



LEGISLATIVE COUNCIL FACT SHEETS

FACT SHEET 12: ATTENDANCE AND LEAVE OF ABSENCE

Attendance

There is no specific rule or order of the House which requires a member to attend,¹ although there have been cases in which the House has ordered its members to attend for a particular purpose.² The only requirement regarding attendance is that referred to in section 13A(1)(a) of the *Constitution Act 1902*, which provides that a member's seat becomes vacant if the member fails to attend the House for one whole session unless excused by permission of the House.

Nevertheless, a list of absent members is included in the minutes of the House's proceedings for each sitting day, and a record of the number of days on which each member has attended is published in the Journals of the House.³ In practical terms, the political parties ensure that their own members are present for important divisions, or arrange for absent members to be 'paired'. Further, depending on the circumstances of the case, the House may take action against a member for non-attendance. For example, in 2004 a censure motion was moved against a member 'for being absent from Parliament for the purpose of trying to secure his preferred result in a local council election' overseas, although the motion was defeated on division.⁴

As to attendance at meetings of committees, standing order 216(1) states that a member must seek leave of a committee to be absent from four or more consecutive committee meetings. If a member of a committee fails to attend four consecutive meetings without leave, the committee chair must report this to the House (SO 216(2)). If the member fails to attend the next meeting without leave, the Chair is to again inform the House and the procedure is to continue until the member attends a meeting. This requirement does not apply to those committees where the resolution of the House has made provision for substitute members.

Leave of absence

Subject to the requirements of section 13A(1)(a) of the *Constitution Act 1902* discussed above, it is not mandatory for a member to seek leave of absence from the House, although it is quite common for leave to be sought for extended absences. The seeking of leave of absence is governed by standing

¹ This contrasts with Legislative Assembly standing order 27: Every Member is bound to attend the service of the House and any Committee to which they are appointed unless granted leave of absence by the House.

² See, for example, the order of the House that the Treasurer and Leader of the Government in the House, the Hon Michael Egan, be suspended for the remainder of the sitting and attend at the Bar of the House on the next sitting day to explain his failure to comply with previous Orders of the House for the tabling of certain documents, *LC Minutes* (2/5/1996) 113-118.

³ From 1856 until 2002 the Minutes of Proceedings recorded the members present each day on the first page. From 2003 the final entry in the Minutes lists only those members absent, *LC Minutes* (30/4/2003) 28, 51; *LC Debates* (30/4/2003) 54.

⁴ *LC Minutes* (3/6/2004) 846-849.

order 63, which provides that the House may by motion on notice give leave of absence to a member.

A notice of motion for leave of absence takes precedence as business of the House. Such motions may be debated, but are often dealt with as formal business. Leave of absence has been granted to members for various causes, including illness,⁵ maternity leave⁶ and military service.⁷ In one case in the 19th century, leave of absence was sought and granted before the relevant member had taken the oath of allegiance, although the view was expressed during debate in the House that leave was unnecessary in those circumstances.⁸

As noted earlier, a member of a committee must seek leave of the committee to be absent from four or more consecutive meetings of the committee.

⁵ See, for example, the leave granted to the Hon Elaine Nile, *LC Minutes* (18/11/1999) 244.

⁶ See, for example, the leave granted to the Hon Carmel Tebbutt, *LC Minutes* (23/11/2000) 742.

⁷ See, for example, the leave granted to the Hon Dr Brian Pezzutti, *LC Minutes* (10/11/1999) 197, (28/3/2001) 902.

⁸ *LC Minutes* (7/2/1865) 19; *Sydney Morning Herald*, 8 February 1865, p 5.