



LEGISLATIVE ASSEMBLY

# Procedural Digest

## Fifty-eighth Parliament, First Session

No. 2/2023: 20 – 29 June 2023

*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.*

June 2023

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12	13	14	15	16
19	20	21	22	23
26	27	28	29	30

## Business

### Condolence motion – Hunter Valley bus tragedy

On 20 June 2023, the Leader of the House, the Hon. Ron Hoenig MP, moved to suspend Standing and Sessional Orders to provide for:

- (1) The Premier to move a condolence motion regarding the Hunter Valley bus tragedy immediately after the routine of business following Question Time.
- (2) Debate on the motion to be adjourned without motion immediately following contributions from the Premier and the Leader of the Opposition.
- (3) Resumption of the debate at this or any subsequent sitting to be called on at any time in place of Government Business.

The motion was agreed to on the voices. After Question Time, in accordance with the resolution of the House, the Premier, the Hon. Chris Minns, moved a motion that the House extends the deepest sympathy of members of the Legislative Assembly to the families, friends and loved ones of those killed or injured in the Hunter Valley bus tragedy on Sunday 11 June 2023. The motion was seconded by the Leader of the Opposition, the Hon. Mark Speakman MP, after which debate was adjourned.

Debate resumed later that same day during the time allocated for Government business with 12 other Members speaking to the motion. The question on the motion was put and carried unanimously with Members and officers standing in their places as a mark of respect.

*Votes and Proceedings:* 20/06/2023, pp. 125, 130, 135; 21/06/2023, pp. 138, 139.

*Hansard (Proof):* 20/06/2023, pp. 1, 15-17, 58-60; 21/06/2023, pp. 2-7, 20-23.



### Procedural note

Standing Order 118 provides that condolence motions may be moved without notice at any time and be dealt with as Business with Precedence. Standing Order 97 provides that on any sitting day any Business with Precedence is to be considered at the end of the routine of business following Question Time. If debate on an item of Business with Precedence was adjourned, debate would resume at the time set aside for Business with Precedence on the next sitting day.

However, in this instance, the House agreed to a suspension of Standing Orders which provided for consideration of the motion at any time and on any sitting day during the time provided for Government business.

### Extending return date for Order for Papers

As reported in [Digest 1/23](#), on 25 May 2023, the House, on the motion of the Member for Sydney, Mr Alex Greenwich MP, resolved to order the production of State papers relating to investigations into money laundering in clubs and pubs. The resolution required the documents to be provided to the Clerk of the Legislative Assembly by 10.00 am on 23 June 2023.

However, on Wednesday 21 June 2023, the House, on the motion of Mr Greenwich agreed to amend its resolution of 25 May and to change the return date from 10.00 am on 23 June 2023 to 10.00 am on 4 August 2023. In speaking to the motion, Mr Greenwich advised that he was moving for the extension of the return date on the basis on on-going consultation with the NSW Crime Commission.

As noted in the previous Digest, this was the first Order for State papers made by the Assembly since 1998. Of particular further note is that the Legislative Council on 28 June 2023 made its own Order for Papers calling for exactly the same documents with the same return date and time as those stipulated by the Assembly. We believe this is the first time that both Houses have simultaneously issued duplicate Orders for Papers.

### Committees

#### **Legislative Assembly Standing Committee on Parliamentary Privilege and Ethics – Inquiry into matters relating to the position of a Member suspended from the service of the House and subsequently re-elected**

On 10 May 2023, the Legislative Assembly referred an inquiry to the Legislative Assembly Standing Committee on Parliamentary Privilege and Ethics (the Committee) into matters relating to the position of a Member who:

- has been suspended from the service of the House until the verdict of the jury has been returned on criminal charges laid against him or her; and
- is subsequently re-elected in the next Parliament prior to any such jury verdict having been returned, or the proceedings having concluded.



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On 20 June 2023, the Clerk announced receipt of the report of the Committee entitled '[Matters relating to the position of a Member suspended from the service of the House and subsequently re-elected](#)', Report 1/58, which had been tabled with the Clerk out of session on 7 June 2023.

The take note debate on the Committee's report occurred on 21 June 2023, which was the first take note debate of the Fifty-eighth Parliament. Mr Alex Greenwich, MP, Chair of the Committee, was the sole contributor to the debate.

*Votes and Proceedings*: 10/05/2023, p. 51; 20/06/2023, p. 127; 21/06/2023, p. 140.

*Hansard (Proof)*: 10/05/2023, pp. 15 – 16; 21/06/2023, pp. 25 – 26.

*Standing Orders*: SO255 *Criminal trial pending* and SO306 *Committee reports, tabling in the House and debate*

### Procedural note

Standing Order 255 provides: If the House decides not to proceed on a matter which has been initiated in the House concerning the alleged misconduct of a Member on the grounds that the Member may be prejudiced in a criminal trial then pending on charges founded on the misconduct, the House may suspend the Member from its service until the verdict of the jury has been returned or until it is further ordered.

The Committee's report considered the operation of SO 255 at length, recommending that before it is used in the future, the House must 'seriously consider any negative risks to the Parliament, constituents, victims of alleged crimes, and the presumption of innocence of a Member'. Secondly, the report recommended that the House should refer any future matter to the Legislative Assembly's Standing Committee on Parliamentary Privilege and Ethics for consideration prior to the use of SO 255.

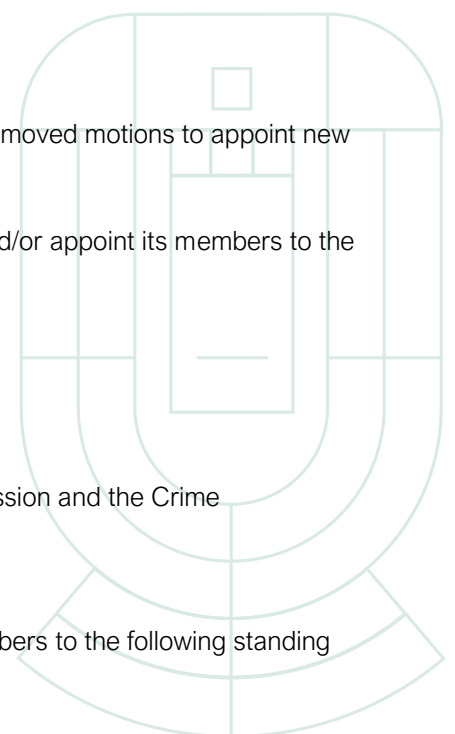
### Establishment of parliamentary committees

On Thursday 22 June 2023, the Leader of the House, the Hon. Ron Hoenig MP, moved motions to appoint new members to fifteen parliamentary committees of the 58<sup>th</sup> Parliament.

**Statutory committees:** The House agreed to a number of motions to establish and/or appoint its members to the following statutory committees:

1. Public Accounts Committee
2. Committee on Children and Young People\*
3. Committee on the Health Care Complaints Commission\*
4. Committee on the Independent Commission Against Corruption\*
5. Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission\*
6. Legislation Review Committee\*

**Standing committees:** The House also resolved to establish and appoint its members to the following standing committees:





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1. Joint Standing Committee on Electoral Matters
2. Joint Standing Committee on Road Safety
3. Joint Standing Committee on the Office of the Valuer-General
4. Legislative Assembly Committee on Community Services
5. Legislative Assembly Committee on Environment and Planning
6. Legislative Assembly Committee on Investment, Industry and Regional Development
7. Legislative Assembly Committee on Law and Safety
8. Legislative Assembly Committee on Transport and Infrastructure
9. Standing Orders and Procedure Committee

*Votes and Proceedings*: 22/06/2023, pp. 150-163.

Standing Orders 274 (Appointment or discharge of committee members), 315 (Standing Committees – Appointment).

### **Joint committees**

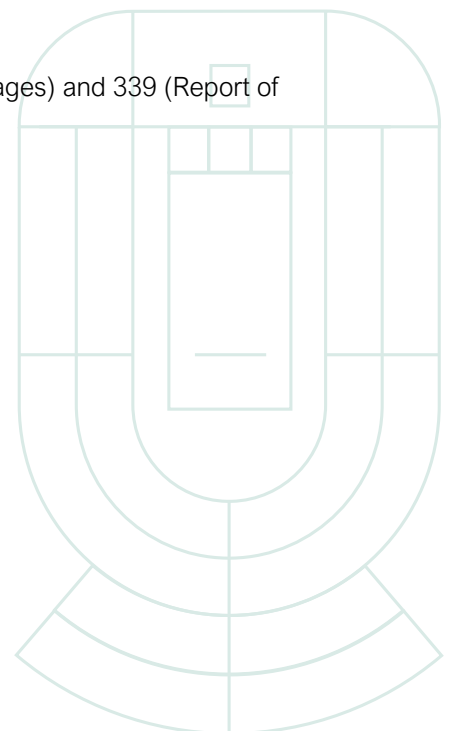
Following the Legislative Assembly's appointment of its members to its joint committees, on Thursday 29 June 2023, the House received messages from the Legislative Council advising of its memberships of joint committees.

All of the joint committees were constituted with their memberships, with the exception of the Joint Standing Committee on Electoral Matters. The Legislative Council has sought the Assembly's concurrence to amend its establishing resolution so that it could appoint six, rather than five, of its members to the committee. Consideration of the Council's request has been set down as a Government Business Order of the Day on the Business Paper.

On Thursday 22 June 2023 the Legislative Assembly also appointed its members to the Modern Slavery Committee, being a joint committee established and administered by the Legislative Council.

*Votes and Proceedings*: 22/06/2023, pp. 150-163, 29/06/2023, pp.189-193.

Standing Orders 319 (Joint Committees – Names stated), 338 (Receipt of messages) and 339 (Report of messages).





### Procedural note

The Legislative Assembly had to re-establish and appoint members to its parliamentary committees. Standing committees of the 57<sup>th</sup> Parliament ceased to exist upon prorogation, while the membership of statutory committees ceased upon expiry of the Assembly in the 57<sup>th</sup> Parliament.

Statutory committees are those established under an Act of Parliament. Once its membership is appointed, a statutory committee will operate in accordance with the provisions set out in its establishing statute. The statute will usually specify the particulars, such as the number of members, powers of the committee and special secrecy provisions.

On the other hand, standing committees are established by a resolution of one or both Houses, usually at the beginning of the term of Parliament to operate for the life of that term. A standing committee inquires into specific subjects or Government portfolio areas, with the resolution establishing the committee often defining its specific powers or limitations.

The Chair and Deputy Chair are usually elected by the committee at its first meeting pursuant to Standing Order 282 or, for statutory committees, the relevant legislative provision. However, this Parliament the House resolved to appoint Chairs to eight parliamentary committees.

## Bills

### Referral of Minerals Legislation Amendment (Offshore Drilling and Associated Infrastructure Prohibition) Bill to a committee for inquiry and report

The Minerals Legislation Amendment (Offshore Drilling and Associated Infrastructure Prohibition) Bill 2023 is a private member's bill introduced in the Legislative Assembly by the Member for Pittwater, Mr Rory Amon MP, on 22 June 2023. The Bill seeks to amend the *Petroleum (Offshore) Act 1982*, *Offshore Minerals Act 1999* and *Environmental Planning and Assessment Act 1979*, with the object of prohibiting the granting of development consent and the granting of permits and licences for the purposes of seabed petroleum exploration or recovery or development intended to facilitate seabed petroleum exploration or recovery.

Following Mr Amon's second reading speech on 22 June 2023, debate was adjourned for five clear days in accordance with Standing Order 188 (10). Resumption of the debate was set down as the first General Business Bills Order of the Day for 29 June 2023.

However, on that day the Member for Sydney, Mr Alex Greenwich MP, moved that Standing and Sessional Orders be suspended to change the routine of business so that a motion could be moved, without notice, to refer the Bill to the the Legislative Assembly Committee on Environment and Planning for inquiry and report. In addition to the referral motion and rearrangement of the routine of business for the day, the suspension of Mr Greenwich also provided that, should debate on the referral motion not be completed by 3.00pm, that proceedings be interrupted for the question to be put.



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The House resolved, albeit on division, to change the routine of business as proposed by Mr Greenwich. The Opposition Whip, Mr Adam Crouch MP then moved that standing orders be suspended, again, in order to return to the ordinary routine of business for Thursday sittings. The Speaker ruled the motion out of order as it was directly contrary to the resolution just agreed to by the House.

When debate resumed later on 29 June 2023, Mr Amon, Ms Voltz, Minister Harris, Mr Regan, Mr Griffin, Ms Sloane and Mr Crouch all spoke to the motion. At 3.00pm, in accordance with the original motion to suspend standing and sessional orders, debate was interrupted and the question was put. The motion was agreed to on division (51:34).

The Committee is due to report on the Bill by 21 November 2023. On the Committee tabling its report the resumption of the debate on the second reading of the Bill shall be restored to the Business Paper.

### Procedural note

Standing Order 198 provides that a member can refer a bill to a committee for consideration by moving a motion to amend the question for the second reading. The member may move to amend the question 'That this bill be now read a second time' to leave out all words after 'That' and insert instead 'to refer the bill to a committee (as specified)'.

However, in the case the House did not make use of this standard procedure, instead agreeing to suspend standing orders to directly refer the bill to committee without resuming the second reading debate.

Because the Bill is a private member's bill, it will lapse in accordance with Standing Order 105(3) if not completed within 6 months (in this case by 2 December 2023). As the Committee is due to report by 21 November 2023 this will leave two General Business days (23 and 30 November) on which the bill could be considered prior to its lapsing.

Further details of the [Bill](#) can be found on the Parliament of NSW website.

*Votes and Proceedings*: 22/6/2023, pp. 145-146; 29/6/2023, pp. 181-184, 186-187

*Hansard (Proof)*: 22/6/2024, pp. 1-3, 29/6/2023, pp. 4-7, 21-37

Standing Orders 105 (Precedence and lapsing of General Business), 198 (Amendment – referral to committee), 365 (Suspension of Standing Orders)

### Residential Tenancies Amendment (Rental Fairness) Bill 2023

The Residential Tenancies Amendment (Rental Fairness) Bill 2023 was introduced by the Minister for Better Regulation and Fair Trading, the Hon. Anoulack Chanthivong MP, on 10 May 2023.

As we reported in [Digest 1/23](#), on 23 May, the House referred the Bill to a Select Committee for inquiry and report. The terms of the referral were that the Select Committee examine clause 22B of the Bill and whether there were additional measures that might improve transparency for applicants during the rental application process. Clause 22B of the Bill sought to improve transparency around secret bidding during the rental application process. The House further agreed to the suspension of standing and sessional orders for the



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resumption of the second reading debate on the Bill be restored to the Business Paper on the tabling of the Select Committee report.

The Select Committee tabled the report of their inquiry on 9 June. The report made 11 findings and 7 recommendations, the key recommendation being recommendation 1 - 'That the Legislative Assembly proceed to debate the Residential Tenancies Amendment (Rental Fairness) Bill 2023, omit clause 22B and pass all other provisions of the Bill as a matter of urgency'.

When the House sat again on 20 June, the Residential Tenancies Amendment (Rental Fairness) Bill 2023 was restored to the Business Paper and the second reading debate and consideration of the report of the Select Committee resumed.

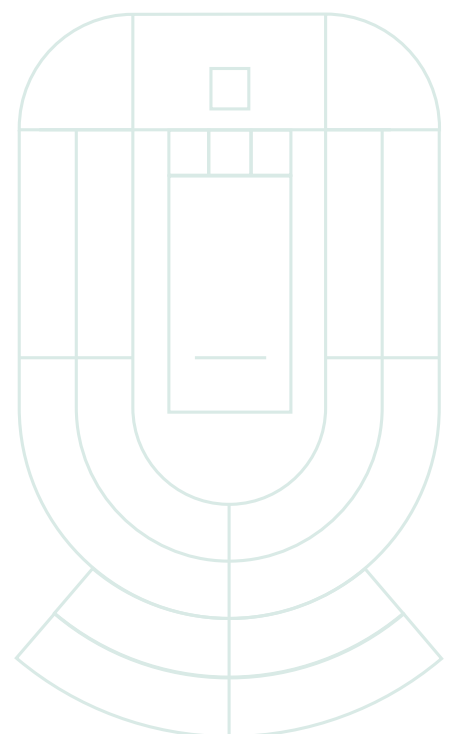
In accordance with Standing Order 64(1), Minister Chanthivong spoke again in the debate when the Order of the Day for the Bill was read. As part of his contribution, Minister Chanthivong foreshadowed that, in response to recommendation 1 of the Select Committee report, he would move six amendments during the consideration in detail stage to remove clause 22B from the Bill.

The six amendments were agreed to on the voices and the Bill was sent to the Legislative Council for concurrence. The Bill passed the Parliament on 22 June and was assented to on 3 July 2023.

*Votes and Proceedings*: 23/05/2023, pp. 72-3; 20/06/2023, p. 127 and pp. 130-1.

*Hansard (Proof)*: 20/06/2022, p. 23.

Standing Orders 64(1) (Member to speak once), 198 (referral to Committee), 201 (Report from committee), 203 (Proceedings after second reading), 303 (Report tabled) and 303A (Government response to Committee reports).





### Procedural note

Under Standing Order 64 Members may only speak once to a question before the House except when: they are the member in charge of the Order of the Day when the Order is read; speaking in explanation or reply; or during consideration in detail of a matter.

Standing Order 64 (1) provides that the Member in charge of the Order of the Day has the right to speak first when the Order is read by the Clerk, even if the Member has previously spoken on the question. This standing order allows the Member to update the House on pertinent matters that may have arisen during the period of time since the House last debated the question.

Minister Chanthivong, as the Minister in charge of the bill, had already spoken by way of giving the second reading speech for the bill. When the Order of the Day was read for the resumption of the second reading debate on 20 June, Minister Chanthivong rose and spoke first, using this extra contribution to foreshadow that he would move amendments to the bill in response to recommendation 1 of the Select Committee.

Standing Order 303A provides that the Government must respond to recommendations (which call for action to be taken by the Government) made in a committee report within six months of the report being tabled. The Government must report back to the House on what actions, if any, it proposes to take in response to each of the recommendations. In this case the Government must report back to the House by 11 December 2023 in relation to the other recommendations contained in the report of the Select Committee.

