

15. Petitions

Introduction

- 15.1. The practice of petitioning parliament to seek the redress of grievances, to request some action or to stop a proposed action dates back at least to the reign of King Edward I in the 13th century.¹ It has been described as the oldest parliamentary form, pre-dating bills and legislation. In fact, the terms ‘bill’ and ‘petition’ originally had the same meaning. Early legislation in England was actually derived from petitions agreed to by the King.
- 15.2. The modern form of petitions developed in the 17th century. The rights of petitioners and the power of legislatures to deal with petitions were affirmed by resolutions of the House of Commons in 1669:
- That it is an inherent right of every commoner in England to prepare and present petitions to the House of Commons in case of grievance, and of the House of Commons to receive the same.
- That it is an undoubted right and privilege of the Commons to judge and determine, touching the nature and matter of such petitions, how far they are fit and unfit to be received.²
- 15.3. The style and form of petitions have changed over the centuries but their underlying intent and purpose have not. Petitions allow citizens of the ACT to request that the Assembly redress any personal, local or Territory-wide grievance that they present. Petitioners are permitted to ask for changes to a law, or to have an administrative decision reconsidered. Petitions can also request the redress of a personal grievance—for example, the correction of an administrative error. In more modern times, petitions typically relate to matters of public policy.
- 15.4. Although petitions remain an important feature of the parliamentary day and an important way to bring the views of the community to the Assembly, the weight given to them has declined. There are many effective ways of seeking to influence the processes of government or pursue redress of a grievance. The use of parliamentary committees, the emergence of disciplined political parties, the growth of avenues for addressing grievances—for example, the Ombudsman and the various administrative law tribunals—and a ‘campaigning’ media have all provided alternative mechanisms for seeking redress or influencing parliament and the executive.

1 *House of Representatives Practice*, p 629.

2 *May*, p 539.

- 15.5. Table 3 below illustrates how petitions were a popular feature of early Assemblies. While their popularity has waned over the years, they appear to have attracted renewed interest in recent times.

Table 3 – Petitions presented each Assembly, as annual averages (to end of Ninth Assembly)

Assembly	Paper petitions	Signatures	E-petitions	Signatures
First	26	40,565		
Second	21	23,141		
Third	35	23,030		
Fourth	15	16,278		
Fifth	23	11,088		
Sixth	23	11,927		
Seventh	12	5,125		
Eighth	7	4,886	3	1,025
Ninth	67	34,213	45	20,798

- 15.6. The largest single petition was lodged on 27 June 1996. The terms of the petition called for the Assembly to vote against the government’s proposed restricted shopping hours legislation. The petition contained 39,874 signatures.³ Other issues that have resulted in a large number of signatures, often on multiple petitions, were those opposing the closure of the Royal Canberra Hospital on Acton Peninsula (62,981 signatures in nine petitions);⁴ the battery cage system of egg production (10,986 signatures); smoking in enclosed public areas (12,571 signatures); support for small business (31,000 signatures); the proposed sale of ACTEW (10,679 signatures); and pay rates for ACT firefighters (17,066 signatures). A petition does not require a minimum number of signatories. Petitions from one person have been presented.⁵

Rules relating to petitions

- 15.7. Petitioners cannot present a petition to the Assembly in person; rather, they must request a member to lodge it on their behalf, whether that be a member from their electorate or another member. Although not the practice in most jurisdictions in Australia, the Speaker of the Assembly has accepted and lodged petitions for presentation.⁶

3 MoP, No 58, 27 June 1996, p 389. The legislation in question was passed later that sitting day. The issue remained controversial, and the Act was repealed when a private member’s bill, which the government did not oppose, was agreed to by the Assembly on 14 May 1997.

4 The hospital was closed in 1991 and the former hospital buildings were demolished in 1997.

5 MoP, No 41, 26 March 1996, p 284; MoP, No 98, 16 May 2019, p 1461.

6 MoP, No 68, 15 August 2006, p 753; MoP, No 102, 30 July 2019, p 1528.

- 15.8. Petitions can only be received if they relate to matters over which the Assembly has jurisdiction. They cannot request redress of matters which are the responsibility of other legislatures; for example, the Commonwealth Parliament or a parliament of another state or territory. They may relate to public or personal matters, though personal grievances are more commonly dealt with by direct interaction with members or bodies such as the Ombudsman and the Administrative Appeals Tribunal.
- 15.9. There are many rules within the standing orders associated with the form and content of petitions and their presentation. To ensure that a petition is in order, persons initiating a petition should be aware of these rules.
- 15.10. A petition is considered to be in order if it meets the requirements of the standing orders as set out below.⁷ Petitions must:
- be legible—fairly written, typewritten, printed or reproduced by mechanical process without interlineation or erasure;
 - not contain any indication that it has been initiated by a member;
 - be addressed to the Speaker and Members of the Legislative Assembly;
 - contain a request for action or remedy by the Assembly and for that request to be printed on every page;
 - be in English or accompanied by a translation certified to be correct by a person whose name and address appear on the translation;
 - contain the signature and address of at least one person on the sheet on which the petition is written;⁸
 - contain the names and addresses of the petitioners and their own signatures;⁹
 - be signed only by ACT residents or citizens;¹⁰
 - not include attachments;
 - not attack a named person or use intemperate or offensive language;
 - not be lodged by a member who has signed the petition as a petitioner;
 - not contain signatures pasted or otherwise transferred to the petition;
 - be made under its common seal (if from a corporation);¹¹ and

7 Standing orders 85-96.

8 For example, MoP, No 98, 16 May 2019, p 1461.

9 Standing order 89 provides that 'persons unable to write shall affix their marks in the presence of a witness, who shall, as such, also affix his or her signature and address, and the address of the petitioner'.

10 MoP, No 68, 16 September 2014, pp 737-38. Only the ACT signatures were announced and the member, by leave, tabled a copy of the non-compliant signatories.

11 For example, MoP, No 92, 22 February 1994, p 525 (Rotary Club of Canberra Belconnen Incorporated, re Belconnen Trash 'n Treasure).

- relate to a matter within the jurisdiction of the Territory and within ministerial responsibility of the Territory.¹²

15.11. A recommended form of a paper petition can be found at the petitions section of the Assembly website www.parliament.act.gov.au.

E-petitions

15.12. Since 2012, ACT residents have been able to electronically add their names to e-petitions hosted on the Assembly website. The requirements for, and the treatment of, e-petitions are, as far as possible, similar to those of paper petitions. There are some differences, however, which chiefly relate to how they are initiated and, in particular, the requirement for a nominated principal petitioner and a member to sponsor the e-petition. The involvement of a member in sponsoring a petition is unusual in most Westminster systems, but in the case of e-petitions it is taken to mean that the member is merely involved in facilitating the creation and presentation to the Assembly of the e-petition, rather than its promotion.

15.13. Under the standing orders,¹³ an e-petition is a petition:

- that is in the correct form, stating a grievance and containing a request for action by the Assembly;
- that is sponsored by a member and lodged with the Clerk for publication on the Assembly's website for a nominated 'posted period' (minimum of one week and a maximum six months); and
- in which persons elect to indicate their support by electronically providing their name, address (including postcode) and email address, and signifying their intention to join the e-petition.¹⁴

15.14. A member sponsoring an e-petition must provide the Clerk with the details of the petition in the correct form, the posted period, and a signed acknowledgement that they are prepared to sponsor the e-petition. Once published on the Assembly's website, the terms of an e-petition cannot be altered.¹⁵

15.15. At the conclusion of the posted period, a copy of the e-petition is printed off and presented to the Assembly by the Clerk. From there on it enjoys the same treatment as a paper petition.

12 Standing order 94.

13 Standing orders 100A to 100C.

14 Standing order 100A(i) provides an avenue for incapacitated persons to join an e-petition.

15 However, changes to contact details have been permitted, as have changes to the posted period (when both the sponsoring member and principal petitioner have requested such a change).

- 15.16. An e-petition published on the Assembly’s website but not presented to the Assembly prior to the expiration of an Assembly may be presented to the subsequent Assembly (at which point it is regarded as being a petition directed to that subsequent Assembly). An e-petition cannot be sponsored in the period after the expiration of an Assembly and before a new Assembly meets and its members are sworn in.
- 15.17. In order for the petitioning process to be as inclusive as possible, there is nothing to prevent a paper petition and an e-petition on the same, or similar, subject matter proceeding concurrently. If such petitions are presented on the same day, and the combined signatories total at least 500, the requirement under standing order 99A is met and the petitions stand referred to the appropriate Assembly committee.
- 15.18. Six months after an e-petition is presented to the Assembly, all personal data relating to that petition is removed from the Assembly website.¹⁶

Parliamentary privilege

- 15.19. In considering whether the circulation of a petition containing defamatory material is, or ought to be, privileged, the Senate Standing Committee of Privileges concluded that the circulation was not covered and should not be covered. The committee ‘made the point that persons with specific grievances could themselves petition the Senate and their petitions, if in order, could be presented and thus would be covered by privilege’. The committee ‘considered it inappropriate that privilege, whether absolute or qualified, should extend to the malicious circulation of defamatory material purportedly to collect signatures for a petition’.¹⁷
- 15.20. For more information on the application of parliamentary privilege to petitions, see Chapter 2: Parliamentary privilege—The powers and immunities of the Assembly.

Lodgement by a member

- 15.21. Only members may lodge petitions for presentation to the Assembly, but members may not lodge petitions to which they themselves are signatories. Standing order 97 states that ‘Every member lodging a petition shall take care that the petition conforms to these standing orders’. In reality, this is difficult. Members are not permitted to initiate petitions¹⁸ so there is limited control over their form and content. While information on how petitions should be structured is publicly available, the number of out of order petitions appears to indicate that contact with members before paper petitions are prepared is limited. The procedures for

16 Standing order 100B(d).

17 Senate Committee of Privileges, *Precedents, procedures and practice in the Australian Senate 1966-2005*, 125th Report, December 2005, pp 27-28.

18 Standing order 95.

developing an e-petition, however, require a member to be involved at an early stage and so provide an opportunity to ensure that the e-petition is compliant with the rules for petitions.¹⁹

- 15.22. A member proposing to lodge a petition with the Clerk for presentation to the Assembly is required to sign the front page of the petition and indicate the number of signatures the petition contains.²⁰ Interstate addresses are not included in the total.

Lodgement and presentation

- 15.23. While it is usual for members to lodge all petitions that have been forwarded to them, they are not obliged to do so, although they usually do. The act of lodging a petition for presentation in no way implies that the member presenting it is necessarily in agreement with the issues raised.
- 15.24. Every petition is required to be lodged with the Clerk's office by 5 pm on the day before the meeting of the Assembly at which it is proposed that the petition be presented. The petition is then checked by the Clerk or Deputy Clerk, who certifies that the petition conforms to the standing orders.²¹ If a petition is found to be out of order, it may be tabled as a paper, in accordance with standing order 83A. The Manager of Government Business is approached by the Chamber Support Office to determine, in accordance with standing order 83A, whether a minister will table the out of order petition as a paper.
- 15.25. Standing order 74, which establishes the routine of business for a sitting of the Assembly, requires that petitions are presented as the first item of business following the prayer or reflection. However, there is another opportunity for a member to present a petition. Under standing order 84, a petition referring to a motion or an order of the day may be presented when the matter is called on.²² This does not override the requirement for the petition to be certified as 'in order' by the Clerk and, in practice, it would be expected that the member presenting the petition would, in accordance with standing order 83, lodge the petition with the Clerk by 5 pm the previous day.
- 15.26. At each sitting, the subject matter of any petition to be presented to the Assembly, together with the name of the lodging member, is printed on the *Daily Program*. Details of any ministerial response received also appear on the *Daily Program*. At 10 am, following the prayer or reflection, the Speaker calls on the Clerk to announce the petitions lodged for presentation. The Clerk announces, in respect of each petition presented, the member who lodged the petition; the number of

19 Standing order 100A(c).

20 Standing order 96.

21 Standing order 83.

22 See, for example, MoP, No 33, 18 September 2013, pp 317-320.

petitioners; and the subject matter of the petition.²³ If more than one petition is lodged on the same subject matter, the petitions will be grouped together. The Clerk then advises the Assembly that those petitions meeting the 500 signature threshold, pursuant to standing order 99A, will be referred to an appropriate committee, and that the full terms of the petitions will be recorded in Hansard, with a copy referred to the appropriate minister. At this point, the Clerk announces any ministerial responses to petitions previously presented.²⁴

- 15.27. It is usual to count as signatories to petitions only residents of the Australian Capital Territory. Non-resident signatories are not included in the count. For example, in the Second Assembly, 11 petitions with 19,032 signatures from interstate residents relating to the availability of X-rated material were lodged with the Clerk. They were tabled as out of order petitions.²⁵
- 15.28. The Assembly has adopted a practice whereby members are not provided with the names and addresses of petition signatories once petitions are lodged. Nor are these personal details recorded in the *Minutes of Proceedings* or Hansard. The petitions containing the original signatures are retained by the Office of the Legislative Assembly along with the original *Minutes of Proceedings*. In accordance with the provisions of standing order 212, these documents, together with tabled papers, may be viewed by members, and by others only with the Speaker's permission.

Questions on presentation

- 15.29. In response to a growing practice of members seeking leave to make statements following the presentation of petitions, new standing order 98A was adopted to provide for the Speaker to propose the question 'That the petitions and responses so lodged be noted'. The debate may last for 30 minutes, with each member speaking for no more than five minutes.
- 15.30. Under standing order 99A, a petition (or combination of petitions and/or e-petitions in the same or similar terms and presented on the same day) with at least 500 signatories stands referred to an appropriate Assembly committee (or, if unclear, a committee determined by the Speaker). There is no direction as to what a committee is to do with such a petition. Commonly, a committee will report to the Assembly through a statement, made by the chair of the committee under standing order 246A, as to what action it has taken, or proposes to take, in relation to a petition.²⁶

23 Standing order 98.

24 Standing order 98.

25 MoP, No 17, 11 August 1992, p 89; MoP, No 23, 8 September 1992, p 127.

26 See, for example, MoP, No 141, 9 June 2016, p 1599; MoP, No 92, 2 April 2019, p 1334; MoP, No 96, 14 May 2019, p 1386. In the latter case, a committee self-referred an inquiry following the receipt of a petition.

- 15.31. There is only one question that may be proposed by a member, either at the time of presentation or on the next sitting day, and that is that the petition be referred to a committee.²⁷ Standing order 99 does not specify what the committee is required to do with the petition. The assumption is that it would inquire into the issues raised and report to the Assembly, but a committee is under no obligation to do so.²⁸
- 15.32. Prior to the adoption of standing order 99A, there had been relatively few attempts to have petitions referred to committees.²⁹ Similarly, there have been relatively few attempts to refer out of order petitions to committees.³⁰ Petitions now are more likely to receive committee consideration by satisfying the signatory requirement of standing order 99A.

Referral to ministers and ministers' responses

- 15.33. Standing order 100 stipulates that a copy of each petition and/or e-petition presented to and received by the Assembly is referred to the minister responsible for the administration of the matter that is the subject of the petition (or to the minister whose portfolio responsibilities most closely align with the issues raised). Accordingly, following presentation, the Clerk communicates the terms of petitions to the responsible ministers. Details of petitions awaiting a ministerial response are listed on the *Notice Paper*.
- 15.34. A minister must lodge a response with the Clerk for presentation to the Assembly within three months of the petition being presented.³¹ The response, as well as the terms of the petition, are publicly accessible on the Assembly's petitions website. The referral of a petition to a committee, under either standing order 99 or 99A, does not alter the timeframe for a ministerial response. Indeed, a committee may wait until it has seen the response before deciding how to deal with the petition.

Petitions that do not conform to standing orders

- 15.35. There are many reasons why a petition may not conform to the standing orders. Most commonly, petitions are considered out of order because they are incorrectly addressed to the Chief Minister or to a portfolio minister and not 'To the Speaker

27 It is unclear what would occur should a member seek to move a motion that a petition not be received following its presentation. As standing order 208(b) of the House of Representatives makes provision for such a motion, the Speaker may very well be obliged to accept and propose the question on such a motion given the provisions of Assembly standing order 275.

28 MoP, No 64, 2 August 2018, p 916. The committee reported by way of a statement under standing order 246A that it would not conduct an inquiry into the matters raised in the petition.

29 MoP, No 100, 28 August 1997, p 751; MoP, No 106, 25 September 1997, p 817; MoP, No 20, 1 August 2017, p 280; MoP, No 98, 16 May 2019, p 1461; MoP, No 99, 4 June 2019, p 1490.

30 MoP, No 67, 21 October 1999, p 591; MoP, No 46, 15 February 2018, p 673; MoP, No 65, 14 August 2018, p 923; MoP, No 98, 16 May 2019, p 1462; MoP, No 99, 4 June 2019, p 1490.

31 Standing order 100. See MoP, No 145, 27 June 2008, p 1563.

and Members of the Legislative Assembly'. Other reasons include a failure to indicate what action the Assembly is being called upon to undertake; photocopies (rather than originals) of petitions being lodged; and pages containing only signatures without the terms of the petition being attached.

- 15.36. The practice of seeking leave to table out of order petitions as papers commenced in 1989, when a member presented an out of order petition on radiotherapy machines for the ACT and Queanbeyan and made a statement in relation to the paper.³² The Assembly's process for receiving out of order petitions has evolved in recognition of the fact that residents, in good faith, have signed petitions which, through no fault of theirs, did not conform to the standing orders.³³ There was a view that that technical non-compliance with the relevant standing orders did not render the matters that had been raised in such petitions any less valid.
- 15.37. The process was formalised in 1995 with the adoption of standing order 83A, which permitted out of order petitions to be tabled as papers at the discretion of a minister. This was the result of a review of the standing orders by the Standing Committee on Administration and Procedure.³⁴ Prior to the adoption of standing order 83A, members were required to seek leave—a time-consuming process that gave greater prominence to petitions that did not meet the requirements of the standing orders.
- 15.38. Under standing order 94, a petition can also be ruled out of order if the Speaker is of the opinion that its subject matter does not fall within the ministerial responsibility of the Territory, reflects on the character or actions of a named person, is expressed in inappropriate terms or is otherwise in breach of standing orders. The Standing Committee on Administration and Procedure, in its review of the relevant standing orders, was concerned that some residents might seek to use the opportunity to lodge petitions to make offensive or otherwise unacceptable allegations, thus taking advantage of the protections offered by parliamentary privilege.
- 15.39. The committee also developed a *pro forma* petition document for members to distribute to residents who were considering petitioning the Assembly. This was done to avoid out of order petitions continuing to be lodged. The assumption was that it was unrealistic to expect residents to seek advice from a member or the Clerk on every occasion before preparing a petition.

32 MoP, No 32, 14 November 1989, p 133.

33 The largest out of order petition was lodged in the Fifth Assembly, relating to pharmacies in supermarkets, and contained 35,000 signatures.

34 Standing Committee on Administration and Procedure, *Standing Orders and Citizen's Right of Reply*, 28 April 1995.