



## LEGISLATIVE COUNCIL FACT SHEETS

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### FACT SHEET 16: PRIVATE MEMBERS' BUSINESS

Private members' business, also known as general business, is business initiated by members who are not ministers or parliamentary secretaries. 'Business' refers to notices of motion or orders of the day, whether concerning proposed legislation or other matters. There are special procedures for dealing with private members' business in the Council.

#### Meaning of 'private member'

The term private member is not defined in the standing orders of the Council.<sup>1</sup> This leaves open the question of which members may introduce private members' business. Under the standing orders any member may give notice of an item of private members' business for debate during the session (SO 183).

*Odgers* states that ministers occasionally initiate business 'with an indication that they do so in a private and not a ministerial capacity' and that such business is entered into the Notice Paper as general business.<sup>2</sup> However, *House of Commons Procedure and Practice* (Canada) indicates that ministers, parliamentary secretaries and Presiding Officers have generally abstained from sponsoring or pursuing private members' business and that, on being appointed, parliamentary secretaries have withdrawn or requested a change in the sponsorship of an item of private members' business standing in their name.<sup>3</sup>

In New South Wales, this issue arose in relation to the Callan Park (Special Provisions) Bill 2002, introduced into the Assembly by a member who was both a minister and whose electorate included the site which was the subject of the bill. Following the bill's introduction and media reports quoting the member as saying that 'the Government would support her private members' bill',<sup>4</sup> the bill appeared on the Assembly Notice Paper as government business.<sup>5</sup> When the bill reached the Council it was also listed on the Council Notice Paper as government business.<sup>6</sup>

#### Procedures for dealing with private members' business

Private members' business is dealt with according to a system of precedence. Under this system, the House considers items of private members' business in the sequence established by a draw conducted by the Clerk at the beginning of the session (SOs 183-189). As the House disposes of

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<sup>1</sup> House of Representatives standing order 28D(f) defines a private member as any member of the House other than the Speaker, a minister or a parliamentary secretary.

<sup>2</sup> Evans H (ed), *Odgers' Australian Senate Practice*, 11th edn, Department of the Senate, Canberra, 2004, p 160.

<sup>3</sup> *House of Commons Procedure and Practice* (Canada), 2000, pp 889-890.

<sup>4</sup> 'Backflip on Callan Park land sale', *Daily Telegraph*, 21 October 2002, p 9.

<sup>5</sup> *LA Notices* (24/10/2002) 1167.

<sup>6</sup> *LC Notice Paper* (13/11/2002) 1725.

items, further ballots are conducted to ensure there are sufficient items, up to a limit of 12, in the order of precedence.

This arrangement was first adopted according to sessional order on 8 September 1999 in order to provide a more efficient and equitable method of dealing with private members' business. The sessional order was re-adopted each subsequent session with some minor modifications, and was finally adopted as a standing order in May 2004.<sup>7</sup>

Under the system of precedence applying to private members' business, notices of motions when first given appear on the Notice Paper under 'private members' business—items outside the order of precedence' in the order given. The items selected in the draw are then shown under 'private members' business—items in the order of precedence'.

The procedure for conducting the draw for private members' business under the standing orders is as follows:

- A random draw of 12 members' names is conducted in the order of government, opposition and cross-bench members. Only members with an item on the Notice Paper outside the order of precedence are included in the draw.
- A member is not included in the random draw of names if the member already has an item listed in the order of precedence, or has previously been selected in a draw and had an item of business disposed of when there are other members in the same group (government, opposition, cross-bench) with notices on the Notice Paper who have not previously been selected in the draw.
- A member whose name is drawn may transfer their turn to another member who does not have an item of private members' business in the order of precedence. Where this occurs both the member whose name was drawn and the member who receives the transfer are ineligible to be included in the draw until all other members in the same group have been selected in the draw. Once a member has an item in the order of precedence, they cannot then transfer their turn to another member.
- Each member whose name is drawn and who has more than one notice of motion on the Notice Paper notifies the Clerk which of his or her notices of motions is to be placed in the order of precedence. If a member does not notify the Clerk within two working days, the first motion standing on the Notice Paper in the name of the member is included in the order of precedence.

Before the adoption of this procedure it was not uncommon for members to give notices of motions for specific sitting days in an attempt to get precedence over other items of private members' business already on the Notice Paper.

The establishment of an order of precedence for private members' business does not prevent a member from giving further notices of motions that are then listed on the Notice Paper under items outside the order of precedence in the order given.

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<sup>7</sup> The procedures are similar to a system operating in the Canadian House of Commons.

An item of private members' business listed in the order of precedence may be postponed. However, an item postponed for a third time is removed from items in the order of precedence and set down at the end of private members' business items outside the order of precedence unless the House otherwise orders (SO 188).

According to established practice, private members may give only one notice of motion on each call from the Chair. When a notice is withdrawn and re-given by a private member it loses its precedence on the Notice Paper. This applies even when the notice has been included within items in the order of precedence. Debate on items of private members' business is subject to time limits set out in standing orders 186 and 187.

The House has determined that general business takes precedence on Thursday each week until 5.00 pm. However, it is common that, at the end of a session, the House will agree to government business taking precedence on Thursdays due to the volume of government bills to be considered before the recess.

### **Time limits on debate**

The debate on an item of private members' business other than a bill must not exceed three hours. The mover of the motion may speak for not more than 30 minutes and other members may speak for not more than 20 minutes. The debate on a private member's motion is interrupted 15 minutes before the end of the time provided to allow the mover of the motion to speak in reply for not more than 10 minutes and for the President to put all questions necessary to dispose of the motion.

Debate on the question 'that leave be given to bring in a bill' is limited to one hour, the mover and each other member speaking for not more than 10 minutes. The debate is interrupted 10 minutes before the end of the time for debate to allow the mover to speak in reply for not more than 10 minutes. There is no overall time limit on debate on the motion that a bill be read a second time, but the mover may speak for not more than 30 minutes and 20 minutes in reply and any other member may speak for not more than 20 minutes.