



PROCEDURAL DIGEST

Legislative Assembly

FIFTY-FIFTH PARLIAMENT, FIRST SESSION

NO. 4/2014: 6 MAY – 15 MAY 2014

May 2014				
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5	6	7	8	9
12	13	14	15	16

This document provides a summary of significant procedural events and precedents in the Legislative Assembly. It is produced at the end of each sitting period. Where applicable the relevant standing orders are noted.

BILLS

Introduction of cognate private members bills

Mr John Robertson introduced two cognate bills on 8 May 2014, for prescribing a ministerial code of conduct for the purposes of the *Independent Commission Against Corruption Act*; and for amending the *Constitution (Disclosures by Members) Regulation 1983* to make further provision with respect to disclosures by Members of Parliament.

Following the conclusion of the member's second reading speech, Mr Richard Amery, sought leave to suspend standing and sessional orders to permit the continuation of debate. Leave was not granted.

Mr Victor Dominello, Minister for Citizenship and Communities, then moved that the debate be adjourned. That question being put, a division was called for and deferred until after 10:30 am pursuant to the Standing Orders.

(Procedural note: Seeking to suspending Standing Orders in this way means that after the member in charge of the bill has given their second reading speech, proceedings do not then have to be adjourned for at least five days, as would otherwise be the case.

The second reading debate and all other stages of the bill could therefore have proceeded forthwith that day.

Sessional Order 187, which was adopted on 28 February 2013, currently provides that the House shall not conduct a division on any question before 10.30 am on days when the House meets at an earlier time. The Sessional Order also provides that if a division is called prior to 10.30 am on such days, the division shall be deferred and conducted at 10.30 am and any business then before the House shall be interrupted and recommenced after the division(s.)

Votes and Proceedings: 8/5/2014, p.2160

Hansard: 8/5/2014, p.28444-28450

Standing Order 96

Standing Order 187

Standing Orders 203 – 217

Standing Order 365

Minister to have carriage of private member's bill in the Assembly

The Speaker advised the House on 8 May 2014, that she had received written authority from Reverend the Hon. Fred Nile MLC, advising that the Attorney General, and Minister for Justice, would have carriage of the *Crimes Amendment Provocation Bill* in the Legislative Assembly.

Votes and Proceedings: 8/5/2014, p.2164

Hansard: 8/5/2014, p.28477

Standing Order 229(2)

(Procedural note: In relation to non-Government bills from the Legislative Council, standing order 229(2) provides that a message forwarding a private member's public bill from the Legislative Council cannot be reported until the Speaker is advised which Member of the Assembly will have carriage of the bill.

If a Minister takes carriage of a private member's bill from the Legislative Council it may be introduced and considered during Government Business.)

Suspension of Standing and sessional Orders to expedite passage of a bill

On 13 May, the House agreed to a motion moved by the Leader of the House, to suspend Standing and Sessional orders in order to permit the passage through all stages of the *Parents and Citizens Associations Incorporation Amendment Bill*.

Votes and Proceedings: 13/5/2014, p.2171; and pp. 2172-74.

Hansard: 13/5/2014, pp. 28640 -41; and pp. 28645-28663

Standing Orders 188-221

Standing Order 365

(Procedural note: Suspending Standing Orders in this way removes certain procedural requirements to facilitate the passage of the legislation that day. For instance, debate does not then need to be adjourned for five clear days after the mover's has given their second reading speech, which would otherwise be the case; and speakers and speaking times on the various stages of the bill can be subject to specific limits – though that was not done not on this occasion.

Another means of expediting the bill's passage would be to declare it urgent, pursuant to SO 189, which again allows the second reading debate and all subsequent stages to take place immediately following the mover's second reading speech).

BUSINESS

Motions seeking to be accorded priority

On 7 May 2014, notices seeking to be accorded priority were given by Mr Gareth Ward and Mr Jamie Parker. Mr Michael Daley then sought the leave of the House to permit the giving of a third notice, leave was not granted.

Later in the sitting, the House agreed to a motion moved by the Leader of the House, that standing and sessional orders be suspended in order to permit the consideration of both the notices of motion seeking to be accorded priority which had been given that day. The motion provided for speaking times on the motion of Mr Parker to be limited to 3 minutes for the mover and 3 minutes for Mr Jonathan O’Dea.

Debate then took place forthwith on the motion of Mr Gareth Ward on New South Wales Infrastructure; followed by debate on the motion of Mr Jamie Parker, on ICAC Funding.

Votes and Proceedings: 7/5/2014, p. 2153; and 2155

Hansard: 7/5/2014, p.28341; and p. 28353

Standing Order 96

Standing Order 109

Standing Order 365

(Procedural note: Standing Orders provide for up to two notices of motion seeking to be accorded priority to be given at any one sitting; only one of those notices may then be debated.

In order to facilitate the giving of additional motions, or their debate, Standing and Sessional Orders would need to be suspended. Whilst a motion to suspend Standing Orders may be moved by a Minister at any time (except during Question Time) any other member seeking to move a motion to suspend Standing Orders must firstly seek leave and that leave cannot be granted if any member dissents.)

The House pays its respects to coalminers Mr Jamie Mitchell and Mr Phillip Grant

On 13 May, Mr Clayton Barr gave a Private Members’ Statement in which he paid respect to Mr Jamie Mitchell and Mr Phillip Grant, the two coalminers who were recently killed at the Austar Coal Mine in the village of Paxton near Cessnock.

On behalf of all members, the Leader of the House offered his sincere condolences to the men's families and friends; and members and officers of the House stood in their places as a mark of respect.

Hansard: 13/5/2014, p. 28614-15

Standing Order 108

(Procedural note: Members and officers rising as a mark of respect is something which usually occurs following a condolence motion or a ministerial statement).

Notice of Motion (General Notice) amended by the Member in charge before being moved

On 15 May 2014, Mr Alex Greenwich moved an amended Notice of Motion (General Notice) in relation to a citizen's jury into alcohol fuelled violence (#2826).

The amended Notice was handed up on 14 May 2014 at the time provided for the giving of general notices and was printed in the Business Paper on 15 May 2014, replacing the original notice given on 19 November 2013.

(Procedural note: Standing Order 139 provides that a member can alter a notice of motion already given by handing up an amended notice before the notice is moved. The amended notice must not exceed the scope of the terms of the original notice.

Where proposed changes do exceed the scope of the original notice, a member could seek leave from the House to substitute a different notice, though leave is not granted should any one member dissent.

Once a notice is moved, it is transferred from the member's possession to that of the House; and it may only be altered by the moving of an amendment to the motion.

The underlying principle for transacting business in this way is that the House works on notice and members be given an opportunity to consider matters before they are debated).

Votes and Proceedings: 15/5/2014, p.2190

Hansard: 15/5/2014, p.28935

Standing Order 139

Condolence motion for a former member of the Legislative Council

On 14 May, on the motion of Mr Greg Aplin, the House extended its deep sympathy to the family of the Honourable William Lloyd Lange, following his death on 24 November 2013.

A member of the Legislative Council from 1974, the Hon. William Lange became the Opposition's Leader in the upper house in 1981, and in 1984 became Deputy Leader and Spokesman for Minerals and Energy. He resigned from the Council in 1986.

At the conclusion of debate members and officers stood as a mark of respect.

Votes and Proceedings: 14/5/2014, p.2185

Hansard: 14/5/2014, pp.28843-28850

Standing Order 97

Standing Order 107

Standing Order 118(2)

Standing Order 365

(Procedural note: Mr Aplin’s motion was a general business motion, which would normally be moved and debated on a Thursday morning; however the House had earlier agreed to a suspension of standing and sessional orders, so that the motion could be moved that day outside the normal routine of business.

As well as extending its condolences on the moving of a general business motion, the House can also pay its respects by way of a specific condolence motion. Such motions may be moved without notice at any time and are dealt with as business with precedence.

However in this particular case the Hon. William Lange did not fall within the guidelines on votes of condolence, as he ceased to be a member more than 15 years ago).

MEMBERS

Ministerial Announcements

On 6 May 2014, the Leader of the House, Mr Anthony Roberts, on behalf of the Premier, informed the House that the Honourable Barry O’Farrell had resigned on 17 April 2014 and that Her Excellency the Governor had asked the Honourable Michael Baird to form a new Ministry.

The Leader of the House then tabled the list of Ministers, and Parliamentary Secretaries, appointed on 23 April 2014.

Votes and Proceedings: 6/5/2014, p. 2137-2139

Hansard: 6/5/2014, p. 28172-28173.

Standing Order 264

Standing Order 366

On 7 May 2014, the Leader of the House, on behalf of the Premier, informed the House of the resignation of The Honourable Michael Joseph Gallacher MLC as Minister for Police and Emergency Services, Minister for Industrial Relations and Minister for the Central Coast; and the Honourable Stuart Laurence Ayres MP as Minister for Fair Trading.

The Leader of the House further advised that Her Excellency the Governor had that day appointed The Honourable Andrew Constance MP as Minister for Industrial Relations; The Honourable Stuart Ayres MP as Minister for Police and Emergency Services; The Honourable Robert Stokes MP as Minister for the Central Coast; and The Honourable Matthew Mason-Cox MLC as Minister for Fair Trading.

Votes and Proceedings: 7/5/2014, p. 2152-53

Hansard: 7/5/2014, p. 28322

(Procedural note: Unlike Ministerial statements, which relate to ministerial portfolios, ministerial announcements are not provided for in the standing orders. Instead they exist as a practice and a courtesy to the House, arising from the doctrine of responsible government. That is to say, the

House needs to be informed of Ministerial appointments, so that it may direct questions etc. to the appropriate office holder.

With regard to Parliamentary Secretaries, unlike Ministers, these appointments are not made by the Governor. They are appointed by the Premier pursuant to s38B of the *Constitution Act*. Accordingly they cease to hold office if the person who appointed them ceases to be Premier (s38D(1)(b)).

In addition to assisting Ministers in their Executive duties, Parliamentary Secretaries may also act on behalf of Ministers in their parliamentary role, to some extent. This is provided by Standing Order 366 and includes introducing government bills and having carriage of government business, but not for example, adjourning the house or suspending Standing Orders).

Government announcements

On 6 May 2014, Mr Anthony Roberts, on behalf of the Premier, informed the House that he had been appointed Leader of the House on 23 April 2014. Mr Roberts also informed the House of the election on 6 May 2014 of Andrew Cornwell as Government Whip and of Gareth Ward as Deputy Government Whip.

Votes and Proceedings: 6/5/2014, p. 2139-2140

Hansard: 6/5/2014, p. 28174

Personal explanation

On 7 May 2014, Mr Ron Hoenig, by leave of the Speaker, made a personal explanation in relation to an article published that day, in the *Daily Telegraph*.

Votes and Proceedings: 7/5/2014, p.2151-2

Hansard: 7/5/2014, pp.28306-07

Standing Order 62

(Procedural note: When there is no question before the Chair, and with the leave of the Speaker, a member may explain a matter of personal nature. A personal explanation shall not be debated and leave may be withdrawn by the Speaker at any time.

Precedents of the House permit brief personal explanations to be made in relation to any matter which reflects upon the honour, character or integrity of that Member, or reflects upon the Member in a personal way including the refuting of accusations made against them outside the House).

Death of former Premier

On 6 May 2014, the Speaker informed the House of the death of the former Premier, the Honourable Neville Wran, on 20 April 2014.

On behalf of the House, she extended to the family the deep sympathy of the Legislative Assembly in the loss sustained and members and officers stood as a mark of respect.

Votes and Proceedings: 6/5/2014, p.2141

Disorder: removal of a Member

By direction of the Speaker, Ms Cherie Burton was removed from the Chamber on 6 May 2014, by the Deputy Serjeant-at-Arms.

Votes and Proceedings: 6/5/2014, p. 2142

Hansard: 6/5/2014, p. 28196-97

Standing Order 249

(Procedural note: If a Member is removed from the Chamber, pursuant to Standing Order 249, then they are excluded from the Parliamentary precincts for the remainder of the sitting and may not take part in any proceeding of the House or its committees.

The Speaker may also use sessional order 249A to order a member to leave the Chamber for a specified period of up to three hours. In such circumstances, a member could remain within the Parliamentary precincts and may return to the Chamber once their period of exclusion had expired.)

COMMITTEES

Changes to committee membership were agreed to by the House on 14 May 2014 on a motion moved by the Leader of the House.

Votes and Proceedings: 14/5/2014, p.2179-2180

Hansard: 14/5/2014, p.28819

Standing Order 274

PROCEEDINGS OF THE LEGISLATIVE ASSEMBLY

Appointment of new Temporary Speakers

On 7 May 2014, the Speaker informed the House that consequent on the appointment of John Barilaro as a Parliamentary Secretary and of Gareth James Ward as Deputy Government Whip, she had nominated Garry Keith Edwards and Adam John Marshall as Temporary Speakers in place of Mr Barilaro and Mr Ward.

(Procedural note: Standing Orders provide for the Speaker to nominate, at the beginning of each Parliament, a panel of up to five members as Temporary Speakers. These Temporary Speakers may exercise the powers and duties of the Speaker whenever the Speaker, Deputy Speaker or Assistant Speaker is absent.

The Speaker may, at any time, nominate another Member to take a Temporary Speaker's place.)

Votes and Proceedings: 7/5/2014, p. 2154

Hansard: 7/5/2014, p. 28352

Standing Order 19

Standing Order 20

Staff appointments - Editor of Debates and Deputy Serjeant-at-Arms

The Speaker announced on 6 May 2014 the appointments of Mr Scott Fuller as Editor of Debates; and of Mrs Cheryl Samuels as Deputy Serjeant-at-Arms on and from 14 April 2014.

Votes and Proceedings: 6/5/2014, p. 2141

Hansard: 6/5/2014, p. 28189