



LEGISLATIVE COUNCIL FACT SHEETS

FACT SHEET 13: ROUTINE OF BUSINESS

The routine of business for each sitting day is the order in which business is dealt with by the House. This order is determined by a combination of standing orders, sessional orders and practice. Standing order 38 specifies the order in which business is taken on each sitting day as follows:

- formal business under standing order 44;
- presentation of papers and documents;
- presentation of petitions;
- giving of notices of motions;
- urgency motions;
- ministerial statements;
- ministerial replies to matters raised on the adjournment.

In practice, messages from the Governor and the Assembly and reports tabled by the President are dealt with before formal business under standing order 44. Further, a number of the items of business can also be taken at other times during the sittings of the House.¹

After the House has disposed of the preliminary items listed above, it proceeds to the business of the day – that is, the items set down on the Notice Paper. These include matters of privilege, business of the House, matters of public importance, government business, private members' business and debate on committee reports.

The various items of business considered by the House during a sitting day are discussed below.

Messages from the Governor

Messages from the Governor must be reported by the President as soon as practicable after their receipt. When a message from the Governor is delivered during a sitting of the House, the business under discussion may be suspended while it is delivered, read and, if necessary, taken into consideration or a future day fixed for its consideration (SO 122). Generally, however, a message from the Governor is reported immediately after any business then under consideration is concluded.

When a message from the Governor is delivered when the House is not sitting, it is the first item reported by the President on the next sitting day.

The most common messages from the Governor are assents to bills. Other messages include those convening joint sittings for the filling of casual vacancies in the House or in the Senate, and the

¹ For example, messages from the Governor which are received during the course of a sitting are reported to the House as soon as practicable after receipt (SO 122).

assumption of the administration of government on the Governor being absent from the State or returning to the State.

Messages from the Assembly

Messages from the Assembly are reported to the House at the earliest opportunity without interrupting the business before the House (SO 126(2)). These messages are received by the Clerks at the Table and handed to the President to be read once there is a break between items of business.³ A message from the Assembly received by the Clerk when the House is not sitting is reported by the President on the next sitting day, immediately after any messages from the Governor.

The most common messages from the Assembly relate to bills – either responding to a bill which originated in the Council, presenting a bill passed by the Assembly for concurrence or responding to Council amendments to a bill which originated in the Assembly. Other common messages relate to the membership of joint committees.

Reports tabled by the President

A number of statutes require the provision of various reports to the President for tabling in the House. These include the *Ombudsman Act 1974*, the *Independent Commission Against Corruption Act 1988*, and the *Police Integrity Commission Act 1996*. There is nothing in the standing or sessional orders prescribing the time at which the President is to table such reports. However, it is the established practice that when these reports are received while the House is sitting, the President tables the report between items of business. Reports received when the House is not sitting are tabled by the President on the next sitting day.

Aside from reports from statutory bodies, the President also tables documents concerning the administration of the Parliament, such as the annual report of the Department of the Legislative Council, and the annual report of the Joint Services of the Parliament.

Formal business

Under standing order 44, before the House proceeds to the business on the Notice Paper each day, the President asks if there is any objection to notices of motions or orders of the day for the third reading of a bill to be taken as a formal motion.⁴ All members present must agree to an item being dealt with as formal business, any one objection being sufficient to prevent it from occurring. The question on a formal motion is put without amendment or debate, although a division can be called.

³ There have been occasions when a message has been received from the Assembly during the adjournment debate to terminate a sitting and the President has reported the message before putting the question for the House to adjourn. See, for example, *LC Minutes* (3/7/2003) 244-245, (17/11/2005) 1764, (15/12/2005) 1820-1821.

⁴ It is no longer common for orders of the day for the third reading of bills to be listed as items of business on the Notice Paper, as the question on the third reading of a bill is usually put immediately after the second reading or after adoption of the report of the committee of the whole. This can occur where the necessary leave has been given (under SO 141), or where standing and sessional orders have been suspended to allow the passage of a bill through all stages at the current or any one sitting.

The procedure followed is that the President calls over the items of business by category, inquiring whether there is any objection to the matters being taken as formal business. In most cases members do object to notices of motions being taken as formal business because they wish the matter to be debated in the House. However, in some cases, generally where prior agreement has been reached between representatives of various parties, a matter will proceed as formal business. Common instances include:

- changes to the membership or reporting dates of a committee;
- granting of leave of absence to a member;
- agreement to a resolution or message in relation to which there is unanimity of opinion in the House;
- orders for the production of State papers.

In recent years there have been instances where a member has obtained leave to amend a motion before moving it as formal business, contrary to the standing order.⁵ These have usually related to the time frame for the return of documents under an order for State papers.

In June 2007, the House adopted a sessional order to vary the procedure under standing order 44. Under this sessional order, a member must request in writing that a notice of motion on the Notice Paper standing in their name be put to the House as formal business by the President the next sitting day. This procedure removes the previous uncertainty that surrounded the identification of items to be considered by way of formal business. However, its main disadvantage is that, if members fail to indicate in writing at the previous sitting that they wish to have an item taken as formal, they lose the opportunity for that day.

Presentation of papers and documents

Papers and documents may also be tabled at any time when there is no other business before the House (SOs 42 and 54). The tabling of documents, other than by the President, takes place after formal business and before the presentation of petitions. Documents are tabled first by ministers, then by the chairs of committees, followed by the Clerk. Private members may only table documents by leave of the House.

Presentation of petitions

The routine of business provides for the presentation of petitions after the tabling of papers (SO 38). Petitions may not be presented after the House proceeds to the business of the day, except by leave of the House (SO 68(8)).

Giving of notices of motions

The routine of business provides for the giving of notices of motions following the presentation of petitions (SO 38). Notices of motions may not be presented after the House proceeds to the business of the day, except by leave of the House (SO 71(6)). It is not uncommon for leave to be given, especially to notices given by ministers, although there are also instances where leave has been refused.

⁵ *LC Minutes* (15/9/2005) 1566, (30/11/2005) 1787, (21/9/2006) 213.

Postponements

After the formal motions are disposed of and before the business of the day is proceeded with, the President asks whether any member wishes to postpone any notice of motion or order of the day of which the member is in charge on the Notice Paper for that day (SO 45). A notice of motion or order of the day may be postponed to a later hour on the same day or a subsequent day, on motion. The question must be put and determined without amendment or debate.

Business may also be postponed, on motion, at the time it is called on.

Urgency motions

An urgency motion allows a member to initiate discussion on a matter of urgent public importance, without the need for the House to come to any decision on the matter. Under standing order 201, such motions are generally dealt with at the conclusion of formal business.

When raising a matter of urgency, a member moves for the House to adjourn to discuss the matter of urgency. The subject to be discussed must be stated in writing to the President before the commencement of the sitting. At the appropriate time in proceedings, the President informs the House that a motion under standing order 201 has been received, at which point the House decides, without amendment or debate, the question of the urgency of the matter being discussed. If urgency is agreed to, the member moves ‘That this House do now adjourn’ and the matter is debated. There are time limits on the speeches of members, although the time limits have been extended by leave of the House. The motion is not open to amendment. At the conclusion of the debate the motion lapses.

Matters moved as an urgency motion under standing order 201 should be framed as a simple and brief statement of the general subject matter.⁶

Standing order 201 has not been used frequently, particularly in recent years. Most members opt to initiate matters of public importance under standing order 200 (discussed below), rather than standing order 201. The main difference between the two is that matters under standing order 200 require notice to be given at a previous sitting, thereby allowing the ensuing debate to be more informed than in the case of matters under standing order 201, where the House receives no notice. Nonetheless, an urgency motion under standing order 201 provides members with the opportunity to bring matters on suddenly and as such is known as ‘the ultimate ambush’ on the government.

Most matters raised under standing order 201 are from opposition or cross-bench members but there have been rare occasions when the government has itself used the procedure.⁷

⁶ For example, ‘the alarming increase in the robbery of taxi-drivers by armed men’, *LC Minutes* 114 (19/5/1936) 130; ‘the call by unions for further consultation over proposed changes to workers’ rights regarding compensation for injury sustained in the workplace’, *LC Minutes* (19/6/2001) 1029-1030.

⁷ For example, on 3 May 2006, the government used an urgency motion to discuss the proposed sale of the Snowy Hydro Ltd. See *LC Minutes* (3/5/2006) 1981, 1984.

Ministerial statements

In the routine of business, ministerial statements follow immediately after any proposals under standing order 201 and before ministerial replies to matters raised on the adjournment. Ministerial statements may also be made at any time when there is no business before the House (SO 48). Ministers do not require leave to make such statements. It is not uncommon for ministerial statements to be made at the end of Question Time.

Ministerial statements may be used to:

- notify changes in the Ministry;
- reply to a question on notice;
- announce legislative proposals;
- announce the government's intention to propose a change in the arrangement of government or other business in the House;
- correct remarks made by the minister in answer to a question without notice or in other debate in the House.

The Leader of the Opposition or a member nominated by the Leader of the Opposition may reply to a ministerial statement for a period not exceeding the time taken by the minister in making the statement (SO 48(2)).

The President may also make statements to the House on matters of procedure or practice, arrangements concerning the sittings of the House, or the administration of the House or the Parliament. There is no provision for the Leader of the Government, Leader of the Opposition or other members to speak to such a statement.

Ministerial replies to matters raised on the adjournment

Ministers may reply to matters raised in the adjournment debate of the previous sitting (SO 33).

Any other member wishing to make a statement about the matter, or to reply to the statement of the minister, must seek leave or use another mechanism, such as the next adjournment debate or, if appropriate, a personal explanation.

There is no requirement for a minister to respond to matters raised in the adjournment debate.

Business of the day

As indicated, following the conduct of preliminary and formal business, the House proceeds to business of the day – that is, items set down on the Notice Paper such as business of the House, matters of public importance, government business, private members' business or debate on committee reports. Each of these items is considered in turn.

Business of the House

A motion that relates to the business of the House takes precedence over all other motions or business of the day (SO 74). According to practice, business of the House is the first item of

business of the day. The categorisation of a matter as business of the House is significant as it accords the matter precedence over both government and general business.

Business of the House includes:

- a motion for a special adjournment or which relates to the privileges or business of the House (SO 74(3));
- a motion for leave of absence of a member (SO 39(a));
- a motion concerning the qualification of a member (SO 39(b));
- a motion concerning the operations of the chamber (SO 39(c)), such as a new sessional order;
- a motion to disallow a statutory instrument (SO 78);
- a motion to adopt a report from the Privileges Committee on a citizen's right of reply (SO 203(7)).

Matters concerning the privileges of the House

A member may only raise a matter of privilege, unless suddenly arising in proceedings before the House, according to the procedures set out in standing order 77. These procedures are designed to ensure that only genuine cases of privilege are brought before the House for consideration, and to curtail attempts by members to bring matters before the House that might not otherwise fall within the ambit of privilege.

Under standing order 77, unless a matter of privilege arises suddenly in proceedings before the House, it must first be reported in writing to the President. The President must then determine whether or not there is a prima facie case of privilege and whether the matter should be given precedence over other business. If the President decides that there is a prima facie case of privilege, a member may then, at any time when there is no business before the House, give notice of a motion to refer the matter to the Privileges Committee. Any motion given precedence under standing order 77 has precedence over all other business on the day for which notice is given.

The resolution of the House appointing the Privileges Committee also allows the President to refer matters directly to the Committee.

Standing order 77 does not preclude a member from raising a matter concerning the privilege of the House, its members or any of its committees which arises suddenly during proceedings in the House. In that case it is open to a member to raise the matter immediately by way of a point of order or motion without notice. Under standing order 74, debate on a motion of privilege, unless adjourned, suspends all other business until decided.

Matters of public importance

Standing order 200 allows a member to give a notice of motion for a matter of public importance to be debated by the House without the House having to resolve the matter in any particular way. This is an exception to the rule that substantive motions are used to elicit an opinion of the House. When the matter is called on, the House first decides on the question, without amendment or debate, that the matter proceed forthwith. If agreed, time limits apply to speeches and the discussion must not

exceed one hour and 30 minutes. As there is no question before the House, at the conclusion of the debate the matter lapses and the House proceeds to the next item on the Notice Paper.

Only one matter of public importance may be dealt with on any sitting day, although this is not to preclude the resumption of an adjourned discussion on the same day (SO 200(7)).

Government business

Government business includes all matters initiated by a minister or parliamentary secretary exercising the powers of a minister under standing order 25, and mainly consists of items relating to the government's legislative program.

General or private members' business

General business, also known as private members' business, is business initiated by members who are not ministers or parliamentary secretaries. The conduct of general business is described in a separate Factsheet ('Private members' business').

Debate on committee reports

On the tabling of a report from a committee, a motion may be moved without notice 'That the House take note of the report' (SO 232(1)). During or at the conclusion of the speech of the mover, the debate is adjourned to the next day on which debate on committee reports has precedence. Unless otherwise ordered, the order of the day for the resumption of debates on committee reports is to be set down on the Notice Paper in the order in which the reports were presented.

The debate on committee reports on any day on which the debate has precedence is to be interrupted after one hour. The interrupted debate is to stand adjourned and be set down on the business paper for the next day on which it has precedence.

Each speaker in the debate on committee reports is to be limited to 10 minutes, except the committee chair, who is allowed 15 minutes and a further 10 minutes in reply.

Under the current sessional orders, debate on committee reports takes precedence on Wednesday for one hour after Question Time.

Precedence of business of the day

Standing orders 40 and 41 provide that the House must from time to time appoint the day or days on which government business, general business and debate on committee reports will have precedence. The House has determined that government business takes precedence on Monday, Tuesday, Wednesday and Friday, and after 5.00 pm on Thursday, and that private members' business takes precedence until 5.00 pm on Thursday each sitting week.⁸

During the period since 1988 when no government has had a majority in the Council, it has become common for the government to lose control of the proceedings of the House for a period on at least

⁸ *LC Minutes* (23/5/2006) 21, (10/5/2007) 52.

one of the days on which government business takes precedence each week, following a majority vote to suspend standing and sessional orders to bring on an item of general business. On the other hand, it is not uncommon, towards the end of a sitting period, for government business to take precedence on Thursdays, when private members' business would normally have precedence.