



# PROCEDURAL DIGEST

Legislative Assembly

FIFTY-SEVENTH PARLIAMENT, FIRST SESSION  
NO. 3/2019: 18 – 20 JUNE 2019

June 2019				
M	T	W	T	F
17	18	19	20	21

*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.*

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## BILLS

### **2019 Budget bills**

The New South Wales Budget was considered by the House in the 18-20 June sitting week.

To facilitate both the Treasurer's Budget speech and the Leader of the Opposition's speech in reply the normal Routine of Business for 18 June had been altered by a suspension of Standing and Sessional Orders, agreed to by the House on 6 June.

On 18 June 2019 at 12.00 noon the Treasurer introduced the Appropriation Bill 2019, together with the cognate Appropriation (Parliament) Bill 2019 and the State Revenue and Other Legislation Amendment Bill 2019 (the Budget bills).

The Treasurer moved that the bills be read a second time and gave his second reading speech. At the conclusion of the Treasurer's speech, debate on the bills was adjourned until Thursday 20 June, after which the Treasurer tabled the Budget Papers for 2019-20. The bills' passage through all remaining stages and the 'take note' motion were provided for by a further suspension of Standing and Sessional Orders on 18 June.

On 20 June the Acting Leader of the Opposition in the Legislative Assembly gave his speech in reply, after which the Budget bills passed through all remaining stages. The Treasurer moved that the House take note of the Budget Estimates and related papers for 2019-20 and debate on the motion was adjourned until a later time.

Later that day the Legislative Council returned the Appropriation Bill and the Appropriation Parliament Bill without amendment and the State Revenue and Other Legislation Amendment Bill with three amendments, each of which were agreed to by the Assembly. The bills were assented to by the Governor on 25 June.

The full details of the bills, along with details of their passage through both Houses, can be found [here](#) on the Parliament of NSW website.

*Votes and Proceedings: 6/6/2019, pp. 134-5; 18/6/2018, pp. 137-8, p. 140; 20/6/2018, pp. 180-1, pp. 188-9.*

**Standing Orders 97, 188, 193, 203, 223, 264, 365.**

(Procedural note: Bills appropriating revenue (money bills) must originate in the Legislative Assembly and must be returned to the Assembly by the Legislative Council within one month of transmission from the Assembly. If the Council rejects, fails to pass, or makes an amendment to a money bill with which the Assembly does not agree, the Assembly may direct that the bill, with or without the amendment, be presented to the Governor for assent (see Sections [5](#) and [5A](#) of the *Constitution Act 1902*.)

### ***Ageing and Disability Commissioner Bill 2019***

On 8 May 2019, the Minister for Families, Communities and Disability Services, the Hon. Gareth Ward MP, introduced the Ageing and Disability Commissioner Bill 2019 into the Legislative Assembly. The bill establishes the office of Ageing and Disability Commissioner to deal with allegations of abuse, neglect and exploitation of adults with disability and older adults.

On 29 May, along with a number of Opposition amendments that had been previously moved and negated, the Member for Orange, Mr Phil Donato MP, moved an amendment to the bill requiring that the Government provide \$20 million funding each year to non-government organisations to provide advocacy services to adults with a disability. Following a point of order, the Speaker ruled Mr Donato's proposed amendment out of order, noting that, under section 46 of the *Constitution Act 1902* and Standing Order 243, private Members were restricted in their capacity to bring forward amendments that propose financial measures.

The bill subsequently passed the Assembly without amendment.

On 18 June the bill was returned from the Legislative Council with a request that the Assembly agree to 35 amendments proposed by the Council.

On 19 June the Assembly agreed to 29 of the 35 amendments. The Minister then moved that five of the amendments (amendments 4, 12, 14, 32 and 33) be disagreed to. The five amendments were disagreed to by the Assembly (on division in the case of amendment no. 4).

The Leader of the House, the Hon. Andrew Constance MP, then moved that Council amendment 34 be disagreed to. In speaking to the motion the Leader of the House noted that the proposed amendment was the same in substance as Mr Donato's proposed amendment, which had earlier been ruled out of order. The Leader of the House also stated that all appropriation bills must originate in the Assembly and that they must be moved by a Minister or supported by a certificate from the Governor. The effect of the Legislative Council amendment would make the bill an appropriation bill and therefore be unconstitutional or have no legal effect.

The amendment was then disagreed to by the Assembly on division, after which the Assembly agreed to a motion that a message be sent to the Council informing it of the Assembly's resolutions and giving reasons for disagreeing to six of the Council's amendments.

Later that day the Council sent a message informing the Assembly that it did not insist on amendments 13, 14, 32 and 33, but insisted on amendments 4 and 34, disagreed to by the Assembly.

On 20 June the Minister for Families, Communities and Disability Services, the Hon. Gareth Ward MP, moved that the Assembly agree to amendment 4 and insist on its disagreement a second time to amendment number 34, and moved a further amendment that the Ageing and Disability

Commissioner prepare a report about funding arrangements for independent specialist advocacy, information and representative organisations for people with disabilities in NSW by 31 December 2019 and provide the report to the Presiding Officers.

The Assembly agreed to the motion and a subsequent motion that a message be sent to the Council informing it of the Assembly's resolution.

Later that day the Council sent a message advising that it did not insist on amendment 34 and that it agreed to the Legislative Assembly's further amendment.

The bill was assented to by the Governor on 25 June.

The full details of the [bill](#) can be found on the Parliament of NSW website.

*Votes and Proceedings: 8/5/2019, p. 74; 29/5/2019, pp. 103-6; 18/6/2019, pp. 155-61; 19/6/2019, pp. 169-71, pp. 177-8; 20/6/2019, pp. 181-3, p. 190.*

*Hansard: 29/5/2019, pp. 67-8; 19/6/2019, pp. 63-4.*

**Standing Orders 223, 224, 226, 227, 243.**

(Procedural note:

### **Financial procedures**

Section 5 of the *Constitution Act* provides that bills appropriating any part of the public revenue, or for imposing any new rate, tax or impost (sometimes known as 'money bills') must originate in the Legislative Assembly.

There are special conditions relating to the introduction of appropriation bills in the Assembly, set out in Standing Order 243 and Section 46 of the *Constitution Act*. Such bills may only be introduced by a Minister of the Crown or when a message of recommendation is first received from the Governor.

The amendment proposed by Mr Donato to the Ageing and Disability Services Commissioner Bill, if passed, would have made the bill an appropriation bill, as the amendment sought to appropriate \$20 million annually. The proposed amendment was therefore disallowed because Mr Donato was not a Minister, and had not received a recommendation from the Governor to make an appropriation.

While an amendment with similar terms to the one proposed by Mr Donato was passed by the Legislative Council, the Assembly disagreed with the amendment twice, this time on the basis that the amendment would have made the bill an appropriation bill and appropriation bills must originate in the Legislative Assembly.

### **When the two Houses disagree**

Standing Order 224 gives the Legislative Assembly a number of options for dealing with proposed Legislative Council amendments to Assembly bills, including disagreeing to Council amendments.

Clause (3) provides that if the Assembly disagrees to Council amendments it must send a message to the Council giving reasons for the disagreement, with the Member in charge of the bill 'drawing up' the reasons. The Assembly did this on 19 June in the first instance that it sent a message to the Council indicating that it disagreed to some of the proposed Council amendments to the Ageing and Disability Commissioner Bill.

While in this instance, ultimately, the Council did not continue to insist on its amendments, had this not been the case, Standing Order 226 provides options for how the Assembly could have responded. The Assembly could have:

- Agreed to the amendments to which it had previously disagreed;
- Insisted on its disagreement to such amendments and lay the bill aside; or
- Requested a conference.

A conference may be convened with 'managers' appointed by each House. If an agreement cannot be reached at a conference, the Governor may then convene a joint sitting of both Houses to deliberate upon the bill and upon any amendments made by the Council with which the Assembly does not agree.

Section 5B of the *Constitution Act* provides that if there is no agreement reached following the joint sitting, the Assembly may direct that the bill, with or without the amendments made by the Council, be submitted to the electors of the state by way of a referendum.

The last time a referendum of this kind was held in NSW was 1961 when a bill was before the Parliament which proposed to abolish the Legislative Council. The referendum was unsuccessful and the New South Wales Parliament continued to be bicameral.)

## COMMITTEES

### ***Establishment of parliamentary committees***

On 18 June 2019 the Legislative Assembly resolved to establish the following parliamentary committees and appoint Members of the Assembly to those committees:

- Public Accounts Committee
- Committee on Children and Young People
- Committee on the Health Care Complaints Commission
- Committee on the Independent Commission Against Corruption
- Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission
- Legislative Review Committee
- Joint Standing Committee on Electoral Matters
- Joint Standing Committee on Road Safety
- Joint Standing Committee on the Office of the Valuer-General
- Standing Committee on Parliamentary Privilege and Ethics
- Legislative Assembly Committee on Community Services
- Legislative Assembly Committee on Environment and Planning
- Legislative Assembly Committee on Investment, Industry and Regional Development

- Legislative Assembly Committee on Law and Safety
- Legislative Assembly Committee on Transport and Infrastructure

*Votes and Proceedings: 18/6/2019, pp. 140-52*

**Standing Order 315.**