

## Chapter 25 Papers and Documents

### 25.1 General rules and procedure

Papers are taken to mean annual reports of government departments and statutory authorities required to be presented to Parliament under legislation such as the *Annual Reports (Departments) Act 1985* and the *Annual Reports (Statutory Bodies) Act 1984*; statutory rules and instruments subject to disallowance under the *Interpretation Act 1987*; and other reports and documents required or desired to be tabled.

Under standing order 264 papers can only be tabled by:

- the Speaker;<sup>1</sup>
- Ministers;<sup>2</sup>
- Chairs of committees;<sup>3</sup>
- the Clerk;
- statutory provision;
- resolution of the House; or
- command of the Governor.

Parliamentary Secretaries delivering the agreement in principle speech on a bill on behalf of a Minister can table documents in accordance with specific statutory provisions<sup>4</sup> or by the leave of the House.<sup>5</sup>

There is no authority under the standing orders for private members to table documents.<sup>6</sup> However, members are able to lay documents on the Table of the House for the information of other members.<sup>7</sup>

Under standing order 266, Ministers are to table papers at the allocated time in the routine of business (i.e. after Question Time), or at other times by leave.<sup>8</sup> The standing order also provides that on a subsequent day the Leader of the House may give a notice of motion regarding the printing of papers tabled. In practice the convention has become for the printing motion to be moved as required, such as at the end of the year, as a matter of housekeeping. The motion is treated as business with precedence and any member may speak to the motion for up to 3 minutes, including the Minister in reply. The Speaker may bring an end to the debate after 30 minutes by calling the Minister in reply. Amendments may be moved to a motion regarding the printing of papers.<sup>9</sup> For instance, an amendment was once moved to a motion for the printing of papers that “copies of the Report of the Community Justice

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<sup>1</sup> Speaker tabled letters, VP 01/06/1995, pp. 105-6

<sup>2</sup> Ministers have sometimes tabled exposure drafts of bills, VP 19/11/1999, p. 288

<sup>3</sup> On the debate of committee reports tabled out of session before the election, the Speaker allowed newly elected chairs, or if the committee had not yet elected a chair, the former chair, to speak for 10 minutes, PD 25/05/1995, p. 251.

<sup>4</sup> See VP 12/11/2003, p. 444 where the parliamentary secretary tabled a certificate of the Parliamentary Remuneration Tribunal during the second reading of a bill dealing with parliamentary superannuation as required under section 14A(3) of the *Parliamentary Remuneration Act 1989*.

<sup>5</sup> See PD 12/11/2003, p. 4888 where the parliamentary secretary tabled a map referred to in the schedule of the bill with the leave of the House.

<sup>6</sup> See PD 17/09/2003, pp. 3469 and 3475 where the Leader of the Opposition sought leave to table a statutory declaration in the House and was reminded by the Speaker that he had no power to table the document. See also PD 22/09/2004, p. 11288.

<sup>7</sup> PD 25/06/2003, p. 2161; PD 30/10/2003, p. 4489; PD 24/02/2004, p. 6447.

<sup>8</sup> In contrast, provision is made in the routine of business each sitting day for committee chairs to table reports.

<sup>9</sup> Amendment moved (and negated) to leave a certain report from papers to be printed, VP 16/05/1996, pp. 139-40.

Centre for the year ended 30 June 1991 be forwarded to those who had written to the Minister for Justice asking for funding.” The amendment was agreed to and the debate on the motion for the printing of papers was adjourned and was set down as an order of the day.<sup>10</sup> The motion for the printing of papers was not agreed to as the order of the day was subsequently discharged.<sup>11</sup>

Debate on motions regarding the printing of papers are required to be confined to the contents of the reports proposed to be printed and to reports which members believe should be included within the motion. Reports that may be included in any such motion are those reports that have been tabled since the last occasion upon which a similar motion has been debated. In addition, debate upon the operations or policy directive of any particular organisation which is the subject of a report should be limited.<sup>12</sup>

All papers ordered to be printed become "Parliamentary Papers" and are bound together and published by the Parliament in joint volumes and as such form part of the permanent Parliamentary record. Upon request, each member is entitled to receive one copy of each paper tabled and ordered to be printed (S.O. 270). Such papers are available from the Procedure Office.

Under standing order 267 access to tabled papers can be restricted to members only, with no copies or extracts permitted.<sup>13</sup> In all other cases papers tabled are considered to be public documents.

There are provisions in legislation, e.g. the *Independent Commission Against Corruption Act 1988*, that allow reports to be presented to the Speaker when the House is not sitting. The report is deemed to be tabled and the Speaker authorises it to be made public. This includes reports of the Commission, which deal with members or with the Parliament itself.<sup>14</sup>

Similarly, under the annual reporting legislation, reports may be presented to the Clerk out of session and are deemed to be tabled and published.<sup>15</sup> Reports of committees can also be tabled with the Clerk when the House is not sitting provided the legislation or terms of reference establishing the Committee so provide.<sup>16</sup>

A number of statutory provisions including the *Annual Reports (Departments) Act 1985* and the *Annual Reports (Statutory Bodies) Act 1984* state that if a report is tabled with the Clerk it must be recorded in the *Votes and Proceedings* of the Legislative Assembly on the first sitting day of the House after receipt of the annual report.<sup>17</sup> This practice applies for all reports received by the Clerk regardless of whether statutory provisions make it mandatory.

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<sup>10</sup> PD 04/03/1992, pp. 409-13.

<sup>11</sup> PD 25/03/1992, p. 169.

<sup>12</sup> See ruling given by Speaker Rozzoli, PD 08/04/1992, pp. 2403-4.

<sup>13</sup> PD 17/03/1994, p. 989.

<sup>14</sup> VP 11/05/1999, p. 11.

<sup>15</sup> House resolved that the Annual Report of the Joint Parliamentary Services (not under annual reporting legislation) may be received by the Speaker and printed with authority of the House, VP 25/11/1998, p. 1195; VP 18/11/1999, p. 296.

<sup>16</sup> See for example, section 57(4) of the *Public Finance and Audit Act 1983*, which provides for the Public Accounts Committee to table reports with the Clerk of the Legislative Assembly if the House is not sitting.

<sup>17</sup> See section 13 of the *Annual Reports (Departments) Act 1985* and section 11 of the *Annual Reports (Statutory Bodies) Act 1984*.

Under standing order 269, the House may order a Minister to lay papers on the Table.<sup>18</sup> These papers are usually not ordered to be printed.<sup>19</sup> The House may also pass resolutions authorising the Speaker to make arrangements for the return of documents which have been ordered to be tabled to their originating departments.<sup>20</sup> In the absence of statutory provisions to allow reports to be tabled out of session the Legislative Assembly takes the view that reports must be tabled in the House, by the relevant Minister or the Clerk when the House is in session.<sup>21</sup>

Under standing order 268 papers concerned with the Governor (the Royal Prerogative, the administration of justice etc.) may only be requested by an address of the House to the Governor.

## **25.2 Verifying documents quoted during debate**

As noted in section 11.1.3 of Part One, members may quote from documents during a speech provided the quote is brief and the source of the document is properly identified before the member quotes from it.<sup>22</sup> If members are not prepared to identify the source of a document being quoted from, they can be requested, through the Chair, to desist from reading it and to paraphrase it. For instance, a member raised a point of order that the member speaking was reading verbatim from a letter. The Acting Speaker ruled that the member speaking could read from the letter provided the member named the writer and vouched for the same. The member speaking noted that it would be inappropriate to name the person who wrote the letter to which the Acting Speaker ruled that the member could paraphrase the letter, but without identifying the name of the writer, could not quote from it verbatim.<sup>23</sup>

The privilege attached to tabled papers is considered in section 4.2.2 of Part Two.

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<sup>18</sup> Minister moved for the production of papers, VP 04/06/1998, p. 706; PD 17/03/1994, pp. 942 and 989; PD 21/04/1994, pp. 1638 and 1676; PD 03/05/1994, p. 1745. See also VP 04/05/1994, p. 221; VP 10/05/1994 p. 241 and VP 14/09/1994, p. 302; VP 12/05/1994, p. 269 and VP 13/05/1994, pp. 292-3; VP 25/10/1994, p. 432 and VP 27/10/1994, p. 470; VP 15/11/1994, p. 478 and VP 16/11/1994, p. 485.

<sup>19</sup> An equivalent provision in the Legislative Council's standing orders was challenged in the NSW Supreme Court as being beyond the powers of the House. The Court upheld the standing order and that decision (although not the reasons) was upheld on appeal to the High Court *Egan v Willis & Cahill* NSW CA. (1996) 40 NSWLR 650; (1998) 158 ALR 527.

<sup>20</sup> VP 11/12/2002, pp. 705-7 where the House authorised the return of a number of documents that had been tabled during the Fiftieth Parliament to their originating departments.

<sup>21</sup> The Crown Solicitor has expressed the view that "where a statute provides that a Minister must 'table a document' or 'cause a document to be tabled', it means the Minister must either personally lay the document on the table in the House or cause somebody else who is authorised by [the standing orders] to lay the document on the table in the House. It does not mean the Minister may lodge the document with the Clerk of the House out of session. See Advice received from the Crown Solicitor re: "Meaning of term 'cause to be tabled' – reports to Parliament", dated 28 February 2006.

<sup>22</sup> See for example, PD 03/03/1994, p. 166.

<sup>23</sup> PD 11/04/2001, pp. 13694-5.