



LEGISLATIVE
ASSEMBLY

Guide to

Chamber Procedure

May 2023

The
58th
Parliament
Legislative Assembly



LEGISLATIVE
ASSEMBLY

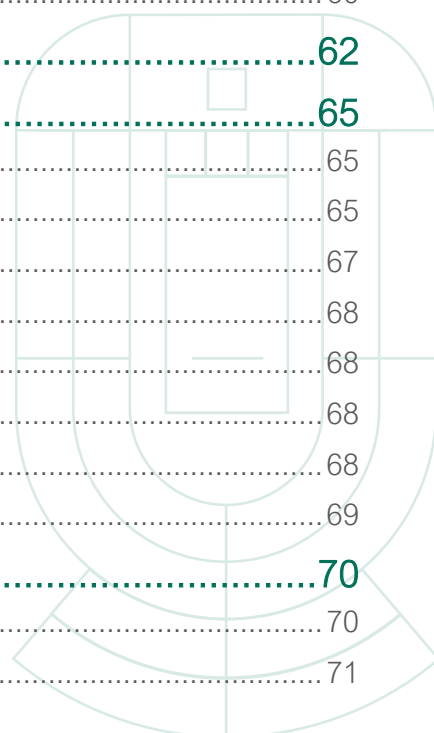
Guide to Chamber Procedure

May 2023

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LEGISLATIVE ASSEMBLY

Clerk's Foreword

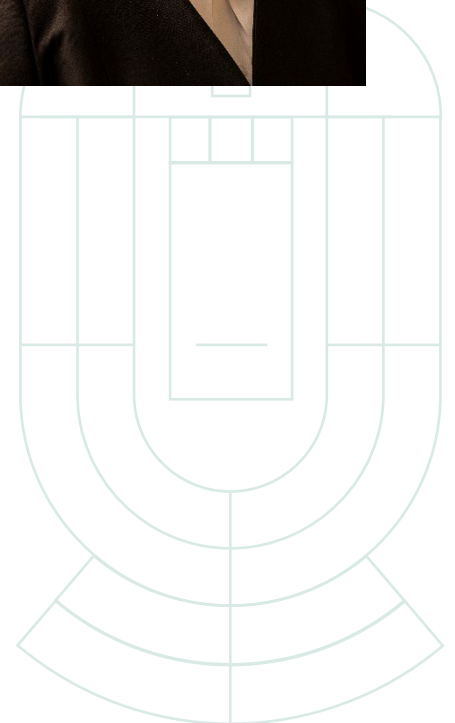
This guide is an introduction to the procedures, practices and many customs of the House. The guide is not exhaustive. Parliamentary procedure can be complex and highly contextual and I encourage Members to seek the advice of the Clerks, who have extensive experience in assisting Members in their parliamentary roles.

I hope that this new edition of Guide to Chamber Procedure will not only be of assistance to the Members and staff of the Assembly, but to all who are interested in the workings of the House.

A handwritten signature in black ink, reading 'Helen Minnican'.

Helen Minnican

Clerk of the Legislative Assembly





How you can use this guide

Members perform many roles - they are legislators, spokespersons for their communities, and they maintain our system of responsible government by holding the Executive to account through their work both in the House and its committees.

This guide explains how the procedures of the Assembly support those functions. It begins by covering the basics on Chamber seating and decorum, how to participate in proceedings and what to expect on the opening day of a new Parliament.

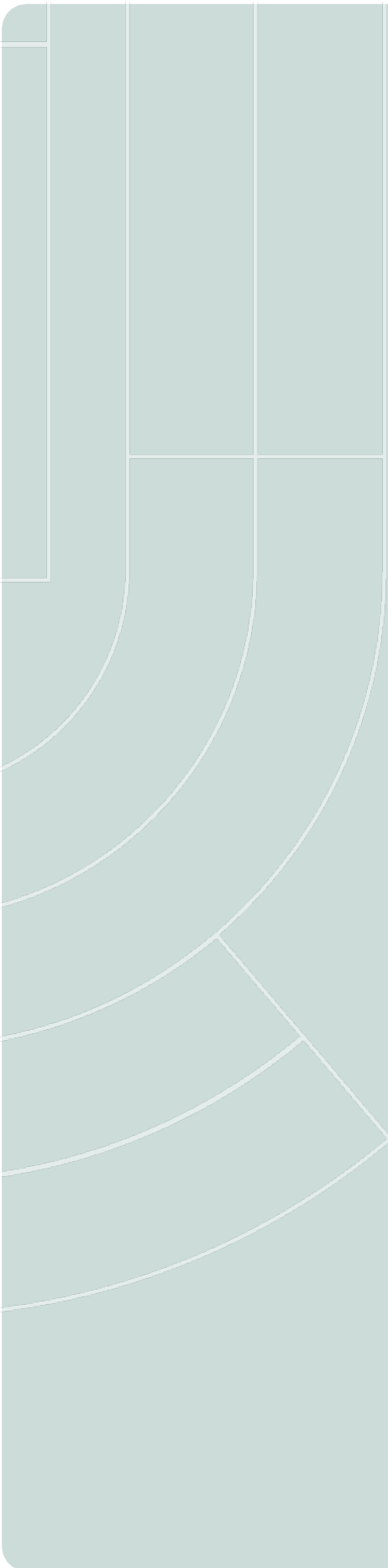
Subsequent chapters then focus in greater detail on a typical sitting day, the legislative process, asking questions and other key procedures.

For information on the role, powers, practice and procedures of Legislative Assembly Committees and on the role and duties of a parliamentary committee member please refer to the Guide to the Committees of the Legislative Assembly.

As no guide can ever provide for every circumstance, Members are encouraged to contact the Clerks for assistance with any procedural enquiries and they can be assured that they will receive accurate, impartial and confidential advice.

Key Contacts in the Department of the Legislative Assembly

Clerk of the Legislative Assembly	Ph: 9230 2222
Deputy Clerk	Ph: 9230 2224
Clerk-Assistant, House and Procedure	Ph: 9230 2412 or 9230 2228
Clerk-Assistant, Committees	Ph: 9230 2223 or 9230 2144
Clerk-Assistant, Research and Operations	Ph: 9230 2696



1. What is parliamentary procedure?



1. What is parliamentary procedure?

The operation of the House and its committees are governed by laws, standing orders and practice. This is parliamentary procedure.

Let's take a look at its three main sources.

The Constitution and other laws

As well as establishing a legislature “to make laws for the peace, welfare, and good government of New South Wales”, the *Constitution Act 1902* also prescribes many of the Assembly's operations.

These include how Members are elected to the Assembly, how its sessions are commenced and terminated and what constitutes a quorum for its meetings. The *Constitution Act* establishes the office of the Speaker and it gives the Assembly the power to make rules to regulate its own proceedings. Those rules are known as the Standing Orders.

As well as the *Constitution Act*, there are other statutes which provide the Assembly with its powers. For example, the *Parliamentary Evidence Act 1901* which makes provision for the summoning of witnesses, or the *Defamation Act 2005* which ensures that the link between parliamentary privilege, freedom of speech and parliamentary proceedings is maintained.

The Standing Orders

The Standing Orders are a set of rules which govern both the internal operations of the Assembly and its committees, and the process by which the House formally communicates with the Governor and the Legislative Council. For example, there are Standing Orders which determine what happens on sitting days, those that set the rules for debate, and those that provide a process for considering legislation.

The power to make Standing Orders derives from the inherent (or essential) right of a parliament to control its own proceedings, and this is a power common to legislatures in the Westminster system of government. However, unlike the British House of Commons, the NSW Parliament cannot make Standing Orders without the approval of the Governor.¹

Once approved, the Standing Orders are “binding and of force” under the *Constitution Act*, but they are not part of the general law and in the main, the courts regard their interpretation as a matter for the Houses themselves.²

In procedural terms the Standing Orders should be seen as the servants of the House and not its master, or as Justice McLelland observed, “...the very nature and function of Standing Orders of a legislative house indicates that they should be considered directory, rather than mandatory.”³

¹ See s 15 of the Constitution Act 1902 ‘Standing Rules and Orders to be laid before Governor’

² See Justice Mahoney in *Egan v Willis* (1996) 40 NSWLR 650 at 673.

³ *Namoi Shire Council v Attorney General for New South Wales* (1980) 2 NSWLR 639 at 644.

For this reason, the House may agree to suspend its Standing Orders, either to implement a procedure which they do not provide for, or to do something which is outside the Standing Orders.

For example, on 24 March 2020, the House agreed to suspend Standing Orders so that two bills containing measures to prepare NSW services and institutions and to provide a range of financial assistance measures for the impact of the COVID-19 virus could be immediately introduced and pass through all stages, without the usual notice requirements for bills.⁴

The House may also adopt Sessional Orders. These may modify or replace Standing Orders or introduce new orders to accompany the introduction of new procedures⁵ and, as their name denotes, they have effect for the parliamentary session. Whilst they have the force of a Standing Order, they are made by resolution of the House and do not require the approval of the Governor.

Practice and precedent

Legislation and the Standing Orders of the Legislative Assembly do not cover all aspects of the procedures of the House. There are also traditional practices, some of which may be common to many other parliaments using the Westminster system of government and others which have developed locally.

Parliamentary conventions and etiquette on matters such as the use of props and documents in the Chamber, standards for Members' dress and control of public galleries, derive from colonial days and have developed over decades through rulings made by the Speaker or Member presiding in the Chair.

A ruling is a decision by the Speaker as to how a particular Standing or Sessional Order or practice should be interpreted and applied, or where, in the absence of any existing procedure, the Speaker gives the House direction as to how it should proceed. Those decisions may be made in response to a Member's point of order, or they may be given on the Speaker's own initiative, either at the time of a procedural matter arising, or some days later.

⁴ Suspending Standing Orders in this way removes certain procedural requirements in order to expedite the passage of legislation, for example, the requirement that debate on a bill not resume until at least five clear days after the bill has been introduced, the second reading has been moved and the mover has given a second reading speech.

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

⁵ On 29 July 2020 the House agreed to a number of sessional orders to accompany the introduction of ePetitions. Following the successful adoption of ePetitions the House agreed on 24 November 2021 that the sessional orders should be made into permanent standing orders, and they were subsequently approved by the Governor.



An important example of a convention which is not subject to any statute, Standing Order or set rule is the application by the House of the sub judice convention, whereby it may choose to refrain from debate on a matter before the courts.⁶ In considering the application of the convention, the Speaker will consider the individual circumstances of the case before making a decision. Those highly contextual determinations are useful in guiding Speakers, Members and parliamentary officers.

These decisions, or rulings, form an important body of practice and precedent for the House which develops and adapts over time.

⁶ The convention is that matters still under adjudication by the courts should not be brought forward in debate in such a way as to prejudice court proceedings, but the public interest may be held to prevail over the sub judice doctrine particularly in relation to matters that have been subject to broad discussion in the public domain. A stricter interpretation of the convention is applied in respect of criminal cases and those heard before a jury.



2. Defining features of the Assembly



2. Defining features of the Assembly

The purpose of this chapter is to put the House into its constitutional context by identifying some of its defining features, namely that it is the House where government is formed and it has control over those “money bills” which impose taxation or appropriate money.

It is these two features, responsible and representative government and supremacy in financial matters, which define the role of the Assembly in our Westminster system of government.

It is the House where Government is formed

The party, or coalition of parties, which can command a majority in the Assembly forms the Government, and, by constitutional convention, the Premier is always a Member of that House.

Because it is the confidence of the Legislative Assembly in the Executive which provides it with its mandate to govern, if the Government loses the Assembly’s confidence, in accordance with the procedure set out in Section 24B(2) of the *Constitution Act 1902*, the Governor can dissolve the Assembly. The process for moving, debating and deciding this type of no confidence motion in the Government is set out in Standing Order 111.

In addition to the procedure set out in the *Constitution Act*, Standing Order 111A provides for a second type of motion of no confidence in the Government to be moved. This provides for a debate on a motion of no confidence to take place without the ramifications outlined above.

As well as the Government being responsible to the Assembly, individual Ministers are also responsible to that House, if they are appointed from its membership, and Standing Order 112 sets out the procedure for a motion of no confidence in a Minister.

It has the “power of the purse”

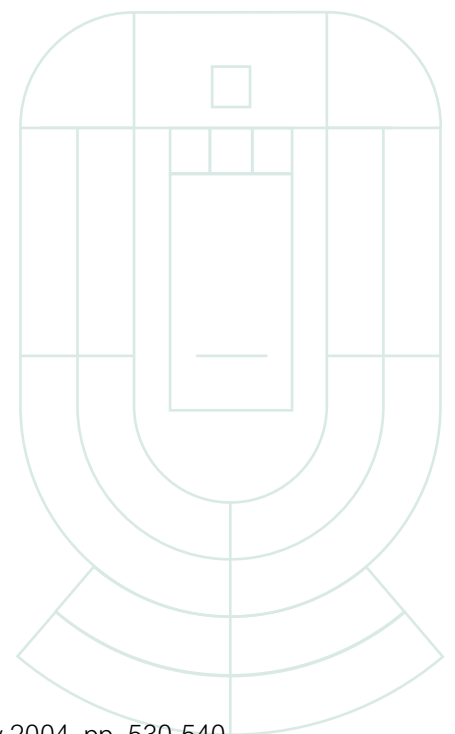
In our Westminster system of government, it is the Assembly which has control over “money bills” which impose taxation or appropriate money. Money bills must originate in the Assembly and in such matters the powers of the Council are limited by both the Constitution and by parliamentary convention.

As Professor Anne Twomey observes, this “power of the purse” arises from the following sources:

1. History, tradition and inheritance. The British established the colonial legislatures and with it the system whereby financial measures were the prerogative of the House of Commons.
2. The principle of representative government. Taxes are paid by the people and therefore their imposition should be controlled by the House which represents the people and is in its entirety directly accountable to it through regular elections.

3. The principle of responsible government. If the Council has power over money bills it could prevent the Government from governing and this would undermine the system of responsible government by effectively making the Government responsible to two Houses to the detriment of both political stability and genuine responsibility.
4. The need for accountability for economic management. The Assembly remains publicly and electorally accountable for the financial management of the State and that responsibility could be obscured by parliamentary ping-pong between the Houses.⁷

Along with the differences in the election of their respective membership, these two features are key in distinguishing the Assembly from the Council in our bicameral Parliament and are typical to the Westminster system of government.



⁷ *The Constitution of New South Wales*, Anne Twomey, Federation Press, Sydney 2004, pp. 530-540.



3. Chamber Fundamentals



3. Chamber Fundamentals

The purpose of this chapter is to provide a brief overview of essential information and to identify some key procedures which are then dealt with in greater depth in subsequent chapters.

The Chamber

The Legislative Assembly Chamber is Australia's oldest legislative chamber. Designed by the Colonial Architect, Mortimer Lewis, it has been used by the Legislative Assembly since the establishment of responsible government and a bicameral Parliament in 1856.

Seating arrangements

The seating in the Legislative Assembly is in a horse-shoe arrangement. Members from the Government sit on the Speaker's right and Opposition and cross bench Members on the left. During Question Time the front benches are reserved for Ministers and Shadow Ministers respectively. There are no allocated seats for other Members and it is a matter for the party whips as to where Members should be seated.

A Chamber floor plan is enclosed at Appendix One of this guide.

Routine of Business

The daily operations of the House are set down in Standing Order 97.⁸ Currently Standing Order 97, as amended by sessional order adopted by the House on 9 May 2023 has the House commencing sitting at 12.00 noon on Tuesdays and at 10.00 am on Wednesdays and Thursdays.

Dress standards and decorum

There is no prescribed minimum dress standard for Members of the Legislative Assembly. However, Members are expected to be dressed in appropriate business attire while in the Chamber.

The rules of decorum and custom in the House require that Members:

- Set their mobile phones and other devices to silent mode before they enter the Chamber.
- Do not take photographs on the floor of the Chamber without the Speaker's permission.
- Stand and be silent at the beginning of the day when the Speaker enters the Chamber and remain standing until the Prayer and Acknowledgement of Country are read. Members should also stand when the Speaker enters the Chamber after the lunch break.
- Remain seated during debate unless moving in or out of the Chamber (SO 54).
- Not pass between the Speaker in the Chair and the Table or between the Speaker in the Chair and the Member speaking (SO 53).

⁸ It is not uncommon for Standing Order 97 to be amended by sessional order during a parliamentary term.



- Not leave when the Speaker is standing, putting a question or when a quorum is called for (SOs 51; 44).
- Address their remarks through the Speaker in the Chair and not directly to another Member
- Refer to other Members by their title of office or electorate (the Minister for ...; the Member for ...) (SO 75).
- Sit and be silent whenever the Speaker in the Chair rises during a debate (SO 50).
- Not leave the Chamber immediately having finished a speech during a debate.
- Not converse or make any noise or disturbance (SO 52) – A level of interjection by other Members while a Member is speaking is tolerated. Such interjection must be kept within limits and not prevent the Member being heard.
- Not applaud, nor use props.
- Not consume food and drink in the Chamber.
- Refer to the Legislative Council as "another place" or "the other place".
- Not converse with persons in the galleries or the floor of the Chamber.

Acknowledging the Speaker

On entering or leaving the Chamber, it is customary for Members and for parliamentary officers to acknowledge, by facing and inclining their head towards, the Speaker in the Chair.

Quorums and quorum calls

A quorum is 20 Members, excluding the Member who is in the Chair or "presiding" (see s 32(1) of the *Constitution Act*). A Member may draw the Chair's attention to the lack of a quorum by calling the attention of the Chair to the "state of the House". The Chair will order the bells to be rung for up to 4 minutes and debate is suspended until a quorum is formed. If it is not formed, the House will then adjourn (SO 41).

There are certain restrictions as to when a quorum call can be made (SO 45) and it is disorderly for a Member to call attention to the absence of a quorum when one is present, or to leave the Chamber after a quorum call (SO 44). On the second or any subsequent quorum call on the same sitting day, the Chair has discretion to not ring the bells and to continue with the business before the House (SO 42).

What to expect on the first day of a Parliament

Opening of Parliament

On the day that the Parliament has been summoned to meet, the House will meet at the designated time, after the bells have been rung.

The Members of the Legislative Assembly, having gathered in the Assembly Chamber to hear the proclamation of the Governor read by the Clerk, will then be called to attend in the Legislative Council Chamber to hear the commission for the opening of Parliament read. Members will then return to the Legislative Assembly Chamber and certain Members, usually the Premier, the Deputy Premier and the next senior Minister, who have been so commissioned, will administer the Pledge of Loyalty, or Oath or Affirmation of Allegiance to other Members.

Members are called in order of electorate (A-Z) to take the Pledge, or Oath or Affirmation and sign the roll of the House.

The House then elects a Speaker, Deputy Speaker and an Assistant Speaker. Once they are elected the Premier traditionally presents the Law of Evidence Bill. This Bill is symbolic and is introduced at the commencement of each session in order for the House to assert its right to meet and legislate.

The House will then turn to a number of routine first day house-keeping matters such as Ministry and political party office holder announcements, the reporting of messages from the Governor and reports tabled with the Speaker or the Clerk since the last sitting of the House in the previous parliament, and the announcement of the sitting day calendar for the year. These matters may also include a motion to agree to a range of sessional orders.

At some stage during these proceedings, the sitting will be suspended for Members of the House to present the Speaker to the Governor, either at Government House or within the parliamentary precincts. The Speaker will, in the name and on behalf of the House, lay claim to its undoubted rights and privileges.

Recent practice has also seen the Members of the Assembly summoned to attend in the Legislative Council Chamber to hear the Governor give an Opening Speech to both Houses of Parliament. Later on, at some stage after returning to the Assembly Chamber, a motion will be moved proposing an Address-in-Reply to the Governor's Opening Speech.

Inaugural speeches

A Member's inaugural speech is the first speech they will make in the Legislative Assembly and the House can agree to interrupt business at a specified time for this purpose (SO 63). In practice the date and times are usually arranged through the party Whips in consultation with the Leader of the House and the Manager of Opposition Business.

It is the custom of the House that Members provide a measure of courtesy to Members making their inaugural speech and refrain from making interjections and other interruptions.

Members may speak for 20 minutes when making an inaugural speech.

Members are not precluded from contributing to Legislative Assembly business prior to making an inaugural speech.

Privilege

One of the principal immunities held by Parliament is the freedom of speech afforded to Members, witnesses and other individuals participating in parliamentary proceedings. Statements made by Members of Parliament in Parliament are absolutely privileged and cannot be the subject of an action for defamation.

This "privilege", or "functional immunity", exists so that Members can fulfil their duties and so that the Assembly can collectively fulfil its constitutional role. Parliamentary privilege also carries significant responsibility and it is incumbent on Members to not misuse this privilege. The House has the power to deal with any breaches of its rules on debate and orderly conduct.⁹

⁹ As Josef Redlich puts it, in his *Procedure of the House of Commons*: "...the principle of parliamentary freedom of speech is far from being a claim of irresponsibility for members; it asserts a responsibility exclusively to the House where a member sits,



In addition to the responsible use of privilege during proceedings it is important to note that Members are not protected by privilege for statements or actions performed outside of proceedings in Parliament, regardless of whether the action is conducted pursuant to the Member's position as an elected representative. This includes the repetition, or effective repetition, of any statements which have been made during proceedings under the protection of parliamentary privilege.

Role of the Speaker and other Office Holders

The Speaker

The Speaker is the Presiding Officer of the Legislative Assembly and as such must act with both authority and impartiality. The *Constitution Act* describes the Speaker as the Legislative Assembly's "independent and impartial representative".

The Speaker is elected by secret ballot (SO 10B). The Speaker's role in the House is to preside over the proceedings. The Speaker maintains order, puts the questions at the conclusion of debate and conducts divisions. In maintaining order the Speaker interprets and applies Standing Orders and practice of the House by making rulings and decisions. The Speaker has discretion at any time to pause the timing clock to maintain order in the House (SO 49A). The Speaker is responsible for conveying messages and addresses from the House to the Legislative Council and the Governor.

A decision of the Speaker may only be challenged by a motion of dissent (SO 95). There is also provision in the Standing Orders for the House's confidence in the Speaker to be tested if necessary (SO 113) and for a motion of censure to be considered (SO 115).

When presiding the Speaker only has a casting vote (the deciding vote when votes are equal). However, when not presiding the Speaker is able to participate in debates from the floor of the House, represent their community, and vote in any divisions as a private Member.

The Speaker is also responsible for upholding the rights and privileges of Members of the House. The Speaker has extensive administrative functions, being responsible, with the President of the Legislative Council, for the overall direction of the Parliament. In this, the Presiding Officers are advised by the Clerks of both Houses and the Chief Executive, Department of Parliamentary Services. The Speaker is solely responsible for the operation of the Legislative Assembly.

The Speaker also has a protocol role and welcomes consular representatives and inter-parliamentary delegations to the State. The Presiding Officers of the Parliament are Presidents of the NSW branch of the Commonwealth Parliamentary Association.

and implies that this responsibility is really brought home by the House which is charged with enforcing it". Josef Redlich, *The procedure of the House of Commons*, Archibald Constable, London, 1908, vol. III, p. 49.

The Deputy Speaker, Assistant Speaker and Temporary Speakers

If the Speaker is unavailable the Deputy Speaker performs the duties of the Speaker and is vested with all the power, authority, duties and functions of the Speaker (*Constitution Act 1902*, s 31A). In the absence of the Speaker and Deputy Speaker, the Assistant Speaker performs the duties of the Speaker (with the exception of those powers etc specifically conferred by s31 on the *Constitution Act* on the Speaker and Deputy Speaker).

When relieving the Speaker in the Chair they are referred to as "Mr/Madam Deputy Speaker" or "Mr/Madam Assistant Speaker".

At the commencement of each Parliament, the Speaker may nominate up to but no more than five Members as Temporary Speakers (SO19). They may relieve the Speaker, Deputy Speaker and Assistant Speaker in the Chair and are referred to while doing so as "Mr/Madam Temporary Speaker". The Speaker's office maintain a roster for each sitting week indicating when members of the Speaker's panel will chair the chamber.

The Leader of the House and Manager of Opposition Business

The Leader of the House is usually a Minister appointed by the Government to manage the Government's business in the Legislative Assembly. The Leader of the House sets and arranges the Government's legislative program and is the Government's main spokesperson on procedural matters.

The Manager of Opposition Business is appointed by the Opposition as its main spokesperson on procedural matters and to liaise with the Leader of the House in an effort to facilitate the orderly conduct of business.

The party Whips

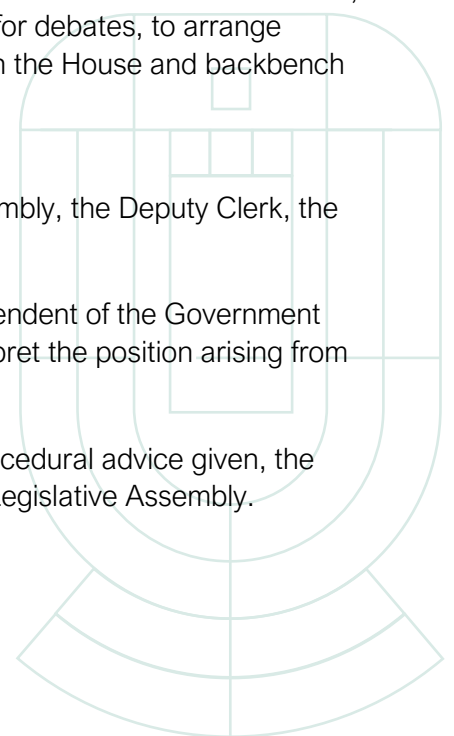
The duties of the Whips are, in the main, to liaise with Ministers in regard to the business of the House, to secure the attendance of Members in the House, to arrange speakers for debates, to arrange "pairs", and to generally act as intermediaries between the party leaders in the House and backbench Members.

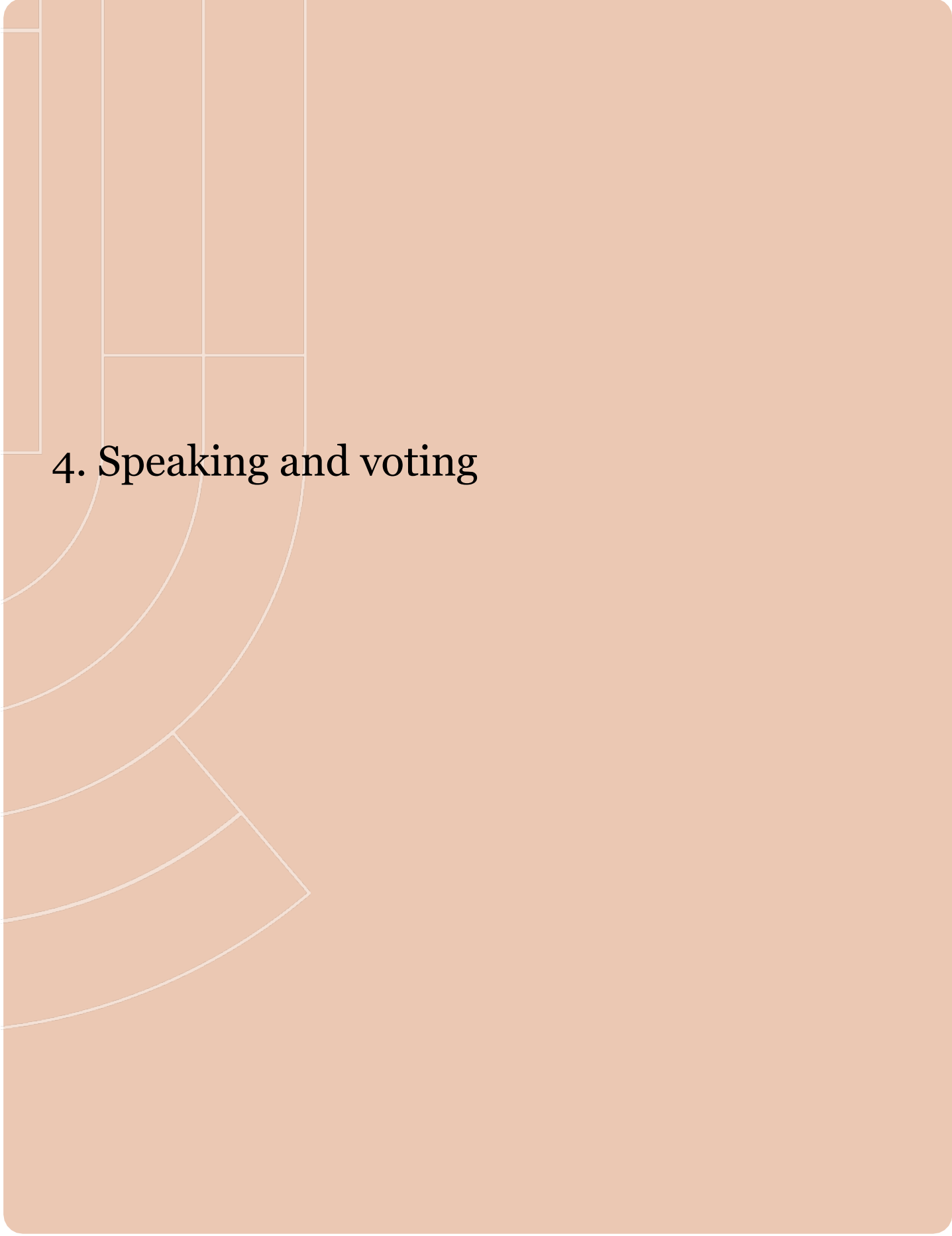
The Clerks

The permanent officers of the House are the Clerk of the Legislative Assembly, the Deputy Clerk, the Clerk-Assistants, and the Serjeant-at-Arms.

The Clerks are accountable to the Speaker and the House and are independent of the Government and the Opposition. As such, it is the duty of the Clerk to objectively interpret the position arising from any set of circumstances without any influence of political considerations.

The Clerk of the Legislative Assembly has overall responsibility for the procedural advice given, the administration of the House and the leadership of the Department of the Legislative Assembly.





4. Speaking and voting



4. Speaking and voting

Speaking in debate

Seeking the call

A Member may only speak after being given the call to do so by the Speaker in the Chair. A Member wishing to speak will not be recognised by the Speaker unless the Member rises and seeks the call. To do this a Member calls “Mr Speaker” or “Madam Speaker” as soon as the preceding speaker in the debate concludes their speech. After being recognised the Member may then speak at the Table, or from their seat (SO 55 and 56).

If a Member does not seek the call they will not be entitled to speak, even if the item being debated is an item of business standing in their name.

More than one Member may seek the call at the same time. The Speaker exercises discretion over which Member shall be given the call. However, the convention has been for the Chair to alternate between Government and non-Government Members during debate.

Speaking and time limits

It is practice for Members to come to the Table to speak in debate at one of the lecterns, except at Question Time where a Member asking a question will do so from their seat.

Members are entitled to speak in debates or when giving statements, when moving a motion or amendments, when making points of order or raising a matter of privilege suddenly arising, and to provide personal explanations or to clarify what they have said when misunderstood or misquoted (SO 61).

Generally, in a debate Members may speak only once on each question. However, there are a number of exceptions to this rule. For example, the Member who moved a motion is entitled to speak in reply at the end of the debate; the Member in charge of an Order of the Day is entitled to pre-audience when the matter is brought on for debate, a Member may speak in explanation; and a Member may speak more than once during consideration in detail of any matter (SO 64).

Time limits for debates and speeches are set out in Standing Order 85. Most debates have specific time limits, although there are some that allow certain Members to speak for an unlimited time.

The time limits that apply to a Member’s speech include any time taken up by interruptions such as points of order, quorum calls and divisions.



Determination of Questions – On The Voices or On Division

Section 32(2) of the *Constitution Act 1902* provides that all questions which may arise in the Legislative Assembly shall be decided by the majority of the votes of the Members present other than the Member presiding, and when the votes are equal the Member presiding shall have a casting vote.

Once a member moves a motion, the Speaker will propose the question that the motion be agreed to (SO 143) and will put that question once debate on the motion concludes.

A motion is a proposal made for the purpose of eliciting a decision of the House. It may take the form of a proposal made to the House by a Member that the House do something, order something to be done or express an opinion with regard to some matter. It must be phrased in such a way that, if agreed to, it will purport to express the judgment or will of the House.¹⁰

Once debate on a motion concludes, the Speaker will state the question, for example: “That the motion be agreed to” or “That the bill be now read a second time”. The Speaker then asks: “Those in favour say aye, ...to the contrary no”. The Speaker will then express an opinion: “I think the ayes (or noes) have it” (SO 152). If no Member challenges the Speaker's opinion, the Speaker will declare the result accordingly: “The ayes (or noes) have it”. The question has been determined on the voices, and the Votes and Proceedings will simply record that the question was either “passed” or “negated” by the House.

A division is called when the Speaker's expressed opinion as to whether the “ayes” or “noes” have it is challenged (SO 173). A division can only be called by a Member who gave voice against the opinion of the Speaker (SO 174).

When a question is determined on division the names of those Members voting for and against the question are recorded in the Votes and Proceedings.

However, if it is clear that there are five or fewer Members on one side in a division, the Chair will declare the question without completing the division and only the names of those Members opposing the majority are recorded in the Votes and Proceedings (SO 181).

Standing and Sessional Orders may determine that no divisions be held during particular items of business, or at particular times of the sitting day. Currently, divisions may not take place during Private Members' Statements or Community Recognition Statements, or before 10.30 a.m. (SO 187 as amended by sessional order adopted on 9 May 2023).

Division bells

The bells are rung for four minutes when a division is called. After the four minutes has expired the Speaker will order that the doors be locked and the attendants will lower the bars, thus precluding entry to the floor of the chamber. Members must reach the floor of the Chamber before the doors are locked in order to vote in the division (SO 180 as amended by sessional order adopted on 9 May 2023).

¹⁰ See *House of Representatives Practice*, Sixth Edition, 2012, p. 289.

Deferred divisions

Divisions may not be conducted before 10.30 a.m. on Wednesdays and Thursdays. Any question on which a division is called must be deferred until 10.30 a.m., at which time any business then before the House is interrupted (SO 187).

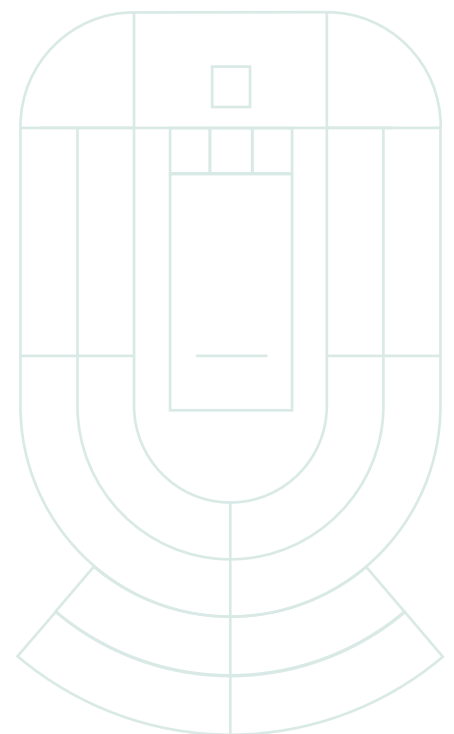
Taking points of order during a division

Members taking a point of order during a division must remain seated and attract the attention of the Chair.

Pecuniary interest in a matter

A Member may not vote in a division on a question if the Member has a direct pecuniary interest in the question under discussion (SO 176). Such interest must be one of direct personal pecuniary benefit and not something which is shared in common with other citizens.

The fact that a Member has a direct pecuniary interest in a matter which the House is discussing does not prevent them from participating in the debate, only from voting on the matter. There are separate pecuniary interest requirements related to Committee proceedings.





5. Rules of debate and orderly conduct



5. Rules of debate and orderly conduct

Content and conduct of speeches

The content of Members' speeches is regulated by the Standing Orders (SOs 70-77) and convention to ensure that the business of the House is conducted in an orderly, decorous and efficient manner.

Relevance

Members' comments in the House must be relevant to the subject matter of the debate (SO 76). When a motion is being considered debate must not go beyond the scope of matters contained within the wording of the motion. Debate on the second reading of a bill that deals with the principles of the proposed legislation can be wide-ranging. For example, Members can refer to matters they believe should have been included or considered in the bill. When a bill is being considered in detail, debate must be confined to the schedule, clause or clauses under consideration.

Offensive words/unparliamentary language

Standing Order 72 states that Members cannot use offensive words against either the Sovereign or the Governor, either House or its Members, a member of the judiciary or a statute unless moving for its repeal.

If Members wish to attack the actions or behaviour of other Members (in either House) they must do so by way of a specific substantive motion (SO 73).

Points of order that any particular words or language used are offensive must be taken immediately. The Standing Orders also provide that the Speaker may intervene when such words are used (SO 74). If a Member takes exception to a remark on the basis that it is personally offensive to them, the Chair may ask the Member who made the remark if they will withdraw it. In this instance the Member may choose to withdraw the remark or not. If the Chair deems words said to a Member to be sufficiently offensive or unparliamentary, they may direct that the offending words be withdrawn. Members may also be required to apologise if the words used are extremely distasteful. If a Member refuses to withdraw words when ordered by the Chair to do so, this can be disorderly and the Speaker may take further action (e.g. naming the Member).¹¹

When considering expressions that may be considered offensive or unparliamentary, it should be noted that a distinction is drawn between remarks that are applied directly to an individual as opposed to those that are applied more generally, particularly when applied to a political party.¹²

¹¹ See Ruling from Speaker Hancock, PD 14 August 2012, p13669 cited in *Decisions from the Chair – Considered Rulings* p7

¹² See *Erskine May's Parliamentary Practice*, 23rd Edition, p. 441: "Expressions that are un-parliamentary when applied to individuals are not always so considered when applied to a whole party".



Persistent irrelevance or tedious repetition

Members may be directed to cease speaking if they persist with irrelevance or tedious repetition in their speech (SO 59). While not subject to precise definition, Speakers have found that there is tedious repetition when the Member has repeatedly made the same point or uttered the same comment.¹³

Sub judice convention

The term "sub judice" simply means under judicial consideration.

The general rule is that matters still under adjudication by the courts should not be brought forward in debate in such a way that will prejudice court proceedings, but the public interest may be held to prevail over the convention. The convention only applies to debate and, as such, notices of motions cannot be ruled out of order on the basis of the sub judice convention.

Whether discussion on a matter purportedly sub judice is allowed is at the discretion of the Chair. The Chair will consider the likelihood of court proceedings being prejudiced against the public interest and the freedom of speech in the House, which may outweigh potential prejudice. The Chair will also consider the degree of coverage the matter under consideration has received in the public forum. The convention is more strictly applied in relation to criminal matters particularly those that have proceeded to a charge and which will come before a jury.¹⁴

Points of order

A Member has the right at any time to raise a point of order relating to a breach of the Standing Orders or the practice of the House (SO 93). The point of order must be clearly stated to the Chair who may make a decision immediately or hear arguments on the point of order and then make a ruling. Until the point is determined all other proceedings are suspended. Only one point of order may be raised and considered at a time, and a point of order will only be considered by the Chair if it is taken immediately on an alleged breach.

It is an abuse of the forms of the House to take spurious points of order and Members may be placed on calls to order when such points are raised as a means for interrupting debate. It is a matter for the Speaker to determine points of order and there is provision under the Standing Orders for dissent in rulings or decisions of the Speaker (SO 95).

¹³ See for example: PD 29 May 2002, p2174; PD 3 May 2006, p22562.

¹⁴ See Ruling from Speaker O'Dea: PD 23 June 2021, p7221

Interrupting the Member speaking

When a Member is speaking it is generally expected that they will be heard in silence and without disturbance (SO 52). However, there are a number of circumstances in which a Member is able to interrupt the Member speaking (SO 79). They are to:

- Raise a matter of privilege or contempt suddenly arising (SO 91).
- Raise a point of order (SO 93).
- Call attention to the want of a quorum (SO 41 and 45).
- Call attention to the presence of visitors (i.e. non Members or authorised staff on the floor of the House) (SO 258).
- Move a closure motion (SO 86).
- Move “That the Member for ... be now heard”; and Move “That the Member for ... be not further heard” (SOs 57 and 58).

Personal explanations

A Member may make a personal explanation to the House with the leave of the Speaker (SO 62). A Member is not entitled to seek the call to make an explanation if there is a question before the Chair, therefore a Member must seek the call in the interval between items of business. In practice, as a matter of courtesy, a Member wishing to make a personal explanation advises the Speaker prior to seeking leave in the House.

Rulings of the Speaker provide that a personal explanation allows a Member to briefly explain 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 by other Members in the House.

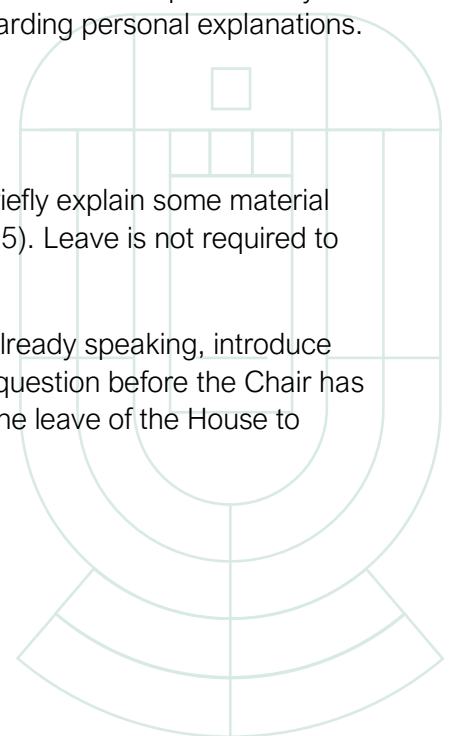
A Member should confine remarks to “this is what was said, these are the facts.” The Speaker may withdraw leave at any time if the Member strays too far from the rules regarding personal explanations.

A personal explanation cannot be debated.

Speech in explanation

A Member, who has already spoken to a question, may seek the call to briefly explain some material part of their speech that has been misunderstood or misinterpreted (SO 65). Leave is not required to make a speech in explanation.

In making an explanation the Member cannot interrupt another Member already speaking, introduce new material into the debate, debate the matter or seek the call after the question before the Chair has been determined. Once debate has concluded a Member would require the leave of the House to make a personal explanation.





Disorder

The Speaker is responsible for keeping order in the House (SO 49). If a Member considers that another Member's conduct is offensive or disorderly, they may call the Speaker's attention to it by way of a point of order. The Speaker will then rule on the point of order.

If a Member's conduct is disorderly, the Speaker will call the Member to order. If a Member receives more than three calls during any one sitting, the Speaker in accordance with Standing Order 249 may direct the Serjeant-at-Arms to remove the Member from the Chamber. A Member who is removed from the House in such circumstances is not allowed to remain within the Parliamentary precincts for the remainder of the sitting and cannot take part in any proceedings of the House or its committees (SO 249).

In addition, in accordance with Standing Order 249A, the Speaker has discretion to direct a Member who is grossly disorderly to leave the Chamber for up to three hours. This may be for a set period of time (e.g. one hour) or until the conclusion of certain business (e.g. for the remainder of Question Time). Under 249A, the Speaker does not need to place the Member on a call to order before directing them to leave.

Naming a Member

In certain cases the Speaker may name a Member for:

- Persistently and wilfully obstructing the business of the House.
- Being guilty of grossly disorderly conduct.
- Using offensive words and refusing to withdraw them.
- Persistently and wilfully refusing to conform to any Standing Order.
- Persistently and wilfully disregarding the authority of the Chair (SO 250).

When a Member is named, the Speaker will propose the question "That the Member for ... be suspended from the service of the House." The offending Member may then make a five-minute explanation. If the motion is carried the Member is suspended for between two to eight sitting days, depending on whether the Member has been previously suspended during the same session. A suspended Member is not allowed to remain within the precincts of Parliament House for the duration of the suspension, including any intervening non-sitting days, and cannot participate in any proceedings of the House or its committees (SO 253).

Dissent from a ruling of the Speaker

As the House is the final arbiter on all questions of order, any Member may move a substantive motion dissenting to a ruling or decision of the Speaker. A notice of a Member's intention to move a motion of dissent must be given prior to Question Time when the Speaker calls for notices of motions for Business with Precedence and they must be given within three clear sitting days of the ruling in question.

The procedure for dissent motions is set out in Standing Order 95.

A dissent motion is considered a significant matter. Dissent motions are generally made when a Member considers the ruling or decision of the Speaker was a significant breach of or departure from accepted practice and/or had a detrimental effect on the outcome of proceedings in the House.

Motions of censure

A motion censuring a Member or the Speaker may be moved in accordance with Standing Orders 114 and 115, respectively. A notice of a Member's intention to move a motion of censure must be given prior to Question Time when the Speaker calls for notices of motions for Business with Precedence. The Member will then be called on to move their motion of censure on the same sitting day that the notice was given.

Speakers have ruled that a censure motion must specifically use the word "censure" in the first paragraph of the motion for the motion to be considered as such and be debated as Business with Precedence.

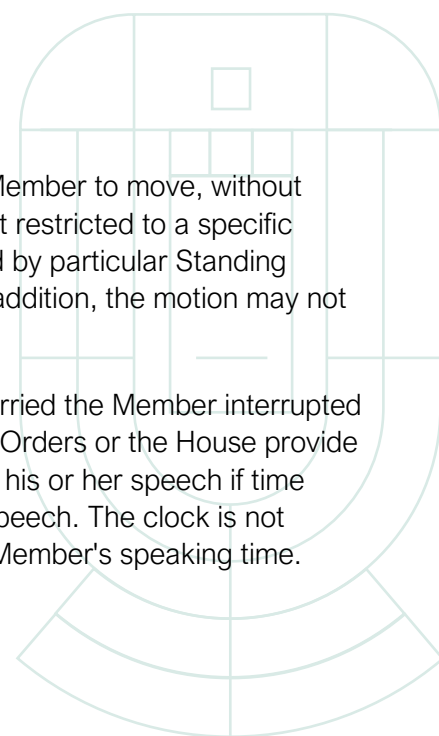
Precedents of the House indicate that a motion of censure of the Speaker is required to be framed absolutely and specifically. The motion must be restricted to matters concerning the Speaker and not matters of which the Speaker has no official cognisance, or other matters such as a censure of the Government.

Motions controlling or closing debate

Motion that the Member be not further heard

In accordance with Standing Order 58 a Member may interrupt another Member to move, without notice, that the Member speaking "be not further heard". The motion is not restricted to a specific business type and can be moved at any time unless specifically prohibited by particular Standing Orders, such as in the case of motions of no confidence and censure. In addition, the motion may not be moved in relation to a Member who is speaking on a point of order.

The question is decided without debate or amendment. If the motion is carried the Member interrupted loses the call and may not speak again in the debate unless the Standing Orders or the House provide otherwise. If the motion is negated the Member interrupted may resume his or her speech if time remains and the Chair will not accept a second motion during the same speech. The clock is not stopped and consideration of the question occurs during the interrupted Member's speaking time.





Motion that the Member be now heard

A Member may interrupt another Member to move, without notice, that a Member who sought but was not given the call should now be given the call by moving the motion "That the Member be now heard" in accordance with Standing Order 57. The question is put without debate or amendment. If the motion is passed the Member who is the subject of the motion is given the call. As the object of the motion is to prefer a certain Member in the allocation of the call rather than to silence the Member speaking, the Member interrupted may again seek the call. If the motion is defeated the Member interrupted may resume their speech. If the time for the interrupted Member's speech has commenced the clock is not stopped and consideration of the question occurs during the interrupted Member's speaking time.

Motion that the Member be further heard


If the Speaker has directed a Member to cease speaking a motion may be moved, in accordance with Standing Order 60, by any Member "That the Member be further heard". The question is decided without debate or amendment.

Closure

The closure motion is a means of closing the debate before the House by moving the motion "That the question be now put". If agreed to, debate on a question is brought to an end and the question is put to the House for resolution in the affirmative or the negative.

The closure of debate is dealt with by Standing Orders 86-89. The rules and practice governing the moving of the closure are:

- It cannot be moved before 10.30 am on days where the House meets earlier.
- It may be moved without notice, whether another Member is speaking or not.
- It may not be moved on a motion to suspend Standing and Sessional Orders (SO 365).
- There are restrictions on when it can be moved in certain debates. For example, it cannot be moved on a motion of no confidence in a Minister (SO 112) or a censure motion on a Member (SO 114) until at least 4 Members have spoken in the debate.
- The mover of the original motion or a Member who has already spoken on the question may not move the closure.
- A Member cannot conclude their speech by moving the closure motion.
- A Member whose motion for the closure has been negatived is not permitted to speak again in the debate.
- No debate nor amendment is allowed on the question.
- If there is a division on the closure motion and the ayes are in the majority, there still must be at least 30 Members voting for the ayes for the motion to be carried.
- If the motion for the closure is agreed to, the mover of the original motion is permitted a reply of up to 30 minutes, or a lesser time if specified for the debate.
- The closure cannot be moved during a mover's reply.
- The carrying of the closure only affects the last question submitted to the House. For example, if the closure is agreed to on an amendment, debate on the original motion may be continued and the closure would need to be moved again to end debate.



6. Sitting days and the Routine of Business in the House



6. Sitting Days and the Routine of Business in the House

Sitting days

Parliament ordinarily sits in two blocks during the year, the first period usually being from February through to late June, and then from August through to late November. The actual days that each House will sit are determined by resolution of each House. Presently this is done in the Legislative Assembly at the end of the preceding calendar year (unless preceding a general election). The dates and sitting times are proposed by the Government, and are put to the Legislative Assembly by the Leader of the House. The current sitting times for the Legislative Assembly each sitting week are as follows:

- Tuesday: 12.00 noon until the conclusion of Private Members' Statements.
- Wednesday: 10.00 a.m. until the conclusion of Private Members' Statements.
- Thursday: 10.00 a.m. until the conclusion of Private Members' Statements.

Routine of Business

The order in which business is conducted on each sitting day is set out in Standing Order 97 (as amended by sessional order adopted on 9 May 2023). The current Routine of Business, or sitting day schedule, is reproduced in Appendix Two of this guide.

Government business

Government business takes up the largest proportion of time in the House.

The majority of bills debated in the Legislative Assembly are those introduced by Ministers, who can arrange Government business in any order (SO 102).

The Leader of the House will publish a Daily Program on the morning of each sitting day. The Daily program is an agenda for the day and indicates the items of Government business intended to be considered. It should be noted that the Daily Program is not a formal document and is advisory only; items of business and the order they are listed on the program may be subject to change.

General business

General business is also referred to as private Members' business as it is those notices of motions and orders of the day in the carriage of private Members. General business is conducted on Thursdays until 3.40 pm.

Establishing the program for General business

Items of general business are called on according to the order in which they appear on the Business Paper.

The program for general business days is established the day prior, in accordance with Standing Order 101. Members advise the Clerk in writing which general business standing in their name on the Business Paper is to be postponed. In practice, the Party Whips provide advice to the Table Office on behalf of Members from their party, and crossbench Members liaise independently with Table Office staff.

If a Member has been granted a leave of absence it is accepted practice that the business standing in their name is postponed.

In addition, on Wednesday each week Members are afforded an opportunity in the House to reorder general business orders of the day for the resumption of debate on a private Member's bill standing in their name listed on the Business Paper to have precedence at the next day's sitting (SO 106).

On the basis of the advice received from Members and any decision by the House regarding precedence for consideration of orders of the day for bills, the Table Office prepares and electronically distributes a "Green Paper" on Wednesday afternoon which lists the orders of items which have not been postponed and may be called on.

Consideration of General business

The first category of General business to be considered is General Business Notices of Motions for Bills, which is allocated a maximum of 20 minutes. During this category, Members may introduce their private Member's bill and give their second reading speech. Once a Member concludes their second reading speech, the second reading debate is adjourned and the resumption of the debate becomes an Order of the Day.

The second category is General Business Orders of the Day for Bills, which is allocated a maximum of 90 minutes. During this category private Member's bills proceed through the second reading, consideration in detail and third reading stages. General Business Orders of the Day for Bills is interrupted at 11.00 for Question Time and its associated routine of business. Once Question Time and its associated routine concludes, General Business Orders of the Day for Bills re-commences and proceeds for the remainder of its 90 minute allocation.

The final category is General Business Notices of Motions or Orders of the Day (not being bills), which commences after the Speaker has resumed the Chair following the lunch break and proceeds until 3.40 pm.

Members can withdraw or postpone any notice of motion or withdraw and, on motion, discharge any order of the day when it is called on (SO 101).

In the case of a Member who is absent from the Chamber when their notice of motion is called on, the Speaker has a discretionary power to postpone that item of business (SO 141), otherwise the motion will lapse.



Community Recognition Statements

Each sitting day 30 minutes is allocated for Members to make 60 second statements. These statements are of a congratulatory nature and enable Members to acknowledge people or groups in their communities and their achievements (SO 108A). Members can also make three written Community Recognition Statements each sitting day.

Private Members' Statements

Time is provided each sitting day for Members to make five minute statements on a matter of particular concern to their electorate or of local import (SO 108). Members may also touch on issues other than local ones provided that the matter raised affects constituents directly.

A Minister (or a Parliamentary Secretary) may speak in reply to the statement for up to one minute.

Public Interest Debates

Public Interest Debates take place at 5.00 pm on Tuesdays and Wednesdays. Public Interest Debates give Government, Opposition and cross bench Members an opportunity to have topical issues that are important to their communities, and to the wider NSW public, debated and voted on.

Debates on petitions

The subject matter of any paper petition that has been signed by 10,000 or more persons or any electronic petition that has been signed by 20,000 or more persons received by the House is set down for a debate, on the Thursday of a subsequent sitting week, on a motion **"That the House take note of the petition"** (SO 125A).

The debate takes place at 4.00 p.m. on Thursdays and is 30 minutes total in duration.

'Take note' debate on committee reports

On Wednesdays, prior to the lunch break, there is an opportunity for Members to speak on parliamentary committee reports tabled during the current session (SO 306). The Member tabling the report may speak for up to six minutes and any other Member may speak up to four minutes on each report with the question being put after 22 minutes. No reply is permitted.

If a Committee has more than one report on the Business Paper, the Chair of the Committee (or the Member who tabled the report if the report was not tabled by the Chair) has the option to move a motion, without notice, that the House consider those reports together.

Business with Precedence

Certain matters are accorded precedence of all other business. Such business includes: no confidence motions in the Government, a Minister or the Speaker; censure of a Member or the Speaker; dissent from a Speaker's ruling; matters of privilege or contempt; expulsion of a Member; arrangement of business of the House; days and hours of sitting; disallowance of statutory rules; votes of thanks or condolence; printing of papers; or other business accorded precedence by the House (SO 118).

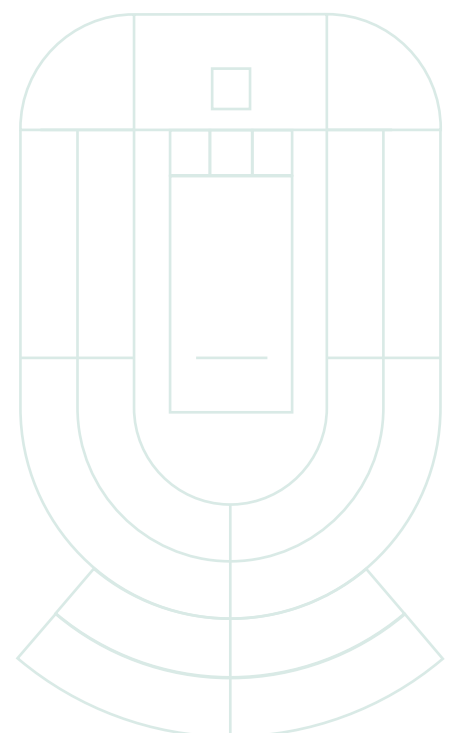
When items of business with precedence exist they are called on for debate at the end of the routine of business that follows Question Time.

Papers

Many Acts require documents to be tabled. Tabling papers is an important method of making information available to the House and the public. Tabled documents include annual reports, reviews of legislation, reports of the Auditor-General and other statutory officers, and other documents such as statements of corporate intent for State owned corporations (see Chapter 22 of the Standing Orders on papers and documents).

Placing or disposal of business

This procedure allows Members to withdraw or postpone an item of business standing in their name to another day or move a motion to discharge an order of the day standing in their name (SO 100). Members may also withdraw, postpone or discharge items of general business (non-Government business) standing in their name, under Standing Order 101(3).





7. Passage of legislation



7. Passage of legislation

Making laws

A bill is a draft legislative proposal that is presented to a House of Parliament. To become an Act (or law) a bill must pass through both Houses in the same form and be assented to by the Governor.¹⁵ Bills may be introduced in either the Legislative Assembly or the Legislative Council, with the exception of bills appropriating money or imposing taxation, which must be initiated in the Legislative Assembly (see s5 of the *Constitution Act 1902*).

Bills may be introduced to:

- Implement Government policy.
- Make changes to existing laws.
- Give effect to inter-government agreements.

Preparing a bill

Most bills presented to the House form part of the Government's legislative program. Government bills are prepared by departments at the direction of Cabinet and approved by Cabinet, before being introduced into the House by the responsible Minister. The Parliamentary Counsel's Office (PCO) drafts and prints all Government bills.

In addition to Government bills, private Members (Members who are not Ministers) may introduce bills into Parliament. The Parliamentary Counsel's Office provides a legislative drafting service for these 'private Members' bills'.

Stages in the passage of a Legislative Assembly bill

The stages in the passage of a bill originating in the Legislative Assembly are:

1. Notice of motion.
2. Introduction and first reading.
3. Second reading.
4. Consideration in detail.
5. Third reading.

¹⁵ The exception being a Bill appropriating revenue or moneys for the ordinary annual services of Government, which in accordance with s5A of the *Constitution Act* the Legislative Assembly may send for assent despite the Legislative Council not agreeing to the bill in the same form.



Notice of motion

Before a bill is introduced into Parliament the Minister or private Member gives a notice of motion indicating their intention to introduce the bill. When the Speaker calls for notices of motions (for bills), the Member reads the notice of motion:

“I give notice to introduce the ... (short title of the bill).”

The Member then provides a signed copy of the Notice to the Clerks. The full text of the Notice is printed in the Business Paper for the next sitting day.

Parliamentary Counsel's Office prepares and provides the Minister or private Member with the notice of motion.

Introduction and first reading

The bill may be introduced at the same or a subsequent sitting. When the item of business is called on, the Member says:

“I move that a bill be introduced for an Act to ... (long title of the bill).”

The Speaker puts the question ‘that this bill be introduced’ and, if it is agreed to, the Member says “I bring up the bill” and provides three copies to the Clerks. This constitutes the introduction and ‘first reading’ of the bill. There is no debate at this stage.

Once introduced, copies of the bill may then be distributed and the bill published on the Parliament's website.

Second reading speech

Once the bill has been introduced and read a first time, the Member or Minister who introduced the bill moves that the bill be read a second time and gives what is called a ‘second reading speech’. No time limits apply to the mover's second reading speech, or to the speech made by the lead speaker for the Opposition. For private Members' bills, both the lead speaker for the Government (the Premier, or a Minister or Parliamentary Secretary) and the lead speaker for the Opposition (either the Leader of the Opposition or a Member deputed) have unlimited speaking time.

The second reading speech outlines the objects of the bill, its general principles and its intended effects. Under the *Interpretation Act 1987*, the speech may later be used by the Courts to interpret the intent of the law.

After the second reading speech, another Member will move that the debate be adjourned. The mover of this motion is often the Member who will speak next on the bill when debate resumes.

Under the Standing Orders, the debate cannot resume for at least five clear days (i.e. calendar days commencing the day after the bill has been introduced. For example, if a bill is introduced on a Wednesday it cannot be debated until the following Tuesday). However, motions may be moved to suspend Standing Orders to provide for the earlier resumption of the debate, or to permit a bill to pass through all stages in one sitting.

Resumption of second reading debate

When the second reading debate resumes for government bills it is usually the lead speaker for the Opposition who speaks first in the debate and their speaking time is unlimited. Other Members may then speak, but time limits apply to those contributions (up to 10 minutes, with a possible extension of up to 5 minutes (SO 85)).

Debate should be relevant to the objects of the bill and to intended scope and effect of the bill as outlined in the long title of the bill and in the mover's second reading speech. It is customary for a second reading debate to be more wide-ranging than other debates, and Members may make references to matters that they believe should be in the bill under consideration.

During the debate, amendments may be moved to the question on the second reading. For instance, the bill may be referred to a committee, disposed of, or consideration of the question deferred to a later time. Any amendments to the bill itself are moved at the consideration in detail stage, though they may be foreshadowed during the second reading debate.

At the conclusion of the debate, the Member who moved the second reading may speak in reply, during which issues raised in the debate can be responded to. After, the Chair then puts the question 'That the bill be read a second time'.¹⁶

After a bill has passed the second reading stage and before the third reading:

- Any Member may move, without notice, that the bill be referred to a legislation committee for consideration and report (SO 323).
- Any Member may request that the bill be considered in detail (SO 203).
- The Member in charge of the bill may move a motion for the consideration in detail pro forma, which may occur if there are a large number of amendments and a part of the bill is produced with the amendments already incorporated, to put them in context (SOs 203, 204).

Otherwise, the Chair will call on the Member with carriage of the bill to move the third reading forthwith. No debate or amendment can be made to the motion for the third reading when a bill has not been considered in detail.

After the House has agreed to the third reading the bill is considered to have passed the House and is either forwarded to the Legislative Council seeking its concurrence or returned to the Legislative Council (with or without amendments).

¹⁶ If an amendment to the question of the second reading was moved during debate, it will be considered first.



Withdrawal

A Minister may move that a bill be withdrawn either at the time for the placing or disposal of business (SO 100), or when the order of the day is read for the resumption of the second reading debate (SO 188(11)).

Consideration in detail (amending bills)

Consideration in detail is an optional stage in the passage of legislation and must be requested by a Member(s). To make this request, Members foreshadow that they will move amendments in their second reading speech and instruct the Table Office to circulate their proposed amendments. Once the second reading has been agreed to the Speaker will state which Members have requested the bill be considered in detail.

The consideration in detail stage provides Members with an opportunity to consider a bill clause by clause and schedule by schedule, and to move amendments to the bill. Debate is quite fluid at this stage and, unlike in the second reading debate, Members may speak more than once to a question.

The traditional practice, which is reflected in the standing orders, was for a question to be put on each clause and schedule whether or not an amendment had been proposed to that clause or schedule. Leave could be granted to consider clauses and schedules in groups or as a whole.

Current practice is for the Speaker at the commencement of the consideration in detail stage to ask: "Is leave granted to take the bill in groups of clauses and schedules?". If leave is granted, as is customarily the case, the effect is that some standing orders (SOs 209, 211, 212, 213) are not applied or as strictly applied.

When such leave is granted, the House considers the amendments in the order in which they appear in the bill.¹⁷

Standing Order 210 provides that amendments may be moved to any part of the bill provided they are within the long title of the bill or relevant to the subject matter of the bill and are otherwise in conformity with the Standing Orders and practice. If the House agrees to an amendment that is relevant to the subject matter of the bill but which goes beyond the leave of the long title the House then needs to agree to amend the long title of the bill accordingly.

As noted above, the House considers amendments in the order in which they appear in the bill. Where more than one amendment occur at the same point in a bill, amendments proposed by the Minister or Member in charge of the bill take precedence of others. Otherwise the Member who circulated their amendment the earliest will have precedence.

A Member may seek leave of the House to move a number of related amendments which appear in different sections of the bill together. If leave is granted the amendments are debated together and the one question put.

Debate must be relevant to the subject matter of the amendment under consideration (SO 214). An amendment may be proposed to a proposed amendment (SO 164).

¹⁷ If leave is not granted, the House would need to follow the traditional practice provided for in the Standing Orders.

Third reading

Once consideration in detail is concluded a motion is moved “That this bill be now read a third time.” If it is agreed to, the bill has passed all stages in the Legislative Assembly. Although this motion is usually a formality, it may be debated after the consideration in detail stage and the mover has a right of reply (SO 66). Debate on the motion should be brief. It provides Members with an opportunity to make concluding remarks on why the bill in its amended form should or should not be passed, not to revive discussion covered during the second reading debate.

The only amendment that may be moved to this motion is for the House to reconsider the bill, either in whole or in part.

Reconsideration

Members may move for the reconsideration of a bill that has already been considered in detail. When the Speaker puts the question “That this bill be now read a third time”, the Member moves that the question be amended to provide that the House reconsider the whole bill or specific parts of the bill (SO 217).

If the motion that the amendment be agreed to is passed, the Speaker puts the question that the bill be reconsidered. If that motion is agreed to, the House reconsiders the relevant clauses or schedules of the bill.

Process for preparing amendments to a bill

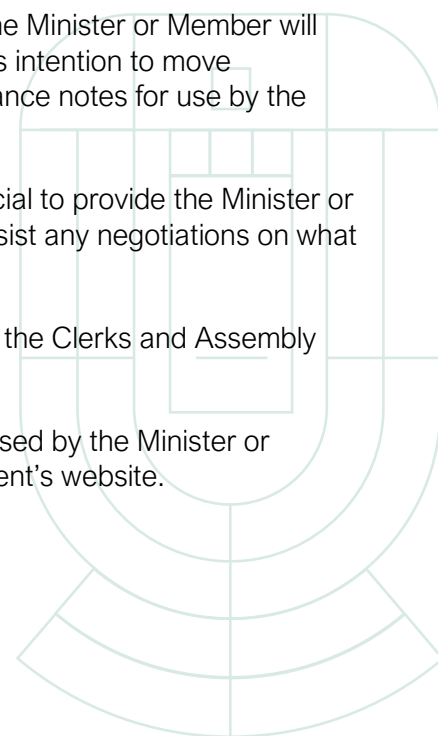
The Office of the Parliamentary Counsel (PCO) (Tel: 9321 3333) draft and prepare amendments in consultation with Ministers and Members. The Office of the Parliamentary Counsel functions independently of the Parliament and has its own policies and procedures regarding drafting. Parliamentary Counsel advise that all requests/instructions for bills and amendments should be made in writing and emailed to parliamentary.counsel@pco.nsw.gov.au

Ministers’ staff or Members should notify Legislative Assembly staff that the Minister or Member will propose amendments to a bill. Advance notice of a Minister’s or Member’s intention to move amendments allows the Assembly staff to commence preparing any guidance notes for use by the Chair and the House.

While it is a matter for the individual Minister or Member, it may be beneficial to provide the Minister or Shadow Minister with a copy of any proposed amendments in order to assist any negotiations on what might be mutually acceptable.

As soon as possible after the amendments have been finalised with PCO, the Clerks and Assembly staff should be provided with a copy.

The Clerks/Assembly staff keep the amendments confidential until authorised by the Minister or Member to circulate them (make them public) and publish on the Parliament’s website.





Passing of the bill

Once a bill originating in the Legislative Assembly has been read a third time and passed, it is forwarded to the Legislative Council with a message. The Council may then:

- Agree to the bill without amendment and return it for the Governor's assent.
- Return the bill with amendments for the Assembly's consideration.
- Withdraw the bill, or not pass it.

Process for dealing with Legislative Council amendments

Amendments proposed by the Legislative Council are considered by the Legislative Assembly in detail.

The Clerks need to be advised as to whether the Minister, or Member, intends to either move that the House:

- Agree to any or all of the Legislative Council amendment(s).
- Disagree to any or all of the Legislative Council amendment(s).
- Amend any or all of the Legislative Council amendment(s).

If the Assembly agrees to the amendment(s), the bill is sent to the Governor for assent. However, if the Assembly disagrees with any amendments, or seeks to amend any of the Council amendments, the bill is returned to the Legislative Council with a message explaining the reasons for the disagreement and/or asking for the concurrence of the Council in the proposed amendments (SO 224).

The Assembly must then await a further message from the Legislative Council advising whether the Council insists or does not insist on its amendments and/or whether it agrees or does not agree with the Assembly amendments. The Assembly will then consider that message from the Council in detail (SO 226).

Sections 5A and 5B of the *Constitution Act 1902* set out the provisions for resolving deadlocks where agreement on a bill cannot be reached between the two Houses.

Assent

After the bill has passed both Houses of Parliament, the House in which the bill was introduced arranges for the bill to be prepared for assent.

A vellum paper copy of the bill is prepared by the Legislative Assembly staff. The vellum is signed by the Clerk and countersigned by the Assistant Speaker. It is then sent to the Governor for assent.

A copy of the bill is also sent to the Solicitor-General to sign an "opinion" letter as to the constitutional legality of the bill. When the opinion is received, the Governor signs the vellum and an assent message is sent to the Parliament and the Minister.

The signed vellum is returned to the originating House with a message and an Act number is allocated in the order of assent. Assent details are published in the *Government Gazette*.

Government bills originating in the Legislative Council

The Speaker reports the receipt of a bill from the Legislative Council by reading the message that is sent with the bill. The bill is introduced and read a first time without a motion being moved. The Speaker will then either set down the motion for the second reading of the bill as an Order of the Day for a later time or call on the Minister with carriage of the bill (SO 229).

The Minister with carriage of the bill in the Legislative Assembly, or a Parliamentary Secretary or another Minister on their behalf, then moves the motion “That the bill be now read a second time” and gives the second reading speech. If the bill was not amended in the Legislative Council, the speech can be a truncated speech, which states the bill was introduced in the Legislative Council, that the bill is in the same form as introduced into the Council, and that the second reading speech given in the Council appears at a certain reference in Hansard (SO 229(4)). The Member with carriage may, however, give a second reading speech of unlimited duration if they wish. If amendments were made to the bill during its passage through the Legislative Council, a truncated speech can not be given, but the speech may confine itself to explaining the detail and effect of the changes made in the bill.

After the mover’s speech the debate may be adjourned until a later time or proceeded with forthwith. The ‘five clear day’ rule does not apply because sufficient notice of the bill’s provisions has already been given during its passage through the Legislative Council. The second reading of the bill is dealt with in the same manner as an Assembly bill, including the provision of unlimited speaking time for the lead speaker for the Opposition.

Private Members' bills

Any Member can introduce a bill and the Standing Orders make special provision for private Members' bills. Private Members' bills can cover any topic within the remit of the state parliament, with the important exception that only Ministers may initiate a bill imposing or varying a tax or requiring the appropriation of revenue or money (SO 190).

The Office of the Parliamentary Counsel (Tel: 9321 3333) also draft private Members' bills in consultation with Members. The Office of the Parliamentary Counsel functions independently of the Parliament and has its own policies and procedures regarding drafting. Parliamentary Counsel advise that all requests/instructions for bills and amendments should be made in writing and emailed to parliamentary.counsel@pco.nsw.gov.au

Under the Routine of Business (SO 97) a private Member may give a notice of motion for the introduction of a bill in the time allocated immediately before Question Time.¹⁸

Private Members' bills can only be introduced during the time set aside for the introduction of general business notices of motions (for bills). The current Routine of Business provides for the introduction of private Members' bills on Thursday mornings after the conclusion of Government business. As with other bills, the Member in charge of the bill has unlimited speaking time when making their second reading speech.

¹⁸ Notices of motion for the introduction of a Private Member's bill are prepared by Parliamentary Counsel's Office in consultation with the Member.



After a private Members' bill has been introduced and the Member has given their second reading speech it follows the same procedures as other bills, in that it is adjourned for five clear calendar days before the second reading debate can be resumed.

The Premier, or one Minister or Parliamentary Secretary deputed, and the Leader of the Opposition, or one Member deputed, may also speak for an unspecified period of time during the second reading debate on a private Members' bill. All other Members are limited to ten minutes, with a possible five minute extension.

In relation to private Members' bills from the Legislative Council, the message forwarding the bill for concurrence cannot be reported to the House until receipt of a letter from the Member in charge of the bill indicating which Legislative Assembly Member will have carriage of the bill (SO 229(2)). The message can be reported at any time and the second reading speech is set down as a general business Order of the Day (for bills) and is placed on the Business Paper in its relative order. When the bill is called on the Member in charge of the bill will give their second reading speech and, in accordance with Standing Order 229(5), debate on the bill can be adjourned or continued forthwith.

As with any other bill, a private Member's bill only becomes law if it passes through both Houses of Parliament in the same form.

Commencement of Acts

Nearly every Act of Parliament has a provision (normally clause 2) which sets out when it will come into force. There are four ways in which an Act or parts of an Act can come into force:¹⁹

By proclamation: This means that the Governor, on the advice of the Executive Council, will issue a proclamation indicating the date on which an Act will commence. There is no set period in which this must happen, and it can take as long as the relevant Minister thinks necessary (e.g. to establish regulatory frameworks). Further, an Act does not have to be wholly proclaimed, and sections may remain not in force.

On a specified date: When a bill is drafted it may provide that the Act will be in force from a set date. The date may be retrospective.

Date of assent: This means that the date the Governor assents to a bill (making it an Act) is the day on which the Act comes into force.

None specified: Under the *Interpretation Act 1987*, if an Act has no provision indicating when it comes into force it is deemed to commence 28 days from the date of assent.

¹⁹ The commencement provisions of an Act may comprise a combination of provisions, for example an Act may commence on assent with the exception of specified clauses and or schedules which will commence on proclamation,

Delegated legislation

Delegated or subordinate legislation or "statutory rules" are regulations, by-laws or ordinances made, approved or confirmed by the Governor or a rule of court (section 3 of the *Interpretation Act 1987*).

A regulation is made pursuant to an Act of Parliament, and provides the detail (administrative arrangements) to the broad outline given by the respective Act. To avoid having Parliament consider every minor change to the administration of a particular scheme set up by an Act, each Act usually contains a provision enabling regulations to be made under it, so that the fine detail can be formulated.

How is a statutory instrument made?

After an Act has been assented to, the Minister who administers the Act may require the drafting of regulations/ordinances/by-laws under that Act, which will spell out the detail for the operation of the particular Act. As most proposed regulations fall under the scope of the Subordinate Legislation Act 1989, there is a requirement that a regulatory impact statement for the draft regulation be prepared, and the draft regulation be exhibited for public comment.

The draft may then be presented to the Governor at a meeting of the Executive Council for approval. As long as there is no legal impediment to approval being granted, the Governor will approve the regulation. It is then published on the NSW Parliamentary Counsel's Legislation website.

Some statutory instruments are drafted by bodies other than Ministers, such as by-laws made under University Acts. These also require approval by the Governor.

Statutory instruments come into force with effect from the date of publication on the Parliamentary Counsel's Legislation website.

What role does Parliament have in passing regulations?

While the approval of Parliament is not required to approve the making of regulations, either House may disallow them. The *Interpretation Act 1987* provides that all statutory instruments must be tabled in each House within 15 sitting days of publication. On each Tuesday the Clerk tables a list of all the statutory instruments published since the last sitting of the House.

Regulations are also scrutinised by the Legislation Review Committee, which reports to Parliament on matters such as the social and economic impact of particular regulations, and their compliance with procedures relating to the making of regulations.





How does Parliament disallow a regulation?

Once a statutory rule has been tabled in the House, Members have 15 sitting days in which to give a notice of motion to disallow either all or part of that instrument (SO 116). Any motion to disallow a statutory instrument is considered during the time in the Routine of Business allocated for Business with Precedence on the sitting day after notice has been given.

A notice of motion to disallow part of a statutory rule is in order, but the House cannot amend a statutory rule.²⁰

Under section 41(4) of the *Interpretation Act 1987*, the effect of a successful disallowance motion is to restore or revive the pre-existing scheme. Also, under section 8 of the *Subordinate Legislation Act 1989*, a statutory rule the same in substance as one disallowed cannot be published on the NSW Legislation website within 4 months after the date of disallowance, unless the disallowance resolution has been rescinded.

Statutory Instruments Paper

A Statutory Instruments Paper is published by both Houses each sitting week or, if the House is in recess, on the first week of each month. This paper provides the title of the statutory instrument, the date it was published on the NSW Parliamentary Counsel's Legislation website and information on the tabling date and last date for giving notice of a disallowance motion.

Accessing legislation

All bills that are currently being considered by the Parliament or that have been considered during the current parliamentary session are available from the Parliament's website.

The NSW Legislation website, administered by the NSW Parliamentary Counsel's Office, is the official NSW Government website for the online publication of legislation. The website can be accessed at www.legislation.nsw.gov.au.

This website contains consolidated Acts, regulations, planning instruments and other statutory instruments currently in force; historical and repealed versions of legislation; Acts as assented to since 1824; statutory instruments as made since 1990; explanatory notes for bills introduced and passed since 1990; consultation drafts of bills and other instruments; and legislation guides.

²⁰ See, for example, the ruling by Speaker Murray, which confirmed that a regulation could be disallowed in part. PD 17/06/97, p.10374



8. Question Time



8. Question Time

What is Question Time?

Question Time is an opportunity for Members to ask questions seeking information of Ministers without notice. It is a very public means by which the House can scrutinise the administration of Government.

During Question Time Members ask questions to Ministers about public affairs, matters under the Minister's administration and proceedings in the House for which they have carriage. Questions can also be asked of the Chair of a parliamentary committee, relating to the work of that committee.

When is Question Time?

Question Time in the Legislative Assembly occurs at approximately 12.20 pm on Tuesdays and at approximately 11.00 am on Wednesdays and Thursdays.

Procedure for Question Time

The Leader of the Opposition is entitled to ask the first question. Current practice is for questions to be asked alternatively between the Government and non-Government Members. Crossbench Members are allocated at least two questions from the non-Government allocation.

The duration of Question Time is 55 minutes or the answering of 14 questions, whichever takes longer, with a maximum time limit of Question Time being 70 minutes (SO 131(4)).

An answer to a question must not exceed three minutes (SO 131(2)). However, the Member who asked the question may, at the discretion of the Speaker, seek additional information from the Minister. The Minister's response on the additional information is limited to two minutes (SO 131 (3)).

One supplementary question may be asked each Question Time. A supplementary question must be asked by the Member asking the original question and the answer to it counts towards the 14 answers (SO 131(5)).

At the end of Question Time Ministers may provide additional information to an answer already given that day or at a previous sitting (SO 131(7)). This may include those circumstances where a Minister elected to take a question 'on notice'. While the standing orders do not prescribe a timeframe by which a Minister must provide a response to a question taken on notice during question time, the expectation is that a response will be provided as soon as practicable.

Rules for Questions

The rules governing the form and content of questions, both oral and written, can be found in the Standing Orders and in the established practice of the House.

Questions should be brief and ask directly for the information sought.

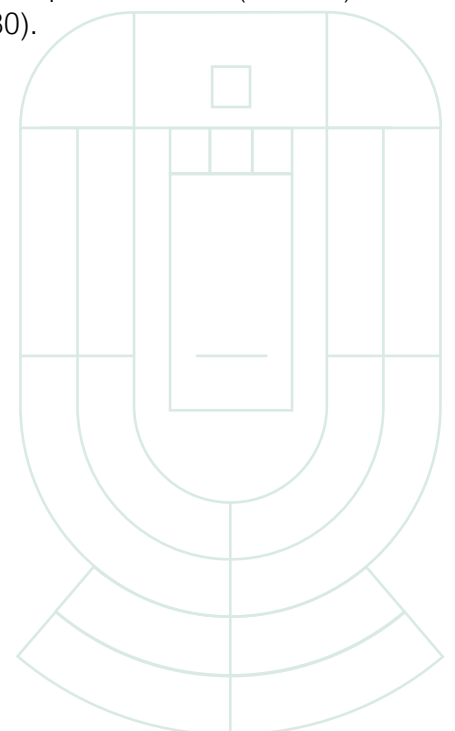
As outlined in Standing Order 128 Questions should not contain:

- Statements of facts or names of persons unless they are strictly necessary to render the question intelligible and can be authenticated.
- Argument.
- Inference.
- Imputation.
- Epithets.
- Expression of opinion or ironical expressions.
- Hypothetical matter.

Questions should not ask for:

- An expression of opinion.
- Legal opinion.
- An announcement of Government policy.
- Confirmation of rumour or media reports.

While the rules governing the form and content of questions are quite specific, the only rules that apply to form and content of answers are that they must be directly relevant to the question asked (SO 129) and they must not debate the matter to which the question relates (SO 130).



9. Written Questions



9. Written Questions

Procedure for submitting written questions

In addition to Question Time, Members have the opportunity to lodge written questions. Questions are published in the Questions and Answers Paper, pursuant to Standing Order 132, and also appear on the Legislative Assembly Questions and Answers Tracking webpage. The rules in relation to content are applicable to both written questions and oral questions asked during Question Time (SO 128).

Ministers may be asked questions that relate to:

- Public affairs with which the Minister is officially connected.
- Matters under the Minister's administration.
- Proceedings pending in the House of which they have carriage (SO 126).

Questions to Ministers in the Legislative Council are directed through the Minister representing that Minister in the Legislative Assembly. The Clerks and Assembly staff can assist with identifying the responsible Minister for a particular question.

Members can lodge nine questions each sitting week (the Leader of the Opposition twelve) (SO 132(3)).

Each question must be signed and dated by the Member and clearly indicate the Minister or Ministerial portfolio to whom the question is addressed.

A signed and dated hard copy must be handed to a Clerk-at-the-Table or provided either in hard copy or electronically²¹ to the Table Office by 12.00 noon on a sitting day for it to be published in that day's Questions and Answers Paper. Written questions can also be lodged by Members on non-sitting days,²² for publication in the Questions and Answers Paper for the first sitting day after the question has been lodged.

In all cases an electronic copy must be emailed to: assemblyq&a@parliament.nsw.gov.au

Questions should not put forward an argument or be framed to suggest an answer or convey a particular point of view. Statements (preambles) or information not strictly necessary to make a question intelligible should not be included.

²¹ Electronic copies are accepted if they are sent from the Member's parliament or electorate email address and bear the Member's signature.

²² Questions lodged on non-sitting days count towards a Member's quota of questions for the sitting week in which they are published.



While questions may not ask for an announcement of Government policy, they may seek an explanation regarding existing Government policy and its application.

A question should only refer to one matter. If a question contains matters that are not relevant to each other, the question may be divided under the authority of the Speaker. If a question is divided it will affect the number of questions a Member has submitted (SO 132(2)).

A question containing argument, unbecoming expressions or otherwise not conforming with the practice of the House may, under the authority of the Speaker, be amended by the Clerk. In these circumstances the Clerk would liaise with the Member concerned.

Questions may also be edited to eliminate unnecessary wording and, where applicable, put them in a standard interrogative form. Assembly staff will consult with the Member regarding the content of any question that does not comply with the rules or requires more than straightforward editing.

A Member can withdraw a written question with the leave of the House at the end of the placing or disposal of business procedure. If a written question is withdrawn under this procedure, the Table Office will advise the relevant Minister's office that an answer is no longer required.

Answers to written questions

Written questions are published in the Questions and Answers Paper. In accordance with Standing Order 132 Ministers are required to lodge signed answers to written questions within 35 calendar days after the question is first published. The due date for questions is published in a table on the inside cover of the Questions and Answers Paper.²³

A signed copy of each answer must be lodged with by email: assemblyq&a@parliament.nsw.gov.au

Answers may be lodged at any time. However, answers submitted on the due date must be submitted to the Table Office by 12.00 noon.


Ministers failing to answer a question within 35 calendar days will be called to give an explanation to the House. If the Minister, after explanation to the House, has not provided an answer within three sitting days, then the Minister is again called to give an explanation to the House.

Copies of answers to written questions are not forwarded to individual members. The answer, once received, is published in the Questions and Answers Paper and can be tracked on the Parliament's website via the Questions and Answers Tracking page.

Written questions can be tracked according to:

- The Member asking the question.
- The relevant portfolio.
- Date the question was asked.
- The due date for the answer.
- The relevant portfolio and then by due date for the answer.
- A keyword search.

²³ The Legislative Assembly Questions and Answers Tracking webpage also provides, among other things, the option to list all answers due on a specified date.



10. Non-Government Business: statements and debates



10. Non-Government Business: statements and debates

There are a number of opportunities for Members to raise matters through general business and other means.

Private Members' Statements

Private Members' Statements (SO 108) provide Members with an opportunity to bring to the House's attention a matter concerning their electorate. Members may also make Private Members' Statements touching on other issues, as long as the matter raised affects their constituents or was brought to them by a constituent.

The rules provide for Ministers (or Parliamentary Secretaries) to give a reply of up to one minute to each Private Member's Statement, however this is not a requirement. The same principle of relevance applies here as it would in a debate and a Minister's reply must remain within the scope of the Member's statement.²⁴

Private Members' Statements are the last item in the routine of business for each sitting day. Up to 75 statements may be made each sitting week. A roster of speakers for each day is arranged between the Party Whips and the cross-bench liaison officer.

Community Recognition Statements

Each sitting day 30 minutes is allocated for Members to make 60 second statements. These statements are of a congratulatory nature and enable Members to acknowledge people or groups in their communities and their achievements (SO 108A).

Community Recognition Statements typically relate to:

- Statements that are congratulatory in nature and predominantly of a local or private nature and uncontroversial (e.g. congratulating a particular person or group or people for an achievement).
- Statements that recognise charity work, retirements or honours and awards (e.g. sporting achievements, school awards etc.).
- Words of thanks or condolence.

Community Recognition Statements must not contain:

- Matters of policy.
- Requests for the Government or the House, or another body to take or not take some form of action.
- Criticisms or negative reflections on any person, including Members, office holders, the Government, the Opposition or a third party (SO 108A).

²⁴ See, for example, the ruling by Speaker Rozzoli where a Minister was asked to direct his comments to the Private Member's Statement. PD 31/08/1988, p. 99.

Members are not permitted to make consecutive Community Recognition Statements (SO 108A(7)).

Members can also submit three written Community Recognition Statement each sitting day. Written Community Recognition Statements must be lodged electronically (via e-mail to AssemblyCRS@parliament.nsw.gov.au) by 12.00 noon for them to be published in that day's Hansard, and they must not exceed 200 words.

The requirements about the form and content of written Community Recognition Statements are the same as Community Recognition Statements that are given verbally in the House.

Any written Community Recognition Statement not conforming with the rules and practice of the House can be amended by the Clerk, under the authority of the Speaker, or be ordered by the Speaker not to be included in Hansard. Assembly staff will consult with the Member regarding the content of any statement that does not comply with the rules and requires editing.

Written Community Recognition Statements must be sent from a Member's own Parliament House e-mail address or from their Parliament House electorate office e-mail address, and they should not duplicate a Community Recognition Notice given verbally in the House (or vice versa).

Public Interest Debates

A Public Interest Debate takes place in the House at 5.00 p.m. on Tuesdays and Wednesdays (SO 109).

Members must submit a notice of motion for a Public Interest Debate to the Speaker by 12.00 noon on the day of the debate. The Speaker then determines whether the notice is in order, or not. If the notice is in order the Speaker will then publish it on the Daily Business Program webpage and announce its subject matter in the House after the lunch break

Notices are submitted by Government Members on Tuesdays, Opposition Members on the first and second Wednesdays, and cross bench Members on the third Wednesday.

A total of 40 minutes is allocated for the debate. The mover and six other members may speak in the debate, and at least one member speaking must be from the cross-bench. If no cross-bench member seeks the call that spot may not be taken by a government or opposition member.

General Business

General business is also referred to as private Members' business as it is those notices of motions and orders of the day in the carriage of private Members. General business is conducted on Thursdays, following the conclusion of the daily giving of general business notices of motions. The order is:

- Introduction of private Members' bills, for up to 20 minutes.
- Resumption of debate on private Members' bills already introduced, for up to 90 minutes. This category of business will be interrupted at 11.00 am for Question Time and its associated routine of business, after which it will re-commence for the remainder of the 90 minute allocation, after which the Speaker will leave the Chair for the lunch break.
- Introduction and debate of general business motions from when the Speaker resumes the Chair after the lunch break (approximately 2.30 pm) until 3.40 pm.



What is a general business notice of motion?

Notices of motions alert the House and Members that a Member intends to move a motion that the House do something, order something to be done, or express an opinion on a matter.

Members are required to give notice of their intention to move a motion in the House, unless the Standing Orders provide otherwise. A notice of motion sets out the words of the motion being moved. In the majority of cases a notice of motion must appear on the Business Paper before it may be moved, providing at least one day between the notice being given and the motion being moved (SO 142).

Notices of motions are published in the Business Paper in the order in which they are received. They remain on the Business Paper until they are concluded, lapse or otherwise disposed of.

Notices for private Members' bills not commenced or completed within six months will lapse and are removed from the Business Paper. Notices for general business motions not commenced or completed within three months will lapse and are removed from the Business Paper. The date on which a notice of motion or order of the day will lapse is recorded on the Business Paper.

How to draft a general business notice of motion²⁵

A notice of motion is drafted to express the will or judgement of the House. A notice should be precise and concise. Notices that contain argument, unbecoming expressions or that are given in the spirit of mockery may be ruled out of order. A notice containing matters that are not relevant to each other may be divided under the Speaker's authority (SO 137).

There have been a number of Speaker's rulings reminding Members that notices of motion are not opportunities to give speeches and that a time limit of 30 seconds applies (SO 133(2)). Speakers have also strictly applied the time limit resulting in Members not having all of the text of their intended notice included in the Business Paper.

Private Members', or general business motions typically take the form "That this House supports/opposes/notes its concern about..." or "That this House calls on the Government to/condemns..."

Notices may be edited by the Clerks, under the authority of the Speaker prior to their publication in the Business Paper (SO 137). Advice on drafting notices of motions can be obtained from the Clerks.

²⁵ Notices of motion for the introduction of a private Member's bill are prepared by Parliamentary Counsel's Office in consultation with the Member.

How to give a general business notice of motion

While general business notices of motions are usually given by private Members (i.e. Members other than the Speaker, a Minister or a Parliamentary Secretary), any Member may give a notice of motion for general business.

Each sitting day after the reading of the Prayer and Acknowledgement of Country a period of up to 15 minutes is set aside for the giving of general business notices of motion. The Speaker will ask: "Are there any notices of motions for general business?" Members must then seek and be given the call before proceeding to one of the lecterns.²⁶

When giving a notice of motion, Members read the notice aloud and provides a signed, legible copy of the notice to the Clerk. Members must also email an electronic copy to assemblynotices@parliament.nsw.gov.au

Members can only give one notice at a time and cannot give consecutive notices. Notices are listed in the Business Paper in the order in which they are given in the House.

How to move a general business motion

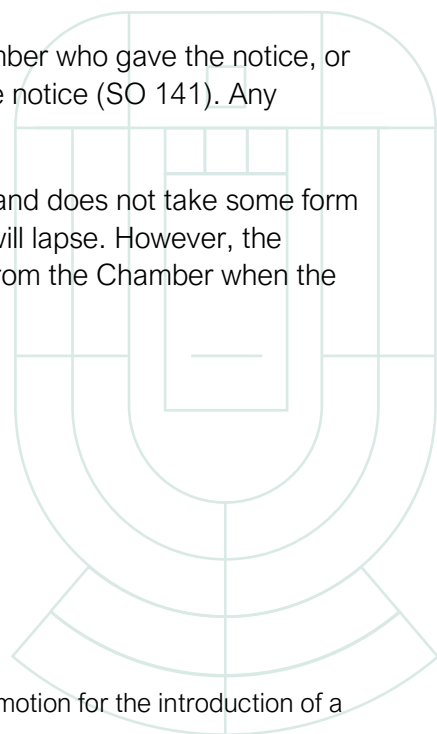
Notices are considered in the order in which they appear on the Business Paper. When the notice is called on by the Clerk, the Member moves the motion by reading its text, as printed in the Business Paper and then makes their speech in support of the motion. The Member moving the motion is allocated 7 minutes for their speech and 4 minutes to speak in reply at the end of the debate.

Members may move amendments to motions, which the House then votes to agree to, or not agree to. The procedures for moving amendments are set out in Chapter 13 of the Standing Orders (SOs 157-166). Members must move amendments to motions while they are speaking in the debate on the motion.

When the notice is called on by the Clerk it may be postponed by the Member who gave the notice, or by another Member with the written authority of the Member who gave the notice (SO 141). Any postponed notice remains on the Business Paper in its relative order.

If a Member has not postponed a notice of motion standing in their name and does not take some form of action when the motion is called on in the House, the item of business will lapse. However, the Speaker has the discretion to postpone a notice if the Member is absent from the Chamber when the notice is called on (SO 141).

²⁶ Under the Routine of Business (SO 97) a private Member may give a notice of motion for the introduction of a bill in the time allocated immediately before Question Time.





Altering the text of a general business notice of motion

There may be occasions when a Member will need to alter their notice of motion which has already been given in the House.

Standing Order 139 provides that to alter a notice of motion already given, a Member must hand in an amended notice at least one sitting day before the motion is moved. The amended notice must not exceed the scope of the terms of the original notice.


A Member may provide a signed amended notice to one of the Clerks or to the Assembly Table Office who will confirm that the amended notice is in order. The new notice will be published in the Business Paper with an annotation that it has been amended in accordance with SO 139. As a matter of courtesy and to ensure that all Members are informed, when moving the motion the Member should note the effect of the alteration.

Reordering general business – Private Members' bills

Just after Question Time every Wednesday there is an opportunity for any two Members to seek to have the resumption of debate on a private Members' bill that they are in charge of take precedence over the resumption of debate on all other private Members' bills.

Under Standing Order 106 a Member can move a motion to give the resumption of debate on their private Members' bill precedence the next day and make a statement of up to three minutes in support of the motion. One other Member may speak in reply for up to three minutes.

Only one motion to reorder can be passed, so if the Member who obtains the call first has their motion passed by the House, the second Member seeking to reorder will not be able to move their reordering motion. In this circumstance, the second Member may seek the call for the three minute reply to speak against the first reordering motion and to outline their alternative.



11. Raising matters of privilege or contempt



11. Raising matters of privilege or contempt

What are matters of privilege and contempt?

Privilege refers to those 'functional immunities' from the law which are required so that Parliament can fulfil its constitutional role as a place of inquiry and debate. For example, the freedom of speech for Members and witnesses during its proceedings and the right of Parliament to control its own affairs.

Breaches of those rights and immunities constitutes a contempt. It has been said that "All breaches of privilege amount to contempt; contempt does not necessarily amount to a breach of privilege" meaning that an action or omission which impeded the House could still be a contempt even if it did not breach a particular right or immunity held by parliament.²⁷

Raising matters of privilege or contempt suddenly arising

The only matter of privilege that can be raised on the floor of the House is one suddenly arising relating to the proceedings currently before the House.

Standing Order 79 provides that a Member may interrupt another Member in order to raise a matter of privilege or contempt "suddenly arising". The Member may then, under Standing Order 91, address the House for up to 10 minutes in order to satisfy the Speaker that:

- The matter is one suddenly arising and should be dealt with at the earliest opportunity.
- That there is a prima facie case.
- That the Member has a prepared notice of motion.

If satisfied, the Speaker will rule that the matter should proceed forthwith or have precedence of other business on the next sitting day. Such motions are considered during the time set aside for Business with Precedence in the Routine of Business (SOs 97 and 118).

To establish a prima facie case, Members must show how the matter complained of fairly and reasonably interferes with the operation of the House or hinders the Member in the discharge of their duties. A Member must quickly establish to the satisfaction of the Speaker whether there is a prima facie breach of privilege or contempt, and Standing Order 91 indicates that there is no requirement for the Speaker to allow a Member to speak for the full 10 minutes if it is clear that there is no prima facie case.

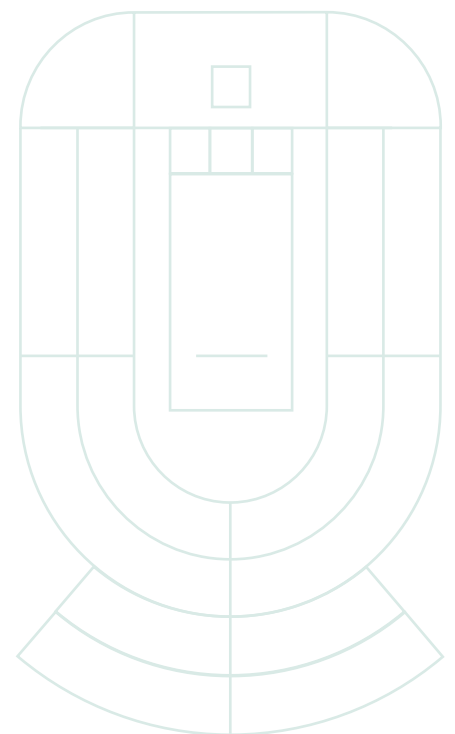
A Speaker's ruling has determined that if a matter of privilege or contempt is raised during Question Time, consideration can be deferred until the conclusion of Question Time.

²⁷ See House of Representatives Practice, Seventh Edition, 2018, p.733.

Raising other matters of privilege or contempt

Matters of privilege that are not suddenly arising must be raised in accordance with Standing Order 92, which requires a Member to raise the matter in writing to the Speaker. The Speaker will then consider the matter and within 14 days determine whether a motion to refer the matter to the Standing Committee on Parliamentary Privilege and Ethics should take precedence under Standing Order 118.

As with matters of privilege or contempt suddenly arising, a matter of privilege not suddenly arising must involve the abovementioned elements, including how the matter raised interferes with the operation of the House or hinders the Member in the discharge of their duties.





12. Tabling of reports and other documents



12. Tabling of reports and other documents

Why are documents tabled in parliament?

Documents are tabled in Parliament as a means of informing Members of Parliament, and thus the public, of various actions of the Executive Government and parliamentary committees. Ministers are required to table a range of reports and other documents in accordance with legislative provisions such as annual reporting by departments and agencies, statutory reviews of legislation, and statements of corporate intent for state-owned corporations.

In addition, a number of Statutory Officers are required by statute to present their reports to, and for publication by, the Parliament.

Tabling of reports and other documents by Ministers

Reports and other papers can be tabled by Ministers and Committee Chairs after Question Time. The Speaker will ask whether any Minister has papers to table. The Minister when tabling papers should simply state "I table/announce the electronic tabling of the"²⁸ and read out the title of the document being tabled. Leave of the House is required to table reports outside of this regular timeslot after Question Time.

In some cases, the relevant legislation provides that a document may be tabled with the Clerk when the House is not sitting. These documents are considered to be tabled on the date they are received by the Clerk and the receipt of the document is reported to the House on the next sitting day.²⁹

Tabling of committee reports

Provision is made in the Routine of Business for the tabling of committee reports by committee chairs, or other Members delegated by the committee, after the tabling of papers by Ministers each sitting day.

Once a committee report has been tabled it is set down as an order of the day for debate. A 'take note' debate on committee reports tabled is conducted on Wednesday afternoons at 1.00 pm. (SOs 97 and 306).

Committee reports can be tabled with the Clerk if the House is not sitting. The report is considered to be tabled on the date it is received by the Clerk, and the receipt of the report is reported to the House on the next sitting day.

²⁸ Standing Order 266 provides that a Minister may table a report in hard copy or provide an electronic copy to the Assembly Table Office and announce the electronic tabling.

²⁹ In those cases where the relevant legislation does not specifically provide for out of session tabling, Standing Order 266A in conjunction with section 18A of the *Interpretation Act* 1987 provide that any document required under any Act to be tabled by a Minister in the House may be tabled with the Clerk when the House is not sitting.



Can Members table documents?

There is no provision in the Standing Orders for Members who are not Ministers to table documents, except as committee Chairs. However, during debate Members may read extracts from documents provided the quote is brief and the document is properly identified before the Member quotes from it.

Members may be permitted by the Speaker to leave a document on the Table for the information of other Members. It should be noted, however, that this is not “tabling” and the document has no official status.

How can I find out what has been tabled?

All documents tabled are recorded in the Votes of Proceedings of the Legislative Assembly.

Electronic copies of papers that have been tabled in the Legislative Assembly are available on the Tabled Papers and Reports [webpage](#).



13. Petitions



13. Petitions

A petition is a way in which citizens can have their grievances brought to the notice of the Parliament by a Member on their behalf. The petition is a direct means by which any citizen or group of citizens can place their concerns before the Parliament.

Standing Orders 119-125A set out the form and content of paper petitions and electronic petitions (ePetitions), and the procedure for their lodgement and presentation. These rules ensure the authenticity of petitions and provide protection to the petitioners and the House. There are some small differences between ePetitions and paper petitions.

Petition form

All petitions must:

- Be addressed to "the Speaker and Members of the Legislative Assembly".
- Set out the facts which the petitioners are bringing to the attention of the Legislative Assembly (also called 'the grievance')
- Have a clear request that the Assembly do something (also called 'the prayer') be 'respectful, decorous and temperate' in language.
- Be presented by a Member of the Legislative Assembly on behalf of the petitioners.

Petition content

Petitions must not:

- Make reference to any debate in Parliament.
- Have letters, affidavits or other documents attached.
- Be signed (as a petitioner) by the Member presenting the petition.

Signatures for paper and electronic petitions

Paper petitions must contain at least one signature. Every signature must be original handwriting, and signatures must not be pasted on, photocopied or transferred in any way. Every person signing a petition must write their full address after their signature.

ePetitions can be created by NSW residents, must be supported by at least five other NSW residents and agreed to be presented by a Member of the Legislative Assembly before they are open for signature on the Assembly's ePetition website.

Procedure for presentation

A Member presenting a paper petition on behalf of citizens must lodge it with the Clerk (through the Table Office) by 10 am on the sitting day it is to be reported to the House. Paper petitions lodged outside a normal sitting week or during a prorogation are kept for presentation at the next sitting.

Paper petitions can only be lodged for presentation to the Legislative Assembly by a Member of that House. However, a petition may not be lodged by a Member who has signed it as a petitioner.

The Member lodging the paper petition must sign the top of the front sheet. This signifies that the Member has ensured that the petition conforms with the Standing Orders, as set out in the rules listed above.

In addition, Members must, if applicable, certify that the petition has been signed by 500 or more persons, or by 10,000 or more persons.

The Clerk must also certify that each paper petition is in conformity with the Standing Orders before it is reported to the House.

ePetitions are considered presented once they close for signatures.

The Clerk will announce receipt of paper and ePetitions in the House. The subject matter of the petition and the Member who lodged it is published in the Votes and Proceedings and a summary of each petition is printed in Hansard.

Referral of petitions to Ministers and ministerial responses to petitions signed by 500 or more persons

In accordance with Standing Order 125, the Clerk forwards copies of all petitions that have been received by the House to the Minister with responsibility for the subject of the petition. If the petition has been signed by 500 or more persons, the Minister is required to respond within 35 calendar days after receipt of the petition in the House. If the House is not sitting when the response is due Ministers are still required to submit the response to the Clerk or the Table Office. The Minister's response is announced in the House and published on the Parliament's website.

Debate on paper petitions with 10,000 signatures or ePetitions with 20,000 signatures

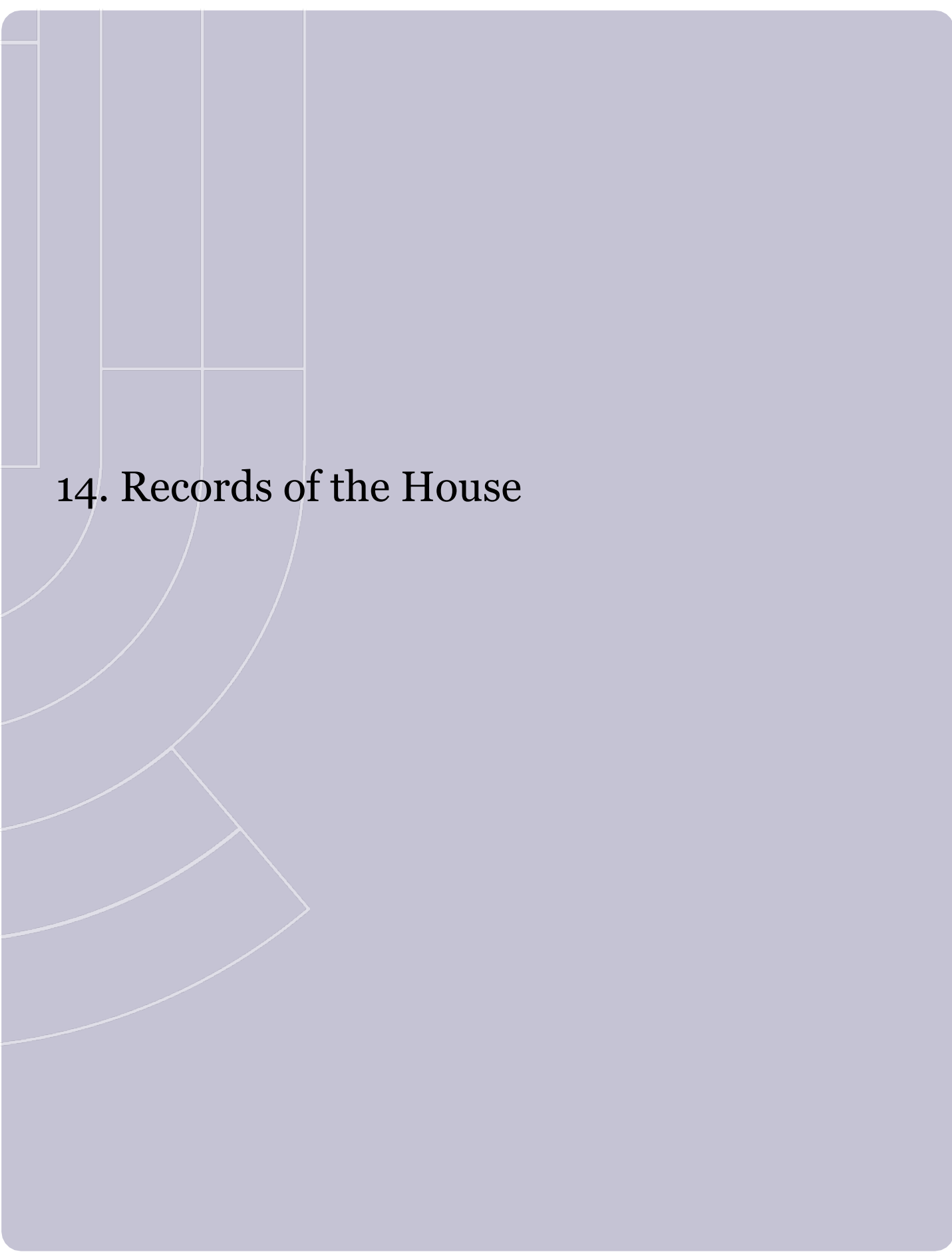
If a paper petition has 10,000 or more signatures, or 20,000 or more for ePetitions, this triggers a 30 minute debate about the petition in the House. The Business Paper lists in order the petitions that have been set down for debate and notes the date on which the debate will occur. Signatories to ePetitions also receive emails at every stage of the process including advice of the debate time and date and a link to a video of the debate after it occurs.

The petition debate is on the motion "That the House take note of the petition". The House is not being asked to express an opinion on the content of the petition or whether it agrees with the request of the petition, although individual members can do this during their contribution to the debate.³⁰

Petition debates take place at 4.00 pm on Thursdays with 30 minutes being allocated to the debate. In the course of each debate a Minister is required to provide a 3 minute response to the terms of the petition.

Assembly staff can assist Members with any inquiries they have in relation to petitions.

³⁰ As it is a vote it is open for a division to be called and for the question to be resolved in the negative, however if this does occur it has no practical effect other than to record, in an oblique manner, the House's reservation regarding the petition.



14. Records of the House



14. Records of the House

Votes and Proceedings

The Votes and Proceedings document is the official record of the House. This is the "minutes of the proceedings" of the Legislative Assembly and a record of the matters considered and decisions taken by the House.³¹

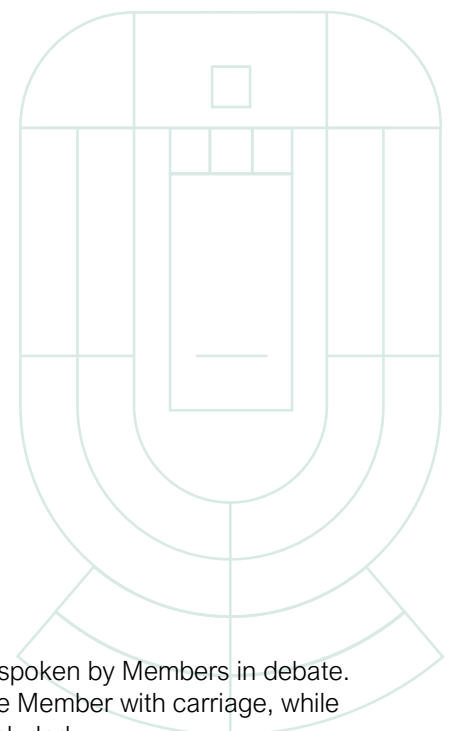
A proof version of the Votes is published at the end of the sitting day and is available to view on the Parliament's website generally within 30 minutes of the House rising.

Throughout a sitting day, a 'running record' provides an informal real-time record of proceedings in the House. The Running Record is located on the Legislative Assembly 'House Papers' webpage on the Parliament's website.

Business Paper

The Business Paper is a document which shows all the business³² which is before the House. It is divided into sections dealing with:

- Government business
 - Notices of motions
 - Orders of the day
- Business of the House – Petitions
- General business
 - Notices of motions (for bills)
 - Orders of the day (for bills)
 - Orders of the day (general orders)
 - Notices of motions (general notices)
- Orders of the day (committee reports)
- Petitions requiring a ministerial response
- Committee recommendations requiring a government response.



³¹ Hansard is the transcript of proceedings which provides a record of the words spoken by Members in debate.

³² Notices of motions are items of business which have not yet been moved by the Member with carriage, while Orders of the Day are items of business which have been moved but not yet concluded.



Government business – Notices of motions

This section of the Business Paper lists the notices of motions given by Ministers or Parliamentary Secretaries on their behalf. Most Government business notices of motions pertain to bills. However, any notice given by a Minister may be listed as a Government business – Notice of motion. Such notices may include notices of motions establishing committees and notices of motions for the amendment of Standing Orders.

Government business – Orders of the day

This section of the Business Paper lists all orders of the day arising from Government business, e.g. bills that have been introduced by a Minister, and other interrupted Government business.

Business of the House – Petitions

This section of the Business Paper lists petitions that have been received by the House which have been signed by 10,000 or more (paper petitions) or 20,000 (electronic petitions) or more persons. Such petitions are set down as an order of the day for debate on a motion that the House take note of the petition. One such motion is debated each Thursday and the date of each debate is listed in the Business Paper.

General business – Notices of motions (for bills)

This section of the Business Paper lists bills to be introduced by private Members, i.e. not Ministers.

General business – Orders of the day (for bills)

This section of the Business Paper lists all those bills introduced by private Members that have already been introduced and have been set down as an order of the day.

General business – Orders of the day (general orders)

When debate of notices of motions (general notices) is adjourned, they are set down as an order of the day (general order) and listed under this heading on the Business Paper.

General business – Notices of motions (general notices)

This section of the Business Paper lists all general notices scheduled for debate. Members can give notices of motion for general business each sitting day. Debate on general business notices of motions (general notices) and orders of the day (general orders) is scheduled for Thursday mornings after the conclusion of general business orders of the day (for bills).

Orders of the day (committee reports)

Once a committee report is tabled, debate on it is automatically set down as an order of the day. Up to thirty minutes is allocated each sitting Wednesday for the "take note" debate of committee reports. This section of the Business Paper lists all the committee reports in the order in which they have been tabled. The listed order is adhered to for the conduct of "take note" debates, unless consideration of the report is postponed or several reports from the same committee are dealt with together.

Petitions requiring a ministerial response

This section of the Business Paper lists those petitions signed by 500 or more persons that require a response from the responsible Minister. It notes the date the petition was presented to the House, the Member who presented the petition, and the date the Minister's response is due.

Committee recommendations requiring Government response

This section of the Business Paper lists committee reports that have made recommendations which require a response from the Government. Reports are listed by order of date tabled, and the date the response is due is also listed.

Business with Precedence

Another category of business that may be listed on the Business Paper from time to time is Business with Precedence. Business with Precedence includes items such as dissents from a ruling of the Speaker, no confidence and censure motions, motions regarding privilege and contempt, expulsion of a Member, and motions for the disallowance of statutory rules (SO 118).

Listing items of business on the Business Paper

Items are listed in the various categories on the Business Paper according to the order in which they are notified to the House. Accordingly, new notices and orders appear at the end of the listing, unless they are given special precedence.

The Business Paper lists considerably more business than can be transacted in a single sitting day. Therefore, many of the items will carry over to subsequent Business Papers until they are completed or disposed of.

Although the Business Paper sets out an order of business, it is not a definitive guide to the sequence the House will follow. Standing Order 102 provides that Ministers may arrange Government Business in any order.

The following symbols may appear before items of business on the Business Paper:

- † Denotes a bill forwarded from the Legislative Council.
- * Denotes that an item has been accorded precedence.
- P Denotes that consideration of an item has been postponed.

Daily Program

Each sitting day the Leader of the House will authorise publication of a Daily Program which provides an indicative order of those items of Government Business it intends to have considered that day. It is an indicative document only and not binding, however if circumstances change and the Government decide to bring on items of business in a different order this is usually communicated by the Leader of the House to the Leader of Opposition Business and the cross-bench.

On Thursdays, the program lists only the items of general business that the House has agreed to deal with.

The Daily Program is located on the Assembly's House Papers webpage.





Running Record

Throughout a sitting day, the Table Office post a 'Running Record' which is an informal real-time record of proceedings in the House. The Running Record is located on the Legislative Assembly 'House Papers' webpage on the Parliament's website.

Questions and Answers Paper

The Questions and Answers Paper contains all written questions Members put to Ministers, together with the answers when they are received.

Members' questions are published in full when the question is given and then again when the question is answered.

The Questions and Answers Paper is published at the end of the sitting day and is available to view on the Parliament's website generally within 30 minutes of the House rising.

Hansard

Hansard is an edited record of everything said in both Houses of Parliament, similar to a transcript. A team of reporting staff, typists and editors compile a draft (proof) version at the end of each sitting day. Hansard is generally available on the Parliament's website three hours after the last House rises.

Members may make suggestions for corrections to their speeches. The Editor of Debates considers the requested changes prior to publication of the corrected Hansard, which usually happens within 2 weeks.

Corrections to Hansard should only relate to inaccuracies and new matters cannot be introduced.

There is no provision for the Speaker to order a reference to be struck from the parliamentary record or to alter the Hansard record. Should a Member wish to expunge (remove) material from Hansard the material generally needs to be of an offensive nature and a resolution of the House is required.

Statutory Instruments Paper

This document is published by the Legislative Assembly Table Office for the information of Members on each sitting week and on the first week of each month when the House is not sitting. The document provides the title of the statutory instrument, gazettal details and information on the tabling date and last date for lodgement of a disallowance motion.

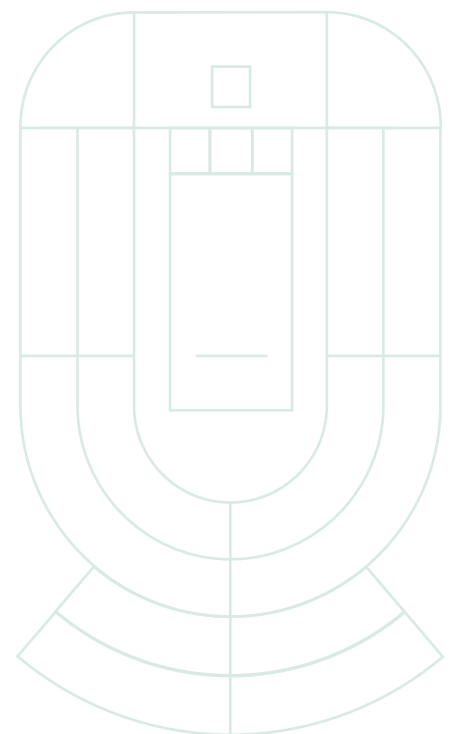
Other Publications

Standing and Sessional Orders

Section 15 of the *Constitution Act 1902* provides for the Legislative Assembly to prepare and adopt standing rules and orders regulating its conduct, procedures and mode of communication with the Legislative Council. Such standing rules and orders are approved by the Governor and once approved become binding and in force.

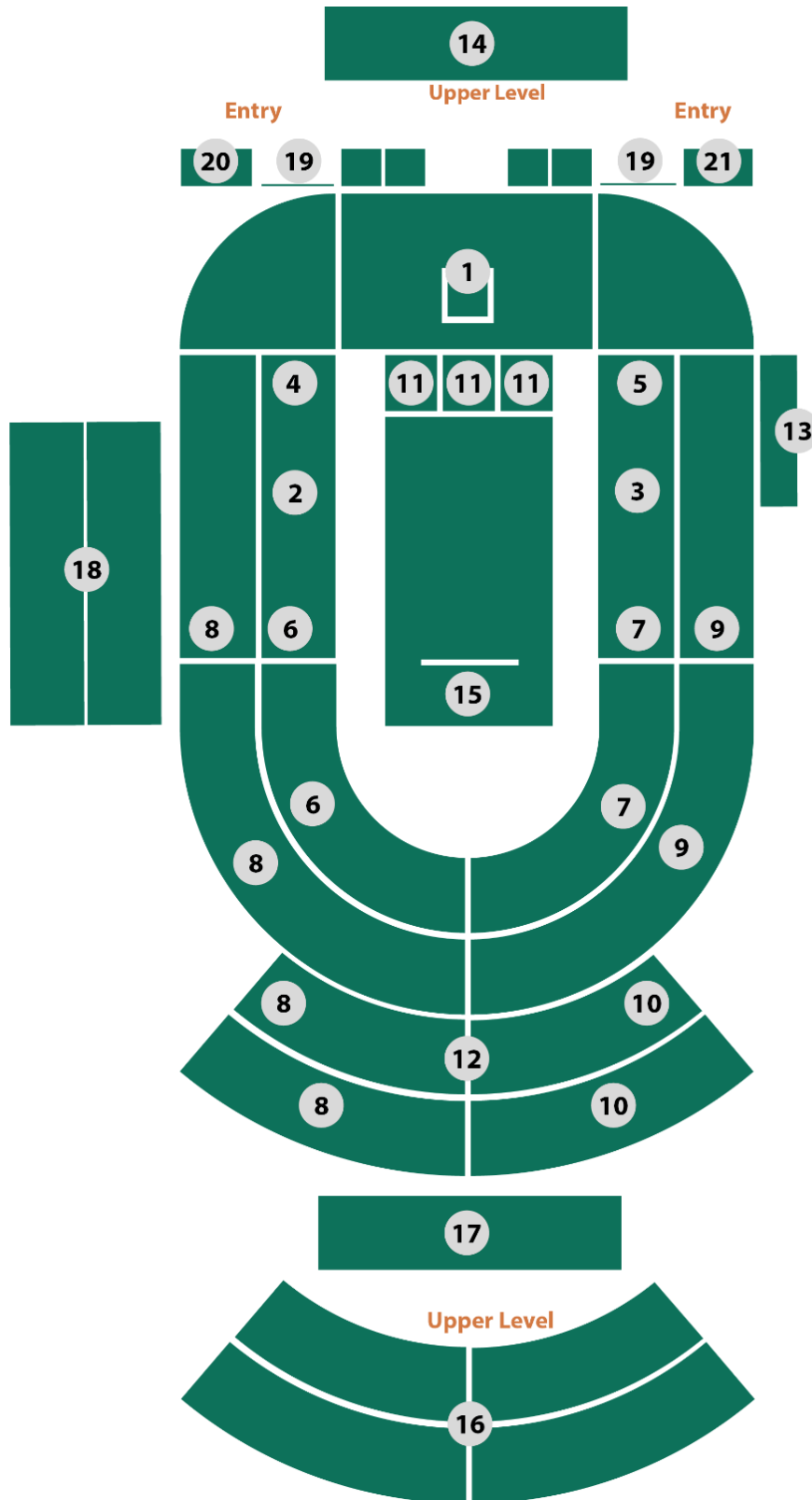
The Standing Orders are the main rules by which the House operates but they can be supplemented by Sessional Orders. Sessional Orders are temporary rules that vary the existing rules or introduce new procedures. Sessional Orders are resolutions of the House and do not require the Governor's approval. However, Sessional Orders are only valid for the session of Parliament for which they have been adopted.

The Standing and Sessional Orders can be accessed on the Parliament's website and hard copies are available from the Legislative Assembly Table Office.



Appendices

Appendix 1. Chamber Floor Plan



Chamber Map Key

- 1 The Speaker
- 2 The Premier
- 3 The Leader of the Opposition
- 4 Leader of the House
- 5 Manager of Opposition Business
- 6 Government Ministers
- 7 Opposition Shadow Ministers
- 8 Government Members (backbenchers)
- 9 Opposition Members (backbenchers)
- 10 Crossbench Members (Independents and minor parties)
- 11 Clerks-at-the-Table
- 12 Deputy Serjeant-at-Arms
- 13 Hansard Reporters Gallery
- 14 Press Gallery
- 15 The Mace
- 16 Cooper Gallery (upper public gallery)
- 17 Speaker's Gallery (lower public gallery)
- 18 Northern Gallery
- 19 Bar of the House (no Strangers past this point)
- 20 Government Advisers Gallery
- 21 Opposition Advisers Gallery

Appendix 2. Sitting Day Schedule (Routine of Business)

TUESDAY		WEDNESDAY		THURSDAY	
		10.00 a.m.	Notices of Motion (General Business) (up to 15 minutes)	10.00 a.m.	Notices of Motions (General Business) (up to 15 minutes)
		10.15 a.m.	Government Business	10.15 a.m.	General Business Notices of Motion for Bills (up to 20 minutes)
		11.00 a.m.	Question Time and Routine of Business	10.35 a.m.	General Business Orders of the Day for Bills (up to 90 mins)
12.00 p.m.	Notices of Motion (General Business) (up to 15 minutes)	Approx. 12.15 p.m.	Government Business	11.00 a.m.	Question Time and Routine of Business
12.15 p.m.	Question Time and Routine of Business	1.00 p.m.	Committee Reports (Take Note Debate) (up to 30 mins)	Approx. 12.15 pm	Resumption of General Business Orders of the Day for Bills
1.30 p.m.	Lunch	1.30 p.m.	Lunch	1.20 p.m. (approx.)	Lunch
2.30 p.m.	Government Business (if completed, Community Recognition Statements for up to 30 minutes, followed by Private Members' Statements if required)	2.30 p.m.	Government Business (if completed, Community Recognition Statements for up to 30 minutes, followed by Private Members' Statements if required)	2.30 p.m.	General Business Notices of Motions or Orders of the Day (not being Bills)
5.00 p.m.	Public Interest Debate	5.00 p.m.	Public Interest Debate	3.40 p.m.	Government Business (if completed, Community Recognition Statements for up to 20 minutes)
Approx. 5.45 p.m.	Government Business (if required)	Approx. 5.45 p.m.	Government Business (if required)	At 4.00 p.m.	Petition Debate
	Community Recognition Statements		Community Recognition Statements		Community Recognition Statements
	Private Members' Statements		Private Members' Statements		Private Members' Statements
	Adjournment at the conclusion of Private Members' Statements		Adjournment at the conclusion of Private Members' Statements		Adjournment at the conclusion of Private Members' Statements