



PROCEDURAL DIGEST

Legislative Assembly

FIFTY-FIFTH PARLIAMENT, SECOND SESSION

NO. 8/2014: 9 – 18 SEPTEMBER 2014

September 2014				
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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.

PROROGATION

On 3 September 2014 the Governor proclaimed that the Parliament (both the Legislative Assembly and the Legislative Council) would be prorogued from Monday 8 September 2014 until 11:00am on Tuesday 9 September 2014.

Pursuant to the proclamation, the House duly met on Tuesday 9 September and members were summoned to the Legislative Council chamber, where Her Excellency delivered an opening speech to both Houses of Parliament.

Members then returned to the Legislative Assembly Chamber that afternoon where the House considered procedural matters subsequent to the prorogation, including re-adopting the sitting days for the remainder of 2014 and the Sessional Orders.

What is prorogation?

Prorogation terminates a session of Parliament. Whilst it brings a session, or period of parliamentary activity, to an end it does not bring the Parliament to an end. A parliament is terminated either by dissolution or by the effluxion of time, after which a general election is held.

A House of Parliament is prorogued by the Governor issuing a proclamation terminating a session, acting on the advice of the Premier or the Executive Council (Section 10A of the Constitution Act 1902). While the Act empowers the Governor to prorogue Parliament it does not define "prorogue" or detail the effect of prorogation.

What is the impact on the House?

The impact of prorogation is that the House then goes into 'recess' and that all parliamentary business is brought to an end, despite no specific provision existing. However, bills that have passed through both Houses are not affected and can be assented to.

On 9 September 2014, during the first sitting of the Second Session of the 55th Parliament, the House resolved to restore to the business paper the business remaining at the prorogation, as follows:

- Government business (Bills)
- Bills forwarded to the Legislative Council
- Written questions retain their original dates for answers
- General business retain numbers and original dates for lapsing
- Petitions

What is the impact on Committees?

The impact of prorogation on committees depends on the type of committee.

For “Statutory Committees” which have been established by an act of Parliament, their legislative provisions provide that they may operate despite prorogation. For example, the Public Accounts Committee can continue (s.56(8) of the Public Finance and Audit Act provides that “The Committee may sit and transact business notwithstanding any prorogation or adjournment of the Legislative Assembly”).

“Standing Committees” are established by resolution of the House(s) for the life of the Parliament. These continue to exist despite the prorogation and their membership is unaffected. However, most cannot sit and transact business until the opening of the new session unless the ability to do so is explicitly stated in the establishing resolution (see for example part 7 of the resolution establishing the Joint Committee on the Office of the Valuer General; or part 7 of the resolution establishing the Joint Committee on Electoral Matters).

However the Legislative Assembly’s practice is that “Select Committees” which have been appointed by the House(s) in order to investigate and report on a specific matter, need to be re-established and re-appointed.

Votes and Proceeding: 9/9/2014, pp.1-5; pp. 9-31.
Hansard 9/9/2014, p.48; pp.51 - 68

ADOPTION OF SESSIONAL ORDERS

On 9 September 2014, during the first sitting of the Second Session of the 55th Parliament the House resolved to re-adopt the sessional orders. Sessional orders only have effect for the duration of a session and therefore need to be re-adopted at the commencement of a new session.

Standing order 364 allows the House to adopt sessional orders which have the force of, and may replace or modify, standing orders. Sessional orders are made by a resolution of the House and do not require approval by the Governor

Votes and Proceeding: 9/9/2014, pp. 9-27
Hansard 9/9/2014, pp. 51-68

Standing Order 364

BILLS

City of Sydney Amendment (Elections) Bill 2014

On 17 September 2014, the *City of Sydney Amendment (Elections) Bill 2014* was transmitted from the Legislative Council to the Assembly for its concurrence. Following four hours of debate, the Bill was passed without amendment.

As noted in the previous Digest, the bill was one of two bills concerned with broadly the same subject, though their approach is markedly different, as is the substance of the legislation they propose (see the NSW Parliamentary Research Service paper on the [City of Sydney Amendment Bills 2014 – the Borsak and Greenwich Bills](#)).

Votes and Proceeding: 17/9/2014, pp. 67-77

Hansard 17/9/2014, pp. 51-67

Standing Orders 229-230

BUSINESS

Address in Reply to the Governor's opening speech

Members of the Assembly went to Government House on 16 September 2014, to present the Governor with the Address in Reply to Her Excellency's opening speech made on 9 September 2014.

Votes and Proceedings: 16/9/2014, p.57

Hansard: 16/9/2014, p.517

Standing Orders 4-7

(Procedural note: The Address in Reply is a motion (moved and seconded by members supporting the Government) addressed to the Governor in response to the Governor's speech on the opening of the session. As the speech outlines the Government's proposed legislative program for the session, debate on the Address in Reply motion is necessarily wide-ranging and the motion is open to amendment.)

After the debate is concluded and the Address is adopted by the House, the Speaker informs the House that the Address in Reply is to be presented to the Governor at Government House, customarily with members of the Assembly in attendance.)

Draft memorandum of understanding with ICAC in relation to search warrants

On 17 September 2014, the Speaker made a statement in relation to the draft Memorandum of Understanding with the Commissioner of the Independent Commission Against Corruption concerning the execution of search warrants on the Parliament House offices of members and the need to update the memorandum to include electorate offices and other premises used by members.

The Speaker then tabled the draft memorandum and associated correspondence and, on the motion of the Leader of the House, it was noted by the House and referred to the Standing Committee on

Parliamentary Privilege and Ethics. The Committee is to inquire into the provisions of the memorandum and report to the House.

(Procedural note: As noted in the preamble to the draft memorandum, its procedures are designed to ensure that officers of the ICAC execute search warrants on the premises of members of the New South Wales Parliament in a way which does not amount to a contempt of Parliament and which gives a proper opportunity to members to raise claims of parliamentary privilege in relation to documents and things, including electronic documents, that may be on the search premises.

The memorandum is proposed to replace the previous memorandum entered into by the Commissioner of the ICAC, the President of the Legislative Council and the Speaker of the Legislative Assembly in December 2009.)

Votes and Proceedings: 17/9/2014, pp. 59-60

Hansard: 17/9/2014, p.635

MEMBERS

Charlestown and Newcastle by-elections

On 9 September 2014, the Speaker advised the House of her intention to issue writs for by-elections to fill the vacant seats of Charlestown and Newcastle. The particulars of the writs were as follows:

Issue of the writs—no later than Friday 3 October 2014;

Nomination day—Thursday 9 October 2014;

Polling day—Saturday 25 October 2014; and

Return of the writs—Friday 7 November 2014.

(Procedural note: Under s.70 of *the Parliamentary Electorates and Elections Act 1912*, the Speaker, upon a resolution of the Assembly, issues writs to fill vacancies occurring as a result of the resignation, death or expulsion of a member.

The date of the by-election is determined by the Speaker, in consultation with the Electoral Commissioner, the Premier and the Leader of the Opposition.

When the outcome of the by-election is determined, the poll is declared by the returning officer in the electorate and the writ is forwarded to the Electoral Commissioner, who will then return it to the Speaker.)

Votes and Proceedings: 9/9/2014, p.5

Hansard: 9/9/2014, p.49

Deaths of a former Member and of a former Minister

On 9 September 2014, the Speaker informed the House of the death on 24 August 2014, of William Arthur Wade, a former Member of the Legislative Assembly; and of the death, on 4 September 2014, of Ronald Joseph Mulock, a former Minister of the Crown.

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

Votes and Proceedings: 9/9/2014, p.5

Hansard: 9/9/2014, p.49

COMMITTEES

Joint Select Committee on Loose Fill Asbestos Insulation

On 18 September 2014, the House agreed to the Legislative Council's resolution relating to the appointment of a Joint Select Committee to inquire into and report on loose fill asbestos insulation, also referred to as 'Mr Fluffy' insulation, in homes in New South Wales. The House appointed Mr John Barilaro and Mr Daryl Maguire to serve on the committee as members of the Legislative Assembly.

The terms of reference establishing the Committee may be viewed on its webpage at <http://www.parliament.nsw.gov.au/Prod/parlment/committee.nsf/0/30ED8A704362C76DCA257D570027762E>

Votes and Proceeding: 18/9/2014, pp. 83-84; and p.86

Hansard 18/9/2014, p. 851; and p. 866.

Standing Order 274

APPOINTMENT OF THE PARLIAMENTARY BUDGET OFFICER

On 9 September 2014, the Speaker informed the House of the appointment of Mr Stephen Bartos as Parliamentary Budget Officer. Mr Bartos will be located at Parliament House from 22 September 2014 until 26 June 2015.

(Procedural note: Under the *Parliamentary Budget Officer Act 2010*, the Presiding Officers of the Parliament are required to appoint a Parliamentary Budget Officer for each State general election. The Parliamentary Budget Officer is accountable to the Parliament, and not to the Executive Government.

New South Wales was one of the first Australian jurisdictions to establish a Parliamentary Budget Officer, with the first officer in place for the NSW general election in 2011. Since then, the Parliament has passed the *Parliamentary Budget Officer Amendment Act 2013* which made changes to the length of tenure of the Officer and the functions of the role.

As per the Act, the appointment of the position is to take effect as soon as practicable after 1 September immediately before the general election is due to be held. The role now has a legislated duration of around nine months. The Parliamentary Budget Officer is supported by a small team of professionals, including Parliamentary staff and where necessary consultants.

The Parliamentary Budget Officer provides costings of election policies in response to requests by parliamentary leaders together with budget impact statements for all costed policies. The Parliamentary Budget Officer is an apolitical role requiring adherence to the strictest levels of impartiality, confidentiality and sensitivity.)

Votes and Proceedings: 9/9/2014, p.5

Hansard: 9/9/2014, p.49