



LEGISLATIVE ASSEMBLY

Procedural Digest

Fifty-eighth Parliament, First Session

No. 4/2023: 12 – 21 September 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.

September 2023

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Business

Speaking twice on a question before the House

Standing Order 64 provides that a Member may only speak once to a question, apart from four exceptions. One of those exceptions, 64(3), is that a Member who moves a substantive motion also has the right to speak in reply.

As part of their collective responsibility, Ministers may act for and on behalf of other Ministers. Standing Order 366 provides that Parliamentary Secretaries may act on behalf of Ministers and references to Ministers in the Standing and Sessional Orders shall be taken to include references to Parliamentary Secretaries, apart from a number of listed exceptions.

The intersection of these Standing Orders saw a Member, Dr Hugh McDermott, on two occasions speak twice to a question, despite not having moved the substantive motions.

On 22 August 2023 Mr Michael Daley introduced the *Crimes Amendment (Corrupt Benefits for Trustees) Bill* and delivered the bill's second reading speech. On 12 September 2023 during the second reading debate, Dr Hugh McDermott, in his capacity as a Private Member, spoke in support of the bill. However, he also later spoke to the bill again, this time in his capacity as Parliamentary Secretary to the Attorney General on behalf of Mr Michael Daley in reply. Dr McDermott subsequently moved, again on behalf of Mr Daley, that the bill be read a third time.

Similarly, again on 12 September Dr McDermott spoke twice during the second reading debate on the *Civil and Administrative Tribunal Amendment Bill*, first in his capacity as a Private Member speaking in support of the bill and then on behalf of Mr Daley in reply. This speech in reply was interrupted for the Public Interest Debate, with the bill being read a third time following the conclusion of the PID.

Votes and Proceedings: 12/09/2023, pp. 265-266.

Hansard (Proof): 12/09/2023, pp. 23-25, pp. 27-29, pp. 30-32, p.41 and p. 68.

Standing Orders 64(3) (Member to speak once) and 366 (Parliamentary secretaries)

Committees

Announcement of Assembly Members to Joint Select Committee



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As noted in the [August Digest](#), while the resolution appointing the Joint Select Committee on Protecting Local Water Utilities from Privatisation provided that nominations for membership to the Committee were to be transmitted to the Clerk by 18 August, this had not occurred prior to the House rising on 24 August 2023.

It is understood that the reason for the delay was that more than one crossbench member had put forward their name for the single available position. Such an impasse may be resolved either by a member(s) withdrawing their name or the House deciding the matter by way of a ballot, in accordance with Standing Orders 278, 351 and 352.

Ultimately, the matter was resolved by negotiation without the need to resort to a ballot in the House. On 13 September 2023, during the time in the routine of business set aside for committee announcements, the Clerk announced receipt of written advice from the Government and Opposition Whips naming Ms Liza Butler, Mr Justin Clancy, Ms Steph Cooke, Mrs Helen Dalton and Mr Steve Whan as the Assembly members to the Joint Committee.

The Committee, which is serviced by an Assembly secretariat, while having a Legislative Council Member as Chair, held its first meeting on 21 September 2023 and set a closing date of 29 October 2023 for submissions to the inquiry.

Votes and Proceedings: 13/09/2023, p. 273.

Standing Order 319 (Joint Committees names stated)

Bills

Delivery of the 2023-24 Budget

On Tuesday 12 September the Leader of the House, Mr Ron Hoenig, moved a suspension of Standing and Sessional Orders to set up the process by which the 2023-2024 Budget Bills would be delivered the following week. The suspension allowed the House to waive the usual steps that take place for the passage of legislation and provide for an expedited process. The expedited process for the passage of Budget Bills has been the practice of the Assembly for the past 12 years. The suspension also provided for the Treasurer (currently a member of the Legislative Council) to be invited to the floor of the Assembly to speak in relation to the 2023-2024 Budget. The House agreed to the suspension on the voices.

The 2023-2024 Budget Bills were considered by the House in the sitting week of 19-21 September.

On Tuesday 19 September, Minister Paul Scully, on behalf of the Premier, moved that the *Appropriation Bill 2023* and cognates *Appropriation (Parliament) Bill 2023* and *Treasury and Revenue Legislation Amendment Bill 2023* be introduced. The Treasurer, the Hon Daniel Mookhey MLC, was then invited to the floor of the Chamber to give a speech in relation to the Budget. This was the first time that the Treasurer, being a Member of the Legislative Council, had appeared in the Assembly since 2010 and only the sixteenth occurrence in the Assembly's history. At the conclusion of the Treasurer's speech, Minister Scully then moved that the bills be read a second time before tabling the 2023-2024 Budget Papers.

Mr Hoenig then moved that the original suspension of Standing and Sessional Orders, agreed to by the House on 12 September, be amended to insert a clause to provide for the House to continue to sit after the conclusion of private members statements, to allow for the consideration of any messages from the Legislative Council regarding the Budget Bills. This suspension was moved to facilitate the consideration of any amendments



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proposed by the Council to the Budget Bills before the House rose for a two-week period. An attempt by the Manager of Opposition Business to amend the suspension was negated on division.

On Thursday 21 September the the Leader of the Opposition, Mr Mark Speakman, spoke on the Budget Bills. Mr Speakman's speech constituted a very much truncated second reading debate. At the conclusion of Mr Speakman's speech, the Attorney General moved, on behalf of the Premier, that the bills be read a third time. The bills were then sent to the Legislative Council for concurrence.

Mr David Mehan then moved that the House take note of the Budget Estimates and related papers for 2023-2024. This motion sets up the Budget Take Note Debate which gives all Members the chance to speak on the Budget in relation to their electorate.

Later that day the Speaker reported messages from the Legislative Council agreeing the *Appropriation Bill 2023* and *Appropriation (Parliament) Bill 2023*. The Speaker also reported a message requesting the concurrence of the Assembly in three amendments to the *Treasury and Revenue Legislation Amendment Bill 2023*. The House agreed to all three amendments. The bills were assented to on Wednesday 27 September.

Votes and Proceedings: 12/09/2023 p. 263; 19/09/2023 pp.285-6; 21/09/2023 pp. 303-4 and pp. 307-8. Standing Orders 97 (Routine of Business), 188 (introduction of bills), 193 (procedure for cognate bills), 194 (second and third reading of cognate bills), 196 (consideration of Council amendments), 264 (tabled papers), 266 (tabling and printing of papers), 365 (suspension of Standing Orders)

Procedural note

Section 5 of the [Constitution Act 1902](#) refers to the distinct role and special powers of the Legislative Assembly in relation to money bills. Section 5 states:

The Legislature shall, subject to the provisions of the Commonwealth of Australia Constitution Act, have power to make laws for the peace, welfare, and good government of New South Wales in all cases whatsoever— Provided that all Bills for appropriating any part of the public revenue, or for imposing any new rate, tax or impost, shall originate in the Legislative Assembly.

This provision precluded the Treasurer from introducing the Budget Bills in the Legislative Council. While the Treasurer was invited to the floor of the Legislative Assembly to speak 'in relation to the NSW Budget', the Treasurer did not participate in any of the legislative procedures for the passage of the Budget Bills through the Assembly, such as introducing the Bills or moving that the Bills be read a second time.