



PROCEDURAL DIGEST

Legislative Assembly

FIFTY-SEVENTH PARLIAMENT, FIRST SESSION
NO. 2/2021: 16 – 25 MARCH 2021

March 2021

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This document provides a summary of significant procedural events and precedents in the Legislative Assembly. It is produced at the end of each sitting period. Where applicable the relevant Standing Orders are noted.

SPEAKER

Speaker's statement – Centenary of the election of Edith Dircksey Cowan

On Tuesday 16 March the Speaker made a statement in relation to the centenary, on 12 March 2021, of the election to the Parliament of Western Australia of Edith Dircksey Cowan, the first female parliamentarian elected in Australia.

Votes and Proceedings: 16/3/2021, p. 1072.

Speaker's statement – bullying, harassment and serious misconduct

During Question Time on Wednesday 17 March, Ms Jenny Leong MP asked the Premier a question regarding the establishment of an independent complaints process for the NSW Parliament. In her answer, the Premier advised the House that she had requested the Hon. Pru Goward to review the processes in place for staff in relation to complaints about bullying, harassment or sexual assault.

Directly following the Premier's answer, the Speaker also made a statement to the House in relation to the review being conducted by Ms Goward, and the involvement of the Presiding Officers, the Clerks of both Houses, and the Chief Executive Officer of the Department of Parliamentary Services in the review. After Question Time the Speaker provided further information about the review process.

On Tuesday 23 March, following his comments the previous week, the Speaker made the following statement in relation to the Parliament's approach to bullying, harassment and serious misconduct:

As previously advised, a meeting of the Parliament's executive group was held yesterday to consider the Parliament's approach to bullying, sexual harassment and other serious misconduct. The decision was taken to establish a working advisory group comprising members, members' staff, parliamentary staff, relevant managers, and other representatives and stakeholders. To facilitate establishing such a group, the Presiding Officers have appointed the Deputy Speaker in the Legislative Assembly, Leslie Williams, MP, to act as the initial Chair and bring together a number of key people for preliminary meetings and discussions. This will include members in each House who have expressed an interest in assisting with these matters.

Hansard (proof): 17/3/2021, p. 42.
Votes and Proceedings: 23/3/2021, p. 1107.

MEMBERS

Personal explanations given in the Chamber

Five Members gave personal explanations over the sitting period. On 17 March Ms Jenny Leong MP and Ms Anna Watson MP gave personal explanations (relating to the establishment of an independent complaints process as described in the previous entry); on 18 March Ms Yasmin Catley MP, Mr David Harris MP and Ms Helen Dalton MP also gave personal explanations.

Votes and Proceedings: 17/3/2021, p. 1087; 18/3/2021, p.43, p.44.
Standing Order 62.

Procedural note:

Personal explanations give Members the opportunity to briefly explain any matter which they consider reflects upon their honour, character or integrity, or reflects upon them in a personal way, including the refuting of accusations made against them by other Members in the House.

A personal explanation may only be made between items of business and with the leave of the Speaker. The explanation is not open for debate and leave may be withdrawn by the Speaker at any time. Personal explanations do not allow Members to explain matters on behalf of another person or make an attack on another Member.

BUSINESS

Message from the Legislative Council regarding a referral to the Independent Commission Against Corruption

On Wednesday 17 March the Leader of the House, the Hon. Mark Speakman MP, moved that Standing and Sessional Orders be suspended to:

- permit the consideration forthwith of a message from the Legislative Council proposing a referral to the Independent Commission Against Corruption, and a resolution to disagree with the Council's proposal; and
- provide for up to four speakers (the mover, one Opposition member, One Crossbench member in favour of the motion, and one crossbench member against the motion) to speak to the motion.

Debate ensued, and the motion was agreed to on the voices.

Subsequently, the Speaker reported that the message from the Council had been received. The message covered several matters relating to the Premier and the former member for Wagga Wagga, and informed the Assembly that:

- the Council had agreed to a resolution referring the matters to the ICAC;
- the Council requested that the Assembly pass a similar resolution; and
- in the event the Assembly did not pass a similar resolution, the Clerk of the Legislative Council was to communicate the Council's resolution to the ICAC.

The Speaker ordered that the message be considered forthwith, and Mr Alister Henskens MP moved a motion for the Assembly to disagree with the Council's proposal and to send a message to the Council regarding the Assembly's decision.

Debate ensued, and the motion was agreed to on division.

Votes and Proceedings: 17/03/21, pp. 1090-1093.
Standing Order 365.

Seeking leave to move a suspension of Standing and Sessional Orders

On Wednesday 17 March there were four consecutive attempts by Opposition Members to seek leave to move a motion to suspend Standing and Sessional Orders to give a general business (notice of motion) precedence.

Leave was not granted to any of the four requests.

Votes and Proceedings: 17/3/2021, pp. 1084-5.
Standing Order 365.

Procedural note:

Standing and Sessional Orders are operational rules that regulate Assembly's procedures and conduct. Standing and Sessional Orders can be suspended by the House to implement a procedure not provided for, or to do something contrary to the Standing and Sessional Orders.

Standing Order 365 provides that Members may seek the leave of the house to move a motion to suspend Standing and Sessional Orders. The same Standing Order also provides that Ministers may move a motion to suspend Standing and Sessional Orders at any time without leave.

'Leave' is the way the House gives permission for something to occur which otherwise could not be done at that time, or in that way. Leave can only be granted if all Members present agree; if just one Member objects when leave is sought, leave will not be granted.

Condolence motion – the Hon. Ian Armstrong AM OBE

On Tuesday 23 March the Deputy Premier moved a motion of condolence in relation to the death, on 15 December 2020, of the Hon. Ian Armstrong, a former leader of the NSW Nationals and former Deputy Premier of NSW.

The motion was seconded by the Leader of the Opposition, Ms Jodi McKay MP, and supported by the Premier, Ms Gladys Berejiklian MP, and eight other members.

Votes and Proceedings: 23/3/2021, p. 1110.
Standing Order 118(2).

Procedural note:

Under Standing Order 118 certain matters are accorded precedence over all other business before the House. These matters are categorised as Business with Precedence and they have a specified place in the Routine of Business for each sitting day.

One example of Business with Precedence are condolence motions. Condolence motions mostly, but not always, take place to commemorate the death of a sitting Member or a prominent former Member (e.g. a former Premier, Speaker or Minister).

The time in the day's business for a condolence motion is generally arranged between the Leader of the House and the Party Whips, often to facilitate the attendance of the late Member's family and friends.

For more information on condolence motions see [Chapter 12](#) of NSW Legislative Assembly Practice, Procedure and Privilege.

Precedence of General Business

On Wednesday 24 March the Leader of the House, the Hon. Mark Speakman MP, moved that standing and sessional orders be suspended to give precedence to general business notice of motion (general notice) no. 2074 (200th Anniversary of Greek Independence) on Thursday 25 March. The suspension specified that the notice would have precedence during the time provided for consideration of general business notices of motions or orders of the day (not being bills).

The motion was agreed to on the voices.

On Thursday 25 March, Ms Eleni Petinos MP moved the general notice of motion regarding the 200th Anniversary of Greek Independence (that the House had given precedence to the previous day).

Debate ensued, with several Members speaking on the motion by leave.

The motion was agreed to on the voices.

Procedural note:

Prior to 1 August 2019, Sessional Order 106 provided a mechanism for Members to seek to have a general business notice of motion (general notice) given precedence over all other general notices.

In updates to the Sessional Orders agreed to on 1 August 2019, the House agreed to change this Order so that it now only provides for general business orders of the day (for bills) to be given precedence.

As Sessional Order 106 no longer provides a mechanism for Members to seek to have a general notice given precedence above other general notices, in the instance outlined above, the House needed to suspend Standing and Sessional Orders to give the general notice regarding the 200th Anniversary of Greek Independence precedence.

COMMITTEES

Statutory Committee reviews of annual reports

In the recent sitting period three Joint Statutory Committees informed the House they had resolved to conduct reviews of annual and other reports of the agencies they oversight:

- The Committee on the Health Care Complaints Commission has resolved to conduct a review of the Health Care Complaints Commission's 2019-20 annual report
- The Committee on Children and Young People has resolved to conduct an inquiry into the annual reports and other matters of the Office of the Advocate for Children and Young People and the Office of the Children's Guardian
- The Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission has resolved to conduct a review of the 2019-20 annual and other reports of the agencies they oversight.

Full details of the Committee inquiries may be found on the Committees' [web pages](#).

Votes and Proceedings: 16/3/2021, p. 1074; 25/3/2021, p. 1134.
Standing Order 299.

Procedural note:

Joint Statutory Committees are established by specific Acts of Parliament, their primary function being to scrutinise and monitor independent agencies. As part of their scrutiny and monitoring role, Statutory Committees examine and report on the annual and other reports of the bodies they oversee. In the NSW Parliament, all current Joint Statutory Committees are administered by the staff of the Department of the Legislative Assembly.

BILLS

March 2021 marks one year since COVID-19 was declared by the World Health Organisation to be a pandemic and the Governor-General of Australia declared a nation-wide human biosecurity emergency. The NSW Government, along with all other State and Territory Governments in Australia, introduced strict shutdown and social distancing measures to prevent the spread of COVID-19.

In last year's Digests [3](#) and [4](#), we reported on amendment bills introduced by the Attorney General and Treasurer to respond to the impact of COVID-19. The bills enabled NSW services and institutions to continue functioning and provide services safely throughout the pandemic.

As the pandemic enters its second year, the Attorney General and the Treasurer introduced further amendment bills to extend the emergency measures put in place in 2020. These bills are outlined below. Further commentary on all emergency COVID-19 legislation can be found in the Legislation Review Committee's [compilations](#) of reports.

COVID-19 Legislation Amendment (Stronger Communities and Health) Bill 2021

The Attorney General, the Hon. Mark Speakman MP, introduced the [COVID-19 Legislation Amendment \(Stronger Communities and Health\) Bill 2021](#) on 18 February. The bill extends a number of emergency measures implemented in 2020 until September 2021, with an option to extend for a further six months by regulation. The Attorney General noted that the extension of measures coincided with projected vaccination timeframes for NSW. The bill passed through the Parliament without amendment on 18 March and was assented to on 24 March 2021.

Votes and Proceedings: 23/3/2021, p. 1105.
Standing Order 188, 203 and 221.

COVID-19 Recovery Bill 2021

On 17 March, the Treasurer, the Hon. Dominic Perrottet MP, introduced the [COVID-19 Recovery Bill 2021](#). The bill temporarily extends a number of existing emergency measures by up to 12 months and supports the transition back to normal commercial and residential tenancy laws.

Following debate, the bill was agreed to in the Legislative Assembly on the voices. The bill was returned from the Legislative Council with the request that the Legislative Assembly agree to two amendments relating to the Residential Tenancies Act. The Assembly agreed to both amendments and the bill was assented to on 25 March 2021.

Votes and Proceedings: 23/3/2021, p. 1105 and pp. 1120-1; 24/3/2021, p. 1123.
Standing Orders 188, 203, 221, 222 and 224.