 20 June 2007, HC 337 2006-07, paras 120-123

Where a programme order covers proceedings on a bill in a public bill committee, a programming sub-committee of the public bill committee is appointed. This consists of one of the Chairmen of the committee plus seven members of the public bill committee, nominated by the Speaker. Like the programming committee in the House, the programming sub-committee divides the bill up into parts and allots time to the consideration of each part in the committee. The public bill committee must approve these arrangements.

The programming sub-committee may propose a change to the date by which the bill is to be reported to the House (i.e. the date on which the public bill committee is to complete its consideration of the Bill). This must also be agreed to by the public bill committee. The Government must then arrange for a Motion to be debated in the House within five days, which will give effect to the proposal, confirm the date set in the original Programme Order for the Bill or otherwise alter or supplement the original Programme Motion.

The Programming Sub-committee may also make recommendations about the programming of the Consideration and Third Reading of the Bill. If they are agreed to by the public bill committee, then the Government must again set down a supplemental Programme Motion as for a change to the date for the end of the public bill committee stage.

Guillotine motions

A "guillotine" motion is similar to a programme motion. They are both classes of what are more formally known as "allocation of time" motions. The principal difference is that a programme motion is used to formalise a timetable for a bill's progress through the Commons and is usually agreed to immediately after a Bill's second reading; a guillotine motion is generally used at a later stage in a bill's progress to ensure that certain stages of a Bill are completed by a certain date or within a fixed number of sittings.

Each guillotine motion is specific and devised by the Government for the bill (or bills) to which it is to be applied. Over the years, there have been various changes in the procedure involved but the guillotine motion nowadays usually provides that a bill be reported from the public bill committee or read a third time by a certain date. The motion sets out in detail some or all of the provisions which are to be made for further proceedings on the bill and, under Standing Order No. 83, the Speaker is required to put any question necessary to dispose of an allocation of time motion not more than three hours after the debate on the motion started.

The guillotine is not lightly used and is not applied without reason. The usual reason is to counter delaying tactics (actual or threatened) amounting, in the government's view, to obstruction.

Whereas a programme motion is not usually debatable, a guillotine motion is debatable for up to three hours. However, the motion may provide for proceedings on the Bill to be brought to a conclusion once a specified time has elapsed from the beginning of proceedings on the allocation of time motion itself. In this case, any time spent debating the guillotine is effectively deducted from the time available to spend on the bill.

When a guillotine motion is agreed to, a business committee is appointed under Standing Order No. 82. The committee's membership and functions are similar to those of the programming committee appointed when a programme order has been made. Likewise, a business sub-committee of the public bill committee is appointed under Standing Order No. 120 if the allocation of time motion governs proceedings in public bill committee.

Despite the development of programme motions there may be occasions where the government still needs to move a guillotine motion to ensure the passage of legislation within a realistic time. Appendix A gives details of the number of occasions in which guillotine motions have been used since the 1946-47 Session.

History of the guillotine

The guillotine was first employed in essentially the way it is now on the *Criminal Law Amendment (Ireland) Bill* of 1887. The motion to allocate time to the Bill was agreed to by 245 votes to 93 in the early hours of Saturday 11 June 1887. The innovation, itself an extension of procedures first employed in 1881 and 1882, was described by the Minister, Mr William Smith, as:

> …absolutely essential in the interests of the honour and dignity of Parliament and the duties which are imposed upon the Members of the House of Commons … we have arrived at the fourth month of the Session and we have practically done nothing except to consider the measure now before the House … the whole course of legislation has been stopped.[9]

The Bill had occupied the House for 35 days previously, with some sittings extending through the night. Gladstone referred to the proposal as "a further abridgment of Parliamentary liberty" but did not lead his party into the lobbies against it (he had been Prime Minister in 1881 when a simple prototype form of guillotine had been used to bring an end to the committee stage of the *Protection of Person and Property (Ireland) Bill*).

Erskine May describes the background to such motions as follows:

> Sometimes….governments are confronted with a series of choices.taking special powers to curtail debate, cutting down their normal programme to an undesirable extent, prolonging the sittings of Parliament, or acknowledging the impotence of the majority of the House in the face of the resistance of the minority. In such circumstances resort is had sooner or later to the most drastic method of curtailing debate known to procedure … Orders made under this procedure are known either as 'allocation of time orders' (and colloquially as 'guillotine motions') or 'programme orders'.

> The guillotine represents the limit to which procedure goes in affirming the rights of the majority at the expense of the minorities of the House, and it cannot be denied that they are capable of being used in such a way as to upset the balance, generally so carefully preserved, between the claims of business, and the rights of debate.[10]

An earlier edition of Erskine May's Parliamentary Practice[11] provides a list of bills having been subject to a guillotine in one form or another during the period 1887-1975. Appendix A of this factsheet gives a complete list of the number of occasions that guillotine motions have been used since 1946-47.

Government defeats

It has been almost unknown for a Government, having proposed a guillotine on a bill, to be defeated. However, this did happen in connection with the 1974-79 Labour Government's first attempt at devolution legislation. The allocation of time motion on the *Scotland and Wales Bill* in 1976-77 was defeated by 312 votes to 283 on 22 February 1977. The Bill was subsequently withdrawn. On that day, a full day's debate (from 4 pm to 10 pm) was allowed on the motion

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[9]   HC Deb 10 June 1887 c 1596
[10] May, *Parliamentary Practice*, 23rd ed, 2004, p 466
[11] May, Parliamentary Practice, 19th ed, 1976, pp 461-2

instead of the usual three hours. On the *European Communities Amendment Bill 1985-86*, an amendment to the Guillotine Motion was agreed, allowing extra time for discussion.

The necessity of the Guillotine as an ultimate sanction was shown by the proceedings on the *Parliament (No 2) Bill* in the spring of 1969. This Bill, concerned with reform of the House of Lords, was vociferously opposed by small but determined groups on both sides of the House. The Guillotine could not be applied because the Government could not be sure of carrying the necessary motions. Whole days were spent on points of order and eventually the Government despaired of making progress, and the Bill was abandoned. If a Government decides not to use, or it cannot be sure of obtaining a guillotine, it may persist with its bill, notwithstanding its protected proceedings, as was seen with the *European Communities (Amendment) Bill* in 1992-93 (the "Maastricht Bill").

Appendix A
Number of Allocation of Time Motions since 1946-47.

	"Guillotine"	Programme	Total		"Guillotine"	Programme	Total
1946-47	2	-	2	1979-80	7	-	7
1947-48	-	-	-	1980-81	4	-	4
1948-49	1	-	1	1981-82	5	-	5
1949-50	-	-	-	1982-83	3	-	3
1950-51	-	-	-	1983-84	3	-	3
1951-52	2	-	2	1984-85	2	-	2
1952-53	2	-	2	1985-86	3	-	3
1953-54	2	-	2	1986-87	2	-	2
1954-55	-	-	-	1987-88	9	-	9
1955-56	-	-	-	1988-89	13	-	13
1956-57	1	-	1	1989-90	6	-	6
1957-58	1	-	1	1990-91	3	-	3
1958-59	-	-	-	1991-92	8	-	8
1959-60	-	-	-	1992-93	5	-	5
1960-61	2	-	2	1993-94	6	-	6
1961-62	5	-	5	1994-95	-	-	-
1962-63	2	-	2	1995-96	1	-	1
1963-64	-	-	-	1996-97	2	-	2
1964-65	-	-	-	1997-98	4	18	22
1965-66	-	-	-	1998-99	16	3	19
1966-67	1	-	1	1999-00	16	5	21
1967-68	2	-	2	2000-01	2	25	27
1968-69	1	-	1	2001-02	1	52	53
1969-70	1	-	1	2002-03	-	74	74
1970-71	2	-	2	2003-04	-	61	61
1971-72	5	-	5	2004-05	1	28	29
1972-73	1	-	1	2005-06	1	83	84
1973-74	-	-	-	2006-07	3	45	48
1974	-	-	-				
1974-75	5	-	5	Total	180	394	574
1975-76	10	-	10				
1976-77	1	-	1				
1977-78	5	-	5				
1978-79	-	-	-				

(Figures do not include programme motions relating to standing committees or public bill committees).

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