



PROCEDURAL DIGEST

Legislative Assembly

FIFTY-SIXTH PARLIAMENT, FIRST SESSION

NO. 3/2015: 23 – 25 JUNE 2015

| June 2015 | | | | |
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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.

BILLS

Appropriation Bill and Cognate Bills

On 23 June 2015, the Treasurer introduced the *Appropriation Bill* and various cognate bills (the “Budget”). After the Treasurer’s Budget speech, debate on the bills was then adjourned until Thursday 25 June 2015, for the Leader of the Opposition’s speech in reply on the bills.

Following the conclusion of the Leader of the Opposition’s speech, the bills passed through all remaining stages. The Treasurer then moved the motion that the House take note of the Budget Estimates and related papers for 2015-16.

To facilitate the consideration of the budget bills at those times, the House’s normal routine of business was altered by a suspension of Standing and Sessional Orders agreed to on 28 May 2015.

Items of routine business “displaced” by the prioritisation of the budget bills, were considered by the House at a later time. For example on a Tuesday, business would normally begin with the giving of General Business Notices of Motions and Private Members’ Statements. Instead these were taken after 4.00 pm and the House sat later than it normally would in order to facilitate this.

Votes and Proceedings: 28/5/2015, p. 138; 23/6/2015, pp. 179-180; 25/6/2015, p.205.

Hansard: 28/5/2015, p. 1062; 23/6/2015, pp. 1615-24; 25/6/2015 pp. 1906-11

Chapter 16 of the Standing Orders – Bills.

Standing Order 365.

(Procedural note: Since the Budget has been brought forward from September to June, it has become the practice of the Legislative Assembly for the passage of the Appropriation Bill and Cognate Bills to be expedited through a motion to suspend Standing and Sessional Orders, limiting the number of Members debating the bill to the Treasurer and then the Leader of the Opposition (usually some days after the Treasurer in order to give them adequate notice).

All Members then have an opportunity to speak in the subsequent debate on the motion “That the House take note of the Budget Estimates and related papers”.)

Government moves amendments to its child protection bill

On the 24 June 2015, the House considered the *Child Protection Legislation Amendment Bill* and agreed to a number of amendments as moved by the Minister for Family and Community Services, Mr Brad Hazzard MP, before the Bill was read a third time.

Noting that it was “a little unusual for the Government to move amendments to its own legislation” the Minister recognised the contributions which had been made, both in the House and the wider community, toward strengthening the Bill’s protections for children.

Those the Minister thanked included Members such as the shadow Minister for Family and Community Services, Ms Tania Mihailuk MP and the Office of the Children's Guardian.

The Minister stated that the Government’s amendments reflected “some of the changes that we think are appropriate” at this point whilst noting that there would be further opportunities to review the bill including its consideration by Legislative Council.

Votes and Proceedings: 24/6/2015, pp. 189-193.

Hansard: 24/6/2015, pp. 1765-1787.

Standing Order 85.

Chapter 16 of the Standing Orders – Bills.

(Procedural note: After a bill has been read a second time, the Member in charge of a bill, or any other Member, may request that the bill be considered in detail. This provides an opportunity for Members to move amendments to a bill. It also may allow for a question and answer session in respect of the specifics of the legislation, as Members may speak more than once.)

BUSINESS

Consideration of General Business

The usual routine of business for a Thursday morning is consideration of General Business, giving Members the opportunity to debate non-Government bills and motions.

However, when the Address in Reply debate remains before the House as an item of uncompleted business, it retains precedence over General Business. In order to facilitate General Business, the House agrees to the suspension of Standing Orders. Once the Address in Reply debate is concluded General Business resumes without the requirement for a suspension.

Votes and Proceedings: 24/6/2015, pp. 194-5.

Hansard: 24/6/2015, pp. 1813-6.

Standing Orders 5, 97 and 365.

Two motions accorded priority at the same sitting

On Wednesday 24 June 2015, Mr Andrew Gee MP and Mr Alex Greenwich MP each gave Notices of Motions seeking to be Accorded Priority. The topics for debate were the State Budget (Mr Gee) and marriage equality (Mr Greenwich). Mr David Harris MP, then sought leave to also give a further Notice of Motion but leave was not granted.

Following Question Time, Minister Constance moved that Standing and Sessional Orders be suspended in order to enable certain changes to be made to the routine of business that day and on the following sitting day.

This motion included provision for the House to consider both the notices of motions (given earlier by Mr Gee and Mr Greenwich) which were seeking to be accorded priority. Upon which, Mr Harris moved an amendment to the Minister's motion which sought to provide for a third motion on the topic of cuts to TAFE. The amendment was defeated following a division and the House then agreed to the original motion as moved by the Minister.

During the debate on Mr Harris' amendment, the Speaker upheld a point of order from Minister Constance that the Member was debating the substance of his motion on cuts to TAFE, rather than the actual amendment proposed to the motion to suspend Standing Orders.

Votes and Proceedings: 24/6/2015, pp. 193-5.

Hansard: 24/6/2015, pp. 1813-6.

Standing Order 365.

(Procedural Note: Whilst two notices of motion to be accorded priority may be given at any one sitting of the House, the Standing Orders provide that only one of those notices of motion may subsequently be moved.

In order to facilitate a debate on a second motion, Standing and Sessional Orders would need to be suspended. A motion to suspend Standing Orders may be moved by a Minister at any time (except during Question Time). A Member who was not a Minister would need to seek the leave of the House to move a motion to suspend Standing Orders.

With regard to the point of order raised by Minister Constance, it is the established practice of the House that while a Member may give general reasons as to why a suspension should be granted, they should not debate those substantive matters which might form part of their argument if the suspension were agreed to (see for example Kelly, PD 23/10/1985, p. 8477; or Rozzoli, PD 09/11/1988, p. 2986).

For further information on the Motion Accorded Priority see pp. 30-1 of [A Short guide to the procedures of the Legislative Assembly.](#))

Motion moved “That the Member for Orange be not further heard”

During the debate on State Budget on Wednesday 24 June 2015, Mr Andrew Gee MP referred to the Opposition’s 2015 election campaign as being “racist”. Following a point of order, Mr Gee declined to withdraw the remark, upon which Mr Michael Daley MP moved a motion that he “be not further heard”. The House divided and the question was negatived.

A motion by the Leader of the House was then agreed to, after debate and a division, to suspend Standing and Sessional Orders in order to restore Mr Gee’s speaking time.

Votes and Proceedings: 24/6/2015, pp. 196-8.

Hansard: 24/6/2015, pp. 1818-23.

Standing Orders 58, 72, 73, 85 and 365.

(Procedural note: The motion that a Member “be not further heard” may be moved at any time and is not restricted to a specific business type (though it may not be moved on a Member who is speaking on a point of order). The question is then put, without debate or amendment, and if passed the Member who has been interrupted loses the call.

If the question is negatived, then the Member resumes their speech in what time remains and no second motion may be moved. In this case the time lost to Mr Gee was restored through a suspension of Standing Orders.

With regard to the use of expressions that may be considered offensive or unparliamentary, a distinction is drawn between remarks that are made directly to an individual and those which are made more generally (see Erskine May’s *Parliamentary Practice 23rd Edition*, p. 441: “Expressions that are unparliamentary when applied to individuals are not always so considered when applied to a whole party”).

It is the longstanding practice of the House, that the use of offensive words against another Member is a breach of order and is prohibited under Standing Order 72. Similarly, Standing Order 73 specifies that imputations of improper motives and personal reflections on Members are disorderly other than by substantive motion. These Standing Orders come into play if a Member takes a point of order that the words used, or imputations or reflections made, are objectionable to the Member and should be withdrawn).

Re-ordering of General Business

On Wednesday 24 June 2015, the House agreed on the motion of Mr Daryl Maguire MP, that his General Business Notice of Motion on the death of Dr William Chiu should have precedence the following sitting day.

Votes and Proceedings: 24/6/2015, p. 196.

Hansard: 24/6/2015, pp. 1817-8.

Standing Order 106.

(Procedural note: Time is provided on Thursday mornings for debate on those bills, motions or orders of the day where the person in charge is not a Member of the Government. This is known as “General Business” or is sometimes referred to as “Private Members’ Business”.

Each sitting day Members may give notice in the House of their intention to move an item of General Business. Those notices are then listed in the Business Paper and are considered in order in which they have been given.

There is provision, however, in the Standing Orders for Members to seek to re-order a General Business Notice of Motion, or an Order of the Day for a Bill, so that it then has precedence over the other General Business which has been scheduled for consideration on the Thursday morning.

The procedure is as follows: On a Wednesday after Question Time, any two Private Members may move to re-order a General Business Notice of Motion, or an Order of the Day for a bill, standing in their name. They are permitted to speak for up to three minutes as to why their notice should have precedence and the House then determines whether the item will be re-ordered.

It is important to note, that while any two Members can seek to re-order a General Business Notice of Motion, only one Notice of Motion may be re-ordered so if the first Member succeeds this prevents the second Member moving a subsequent motion. The same applies to the re-ordering of an Order of the Day for a Bill.

If re-ordering is agreed to on the Wednesday, then the following day during General Business the Members’ item of business has precedence over the other items.

If the House does not agree to an item of business being re-ordered then it retains its original place on the Business Paper.)

COMMITTEES

Election of Committee Chair and Deputy Chair

The Speaker advised the House that on 25 June 2015, Mr Mark Coure MP was elected Chair and Mr Jai Rowell MP was elected Deputy Chair of the Standing Committee on Parliamentary Privilege and Ethics.

Votes and Proceedings: 25/6/2015, p. 209.

Hansard: 25/6/2015, p. 1943.

Standing Order 282(2).

Establishment of a new Select Committee

On Thursday 25 June 2015, the House agreed, to the establishment of a new select committee. The Select Committee on the Regulation of Brothels was appointed to inquire into and report on the regulation of brothels in New South Wales.

A message was sent to the Legislative Council advising it of the resolution.

Votes and Proceedings: 25/6/2015, p. 211.

Hansard: 25/6/2015, p. 1948.

Standing Order 277.

Meeting with John Evans, Parliamentary Ethics Adviser

The newly convened Standing Committee on Parliamentary Privilege and Ethics met with the Parliamentary Ethics Adviser, Mr John Evans, PSM, on 25 June 2015. A further more substantive meeting between Mr Evans and the Committee is expected to take place in September.

The Adviser is required to meet with the Committee each year; as well as reporting annually to Parliament on the number of ethical matters raised with him, the number of Members who sought his advice, the amount of time spent in the course of his duties and the number of times advice was given.

First established by a resolution of the House in 1998, the role of the Parliamentary Ethics Adviser is to provide advice to Members at their request, on any ethical issues concerning the exercise of their role as a Member of Parliament and to Ministers on post-separation employment.

The Parliamentary Ethics Adviser does not provide Members with legal advice but expresses opinions based upon the Code of Conduct, determinations of the Parliamentary Remuneration Tribunal or guidelines adopted by the House.

It is up to Members as to how or whether they adopt the advice.