



LEGISLATIVE COUNCIL FACT SHEETS

FACT SHEET 21: QUORUM , BELLS AND DIVISIONS

Quorum

At the commencement of a sitting

Section 22H of the *Constitution Act 1902* provides that a quorum of the House is eight members in addition to the President or other member presiding. This is approximately 20 per cent of the membership of the House, which is comparable to the percentage of members required to form a quorum in most other Houses of Parliament in Australia and elsewhere.¹

Under standing order 29, if at the expiration of five minutes after the time fixed for the meeting of the House a quorum is not present, the President is required to declare the House adjourned until the next sitting day.² There are many precedents from 1856 until 1900 where a quorum was not present at the commencement of a sitting and the House was adjourned to the next sitting day. The last occasion this occurred was on 5 December 1900.³

Provided a quorum is present, the House is recorded in the Minutes of Proceedings as meeting at the time provided for in the adjournment or the sessional order.

During a sitting

Technically, the House is required to maintain a quorum at all times as section 22H of the *Constitution Act 1902* applies. In reality, a quorum need only be present at the commencement of a sitting (SO 29) and in division (SO 30(1)), and be formed when a member draws attention to the absence of a quorum (SO 30(3)). If the numbers in the House fall below the requirements of section 22H but no notice is taken, the House may continue to sit.⁴ However, it is unusual for there to be an absence of a quorum in the Council, except immediately before the House adjourns. The absence of a quorum does not affect the validity of a motion passed by the House.

Other than ensuring that a quorum is present before taking the Chair, it is not the responsibility of the President to call attention to the absence of a quorum. It is the responsibility of the House as a whole to ensure the presence of a quorum.⁵

¹ Ashton W, 'The Quorum of the House', paper presented to the Fifth Conference of Presiding Officers and Clerks, Perth, May 1972.

² On 18 October 2007, the House adopted a sessional order varying standing orders 29 and 30 to allow the President, in the absence of a quorum, to adjourn the House until 'a later hour of the day' as well as the next sitting day. See *LC Minutes* (18/10/2007) 281-282.

³ *LC Minutes* (19/7/1900) 45, (5/12/1900) 273.

⁴ Ruling: Hay, *Sydney Morning Herald*, 28 April 1876, p 2.

⁵ Evans H (ed), *Odgers' Australian Senate Practice*, 11th edn, Department of the Senate, Canberra, 2004, p 156.

If notice is taken of the absence of a quorum, the division bells will be rung until a quorum is formed but for no longer than five minutes, after which the House is counted (SO 30(3)). The doors remain open after the bells have ceased to ring as members are being counted, and a member who enters the chamber prior to the President declaring the result of the count may be counted. However, a member who enters after the President announces that a quorum has not been formed may not be counted.⁶

Members may not leave the House after attention has been called to the absence of a quorum (SO 30(4)). If when the House is counted a quorum is not present, the President declares the House adjourned to the next sitting day.⁷ The names of the members present when the House is counted are recorded in the minutes (SO 30(6)).

There are many examples since 1856 where the House was counted out following a quorum call after the commencement of business. However, the last occasion this occurred was in 1916 following a quorum call during the adjournment debate, when the House was counted out and adjourned by the President.⁸

If on a division in the House, it appears from the lists handed in by the tellers that there is no quorum present, the President is to adjourn the House at once (SO 30(1)). There is no provision for the bells to be rung again in this circumstance. The names of the members present are to be recorded.

In committee of the whole

The quorum in committee of the whole is also eight members in addition to the Chair of Committees or other member presiding.

If notice is taken of the absence of a quorum in committee, the division bell is rung for five minutes.⁹ If, within five minutes, a quorum is not formed, or it appears on a division that a quorum is not present, the Chair of Committees is to leave the Chair without a question being put and report to the House (SO 176). The President then counts the House and, if a quorum of members is then present, the House again resolves itself into a committee of the whole without any question being put.¹⁰

There are many examples since 1856 where the House was counted out and adjourned by the President after the Chair of Committees reported a quorum was not present in committee of the whole House. The last occasion was in 1916.¹¹

⁶ *Ibid*, p 155.

⁷ On 18 October 2007, the House adopted a sessional order varying standing orders 29 and 30 to allow the President, in the absence of a quorum, to adjourn the House until 'a later hour of the day' as well as the next sitting day. See *LC Minutes* (18/10/2007) 281-282.

⁸ *LC Minutes* (15/9/1916) 81.

⁹ *LC Minutes* (4/10/1967) p 282.

¹⁰ *LC Minutes* (5/8/1909) 38, (4/11/1915) 142, (23/8/1967) 282.

¹¹ *LC Minutes* (23/3/1916) 279 (no quorum in division on a bill).

In committees of the House

Standing order 214(1) states that, unless otherwise ordered by the House, the quorum of a committee is three members.¹² A committee cannot meet and conduct business unless it has a quorum. Parliamentary privilege may not apply to some doubt as to whether such proceedings are properly constituted proceedings of the committee.¹³

Standing order 214(2) states that, if after 15 minutes from the time appointed for commencement of a committee meeting a quorum is not present, the meeting is adjourned and the chair is to fix the next meeting of the committee. The clerk to the committee records the names of members present. Under standing order 215, if a member brings the loss of a quorum to the attention of the chair, after 10 minutes has elapsed the chair must suspend the proceedings of the committee to a later time. If, at that later time, a quorum is still not present, the committee must be adjourned to another date, to be fixed by the chair.

As with the practice in the House, it is not the responsibility of the chair to call attention to the absence of a quorum. Maintaining a quorum is the responsibility of the committee collectively.

The clerk of the committee is responsible for recording the names of members present at any deliberative meeting or hearing (SO 214(3)). This record appears in the minutes of the committee proceedings, which are included in the committee's report to the House (SO 234(5)(a)).

Bells

Bells are rung throughout Parliament House to summon members to the Chamber for a meeting, division or quorum or to indicate that the House has adjourned.

Fifteen minutes before the time fixed for the meeting of the Council each sitting day, the bells are rung for one minute. Two minutes before the time fixed for the meeting of the House, the bells are again rung to call the members to the House. At the time fixed for the meeting of the House the bells cease ringing, the Usher of the Black Rod announces the President to the House and conducts the President to the Chair.

When a division has been demanded, the division bells are rung for five minutes, and simultaneously a minute glass timer is turned by one of the Clerks at the Table. When successive divisions are taken and there is limited or no intervening debate, the Chair may direct the bells be rung for one minute, if no member objects (SO 114(4)). On expiry of the five minutes (or one minute) the Chair orders the doors to be locked.

A debate can be interrupted for an undetermined period when the President leaves the Chair 'until the ringing of a long bell'. When the President resumes the Chair the debate continues at the point at which it was interrupted.

¹² In recent times, the resolution establishing the 3 policy-oriented standing committees has always provided that the quorum must consist of 2 government members and 1 non-government member. There has been no membership requirement for the quorum of a GPSC.

¹³ Evans H (ed), *Odgers' Australian Senate Practice*, 11th edn, Department of the Senate, Canberra, 2004, p 403.

Divisions

When debate on a motion or amendment has concluded, the Chair puts the question and the House, or committee of the whole, decides whether it is in favour of or against the proposal. The question being put, the Chair declares, in the opinion of the Chair, whether the majority of voices are for the 'ayes' or 'noes'. If there is no challenge, the Chair declares that the 'ayes' or the 'noes' 'have it' – that is, which side is in the majority. This is called voting on the voices.

However, where the members declared by the Chair to be in the minority dispute the result they may call for a division, which is a more formal method of determining the question (SO 112(3)). To object to the Chair's determination of the outcome of a question on the voices and to call for a division, members must have clearly voted on the voices for or against the question. In addition, a division may only be held if two or more members call for a division (SO 112(4)). If only one member calls for a division, the member may ask for their vote to be recorded in the Minutes of Proceedings (SO 112(5)).

As noted earlier, when a division has been demanded, the bells are rung for five minutes, except where there are successive divisions and limited or no intervening debate, in which case the Chair may direct the bells be rung for one minute if no member objects (SO 114(4)). On expiry of the five minutes or one minute, the Chair orders the doors to be locked. The Usher of the Black Rod bars the northern door to the chamber and stands in front of it for the duration of the division, while cords are placed across the eastern entrances to the chamber.

No member is permitted to enter or leave the chamber after the Chair has ordered the doors to be locked. Once the doors have been locked, the Chair again states the question and directs members present to take their seats, the 'ayes' to the right and 'noes' to the left of the Chair. Every member then present must vote in accordance with the member's vote by voice and may not leave the House until the division is concluded.

A member is not entitled to vote in a division unless the member is present in the chamber when the question is put with the doors locked (SO 113). There is no requirement for members who have voted with their voice to remain in the chamber to vote in a division on the same question. If it appears that there is only one member voting on one side of the House in a division, the Chair declares the question at once (SO 115(3)).

The Chair appoints two tellers from each side, who record the names and total number of members voting on each side, sign their respective lists and present them to the Chair. The Chair declares the result of the division to the House (SO 115(1)). The lists of members voting in a division are recorded in the Minutes of Proceedings and in Hansard. In the case of an equality of votes, the Chair must give a casting vote. Any reasons given for a casting vote by the Chair are recorded in the Minutes of Proceedings (SO 116).

A member speaking to a point of order during a division must remain seated (SO 117). To attract the attention of the Chair in such cases it is the practice for a member to place something on their head, such as a piece of paper.

If the numbers or names of members voting in a division are incorrectly reported, the House, on being informed of the error, may order the record to be corrected (SO 118).

A member may not vote in any division on a question if the member has a direct pecuniary interest in the matter not in common with other citizens (SO 113(2)), but this does not prevent the member from participating in the debate.
