



## LEGISLATIVE ASSEMBLY

# Procedural Digest

## Fifty-eighth Parliament, First Session

No. 1/2025: 11 – 20 February 2025

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

February 2024

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## Chamber

### Joint Sitting to fill a vacancy in the Legislative Council

On Thursday 13 February 2025, members of the Legislative Assembly attended the Legislative Council for a joint sitting, during which Nichole Lorraine Overall was elected to fill the seat vacated by Samuel Faraway following his resignation. The minutes of the proceedings of the joint sitting were tabled in the Legislative Assembly and ordered to be printed by the Deputy Speaker. Ms Overall previously served as the Member for Monaro in the Assembly from February 2022 to March 2023.

#### Procedural note

Section 22D of the *Constitution Act 1902* specifies that casual vacancies in the Legislative Council (vacancies caused by the resignation or death of a sitting Member in between periodic elections) are filled by a person elected at a joint sitting of both Houses convened by the Governor. If the casual vacancy was previously filled by a member of a political party and there are members of that party available, only another member of that party is eligible to be nominated to fill the vacancy.

*Votes and Proceedings*: 13/2/2025, p. 1054-5

*Hansard (Proof)*: 13/2/2025, p. 31

*Legislation*: Section 22D *Constitution Act 1902* (NSW)

## Members

### Resignation of the Member for Port Macquarie

On Tuesday 11 February 2025, the Speaker informed the House that on 31 January 2025 he had received the resignation of the member for Port Macquarie, the Hon. Leslie Williams. Following the announcement, the House, on the motion of the Leader of the House, Mr Ron Hoenig, declared the seat of Port Macquarie vacant.

Later the same day, and in accordance with the practice of the Legislative Assembly, the Speaker advised the House that he had ordered the removal from the Business Paper of three general business notices of motions standing in Mrs Williams' name.



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*Votes and Proceedings:* 11/02/2025, pp. 1020, 1033

*Hansard (Proof):* 11/02/2025, pp. 3, 22

*Legislation:* Electoral Act 2017 ss 75-9, Constitution Act 1902 s 33

### Inaugural Speeches

During the first week of the February sitting period, the recently elected Members for Hornsby, Pittwater and Epping delivered their inaugural speeches. The new Members had been elected at by-elections held on Saturday 19 October 2024 and were sworn in on 12 November 2024.

The Member for Pittwater, Ms Jacqui Scruby and the Member for Hornsby, Mr James Wallace, delivered their inaugural speeches on the 11 February 2025. The Member for Epping, Ms Monica Tudehope, delivered her inaugural speech on the 12 February 2025.

*Votes and Proceedings:* 11/2/2025 p. 1021, 1035 and 12/02/2025, p. 1049

*Hansard (Proof):* 11/02/2025, p. 3, 51 and 12/02/2025, p. 68

Standing Order 63 (Inaugural or valedictory speech)

### Incorporation of material into Hansard

As noted above, Ms Jacqui Scruby gave her inaugural speech on 11 February. During her speech, and pursuant to Standing Order 271, the Speaker granted her leave to incorporate into Hansard a list of names of people she wished to acknowledge.

*Votes and Proceedings:* 11/02/2025, p. 1035

*Hansard (Proof):* 11/02/2025, p. 51

Standing Order 271 (Incorporation of material into Hansard)

### Procedural note

While Standing Order 271 allows a member to seek, and the Speaker to grant, leave to incorporate material into Hansard, the practice of the House is that, as a general rule, words which have not been spoken onto the record should not be incorporated into Hansard. In the past, leave has been granted only where the material could not be readily explained or referred to during a member's speech, would have assisted members in understanding the context of the speech, and was not otherwise publicly available. The material must be able to be easily reproduced by Hansard. Where a document is not readily reproducible, it may be more appropriate to lay the document on the table for the benefit of members. It is advisable for members to seek the advice of the Speaker prior to seeking leave to incorporate material into the Hansard record of their speech.

## Speaker

### Speaker's Statement on Community Recognition Statements

On Tuesday 18 February, a member delivered a community recognition statement which included criticisms of Government policy and a call for it to take action. A point of order was taken that the content of the statement did not meet the requirements of Standing Order 108A(1).



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The following day the Speaker delivered a statement in which he emphasised that community recognition statements should be:

"...uncontroversial and...used for congratulating members of the community on their achievements, drawing attention to local events, recognising the work of community groups or individuals, or offering condolences to people in local communities. They are clearly not to be used to raise a matter of substantive policy or to criticise the Government, the Opposition or any third party."

The Speaker also noted that Members have other opportunities to make critical comments such as during Private Members' Statements or by giving notice of a general business motion.

*Votes and Proceedings*: 19/02/2025, p. 1081

*Hansard (Proof)*: 18/02/2025, pp. 95-96; 19/02/2025 p. 6

Standing Orders 108A (Community Recognition Statements)

### **Speaker's Statement on a Legislative Council order for papers**

Before Question Time on Thursday 20 February 2025, the Speaker made a statement regarding a Legislative Council order for papers relating to Ministerial vehicle logbooks, which included ordering the production of documents relating to current and former Speakers of the Assembly.

During his statement, the Speaker made it clear that he is accountable only to the Legislative Assembly, and not to the Legislative Council. He stated:

*The formal power possessed by either House to order papers gives effect to scrutiny of the Executive and holding it to account. It is a power grounded in the common law principle of reasonable necessity. As your elected Speaker and a servant of this House, like all of my predecessors, I am accountable to the Legislative Assembly and its members for the actions I take in my capacity as Speaker—and only to this House. I fail to see what legitimate purpose the Legislative Council could have to order the production of documents pertaining to me as Speaker.*

In the interest of accountability and transparency, the Speaker further declared that he would provide the requested documents to the Legislative Assembly. He explained that:

*I consider that such records are held by the Premier's Department as an administrative arrangement but that my conduct in office is a matter for which I am accountable to you, the Assembly, and not the other place.*

Later that day, the House resolved to refer the matter to the Standing Committee on Parliamentary Privilege and Ethics for its consideration.

*Votes and proceedings*: 20/02/2025, p. 1094

*Hansard (Proof)*: 20/02/2025, p. 8

*Hansard (Proof) LC*: 19/2/2025, p. 50





### Procedural note

Exclusive Cognisance is a parliamentary principle which has evolved through centuries of parliamentary history and refers to the inherent right of a House of Parliament to have complete autonomy over its own procedures, governance, questions of privilege and contempt and control of its services. Flowing from this is the leading principle that "there shall subsist a perfect equality between the two Houses and total independence in every respect one of the other...neither House can claim, much less exercise, any authority over a Member of the other..."

### Speaker's Ruling – Premier referring question to Minister

During Question Time on Thursday 20 February, the Member for Cootamundra, Ms Steph Cooke, directed a question to the Premier, the Hon. Chris Minns, concerning stakeholder meetings related to the closure of the Cootamundra Hospital Pathology Laboratory. The Premier referred the question to the Minister for Health, the Hon. Ryan Park. The Manager of Opposition Business, Mr Alister Henskens, raised a point of order to which the Speaker ruled that the referral of a question from the Premier to the relevant Minister was not out of order. The question was then answered by the Minister for Health.

At the conclusion of Question Time, the Speaker made a statement regarding his initial ruling during which he referred to the practice of the Commonwealth House of Representatives. Following the Speaker's statement the Leader of the Opposition, the Hon. Mark Speakman sought leave to give notice of a motion of dissent against the Speaker's ruling, outside the usual time set aside for the giving of such notices. Leave was denied. The Manager of Opposition Business then moved a motion to suspend standing and sessional orders to allow the giving of a notice of motion of dissent. This motion was negatived on division with 31 members voting for the suspension, and 51 voting against it.

*Votes and Proceedings:* 20/02/2025, pp. 1095–1096.

*Hansard (Proof):* 20/02/2025, pp. 11–13; 21–24.

Standing Orders 126 (Questions to Ministers) and 95 (Dissent from Speaker's ruling or decision)

### Procedural note

Any ruling or decision of the Speaker may be challenged through a motion of dissent, the procedure for which is set out in Standing Order 95. Members must give notice of such a motion at the time set aside for the giving of notices of motions with precedence, which, under the routine of business set out in Standing Order 97, occurs just before question time. The motion itself must be considered within three sitting days after the day on which the ruling was given. The capacity for any member to move a motion of dissent from a ruling of the Speaker and for the House to consider and vote on that motion is in keeping with the principle that the Speaker is ultimately answerable to the House itself.

When making a ruling, the Speaker, in the absence of standing orders or clear precedents, may often reference practice in other, similar jurisdictions.



### Business

#### The House resumed on the ringing of one long bell

As is discussed in more detail below, the Government's primary legislative agenda during the February sitting period was the passing of three racial hatred bills. By the last day in the period, Thursday 20 February 2025, the bills had passed the Legislative Assembly and were to be considered in the Legislative Council.

For the bills to be assented to, any amendments forwarded for concurrence by the Council would need to be considered and agreed to by the Assembly. To facilitate this happening in February, the House resolved to suspend standing and sessional orders to:

- 1) Permit the consideration of messages from the Legislative Council at any time before, during or after Private Members Statements; and
- 2) Provide the option of the Speaker to leave and then resume the Chair on the ringing of one long bell.

As anticipated, the Legislative Council continued to sit until well after the Legislative Assembly would have normally adjourned. At the conclusion of Private Members Statements, the Temporary Speaker reported the return of the Crimes Legislation Amendment (Racial and Religious Hatred) Bill without amendment, and then pursuant to the earlier resolution, left the chair at 7.17 pm.

The House did not resume until 4.05 am the next morning, at which time one long bell was rung and the Speaker resumed the Chair to report the return of the Crimes Amendment (Places of Worship) Bill 2025 without amendment, and the Crimes Amendment (Inciting Racial Hatred) Bill 2025 with three amendments. Those amendments were considered and agreed to by the House immediately.

While the House adjourned at 4.13 am on the calendar day of Friday 21 February 2025, this is considered to be the one sitting day of Thursday 20 February.

*Votes and Proceedings:* 20/02/2025, pp. 1099; 1101-1103.

*Hansard (Proof):* 20/02/2025, pp. 41; 81-82.

Standing Orders 35 (Bells), 97 (Routine of Business), 222 (Return of bill with proposed amendments), 223 (Consideration of Council amendments), and 365 (Suspension of Standing Orders).

### Committees

#### Health Services Amendment (Splitting of the Hunter New England Health District) Bill referred to Committee

On Thursday 20 February, the House resolved to refer a private member's bill, the Health Services Amendment (Splitting of the Hunter New England Health District) Bill 2025, to the Committee on Community Services for inquiry and report.

The bill, which intends to dissolve the current Hunter New England Local Health District and create two new Local Health Districts, had been introduced earlier that day by the Independent Member for Barwon, Mr Roy Butler.



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The Standing Orders prohibit the debating of a bill before five clear days have passed since its introduction. However, on 18 February the House resolved to suspend Standing Orders to give precedence to the Bill on Thursday 20 February over other private members bills, and to allow the second reading debate to occur on the same day as its introduction. Finally, the resolution restricted the second reading debate to only two members - one for the Government and one for the Opposition, who would each be permitted to speak for up to 20 minutes. The resolution, which was agreed to by the House on the voices, also foreshadowed the moving of a motion to refer the bill to the Committee on Community Services.

On Thursday 20 February, Mr Butler introduced the bill in the time allowed for General Business Notices of Motions for Bills. The bill was then adjourned. As all other bills listed under General Business Notices of Motions for Bills were postponed, the House continued to the next item in General Business Orders of the Day (for Bills), which due to the resolution, resulted in the immediate resumption of the adjourned debate on Mr Butler's bill.

The Minister for Health spoke for the Government. During his contribution he moved, pursuant to Standing Order 198, an amendment to the question 'that the bill be now read a second time' so that it would instead be referred to the Committee on Community Services. Mr Gurmeh Singh, Deputy Leader of the Nationals and Member for Coffs Harbour, then spoke on behalf of the Opposition. Following this, the House agreed on the voices to refer the bill to the Committee on Community Services. Under the Standing Orders, the bill will lapse, if it has not passed through all stages, before 14 August 2025.

*Votes and Proceedings*: 13/2/2025, p. 1052, 18/2/2025, p. 1076 and 20/2/2025, pp. 1093-1094

*Hansard (Proof)*: 18/2/2025, p. 80 and 20/2/2025, pp. 1-7

Standing Orders 97 (Routine of Business), 105 (Precedence and lapsing of General Business), 198 (Amendment – referral to committee) and 365 (Suspension of Standing Orders)

## Bills

### **Passage of the Crimes Legislation Amendment (Racial and Religious Hatred) Bill, Crimes Amendment (Places of Worship) Bill and Crimes Amendment (Inciting Racial Hatred) Bill**

From October 2024, and through the summer recess, Sydney experienced a series of antisemitic attacks against the backdrop of the Israeli-Palestinian conflict in Gaza.

When the Assembly resumed sitting on Tuesday 11 February 2025, the Attorney General gave notice that he would introduce two bills: the *Crimes Legislation Amendment (Racial and Religious Hatred) Bill* and the *Crimes Amendment (Places of Worship) Bill*. He did so later that afternoon. The following Tuesday, the Attorney-General gave notice of a third bill - the *Crimes Amendment (Inciting Racial Hatred) Bill*.

The *Crimes Legislation Amendment (Racial and Religious Hatred) Bill* sought to create a new aggravated offence of knowingly displaying a Nazi symbol on or near a synagogue, Jewish school or the Sydney Jewish Museum; to provide that when a crime is partially or wholly motivated by hatred or prejudice toward a group of people it is an aggravating factor to be taken into account when determining sentencing for the offence; and to provide a new circumstance of aggravation where graffiti is made on a place of worship.

The *Crimes Amendment (Places of Worship) Bill* sought to address conduct in or near places of worship that intimidates individuals or obstructs the practice of faith in NSW.



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The *Crimes Amendment (Inciting Racial Hatred) Bill* sought to create a new offence of intentionally inciting hatred towards an individual or group of people on the grounds of race.

The first two bills were debated on Tuesday 18 February in accordance with the Standing Orders. In consideration in detail, the Opposition proposed several amendments to both bills which included features of two cognate private members' bills (*Crimes Amendment (Display of Nazi and Terrorist Symbols) Bill* and *Summary Offences Amendment (Public Assemblies) Bill*) introduced the previous week.

The Opposition amendments to the *Crimes Legislation Amendment (Racial and Religious Hatred) Bill* were negated on division, and the bill passed the Assembly as introduced and was forwarded to the Legislative Council for concurrence.

Before the House could consider the Opposition amendments to the *Crimes Amendment (Places of Worship) Bill*, the Leader of House raised a point of order that the proposed amendments were not relevant to the subject matter of the bill. Following arguments by the Leader of the House and the Manager of Opposition Business, the Speaker ruled that the amendments were out of order as they did not accord with the requirements of Standing Order 210, stating:

*The scope of the bill is relatively narrow in that it primarily proposes to create a new offence of impeding or harassing a person accessing or leaving a place of worship. It extends police powers to issue directions to people engaging in demonstrations in or near a place of worship. The Opposition amendments are about public assemblies in general and are not specifically related to places of worship. Additionally, the Opposition amendments seek to amend the Summary Offences Act relating to the authorisation of public assemblies, whereas the Government bill does not touch on that issue. Having listened to the arguments... I rule the amendments out of order.*

In addition, amendments to the *Crimes Amendment (Places of Worship) Bill* circulated by the Member for Balmain, Ms Kobi Shetty, and the Member for Sydney, Mr Alex Greenwich were considered and negated. Once again, the bill passed the Assembly as introduced and was forwarded to the Legislative Council for concurrence.

The *Crimes Amendment (Inciting Racial Hatred) Bill* was introduced on Tuesday 18 February, and debated on Wednesday 19 February pursuant to a resolution of the House which suspended Standing Orders to permit the debate to proceed without the usual notice period of five clear days. The bill was read a third time and forwarded to the Legislative Council for concurrence.

As noted above, the bills were eventually passed by the Legislative Council on the evening of Thursday 20 February, and early morning of Friday 21 February. Only the *Crimes Amendment (Inciting Racial Hatred) Bill* was returned with amendments, which were agreed to by the Legislative Assembly forthwith. The Governor assented to all three Acts on 2 March 2025.

*Votes and Proceedings*: 11/02/2025, p. 1021, pp. 1033-4; 13/02/2025, p. 1051; 18/02/2025, pp. 1065-6, pp. 1067-75, p. 1076; 19/02/2025, p. 1085; 20/02/2025, p. 1102.

*Hansard (Proof)*: 11/02/2025, pp. 3-5, pp. 23-6; 18/02/2025, pp. 73-5

Standing Orders 210 (Amendments relevant) and 365 (Suspension of Standing Orders)





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### Procedural note

Standing Order 210 provides that amendments to any part of the bill must be within the long title of the bill or relevant to the subject matter of the bill and be otherwise in conformity with the Standing Orders and practice. If a point of order is raised regarding SO 210, it is for the Speaker to rule whether or not the amendment may proceed. In making such a ruling the Speaker may hear submissions from members and have reference to precedent and practice of the House.

