



PROCEDURAL DIGEST

Legislative Assembly

FIFTY-SEVENTH PARLIAMENT, FIRST SESSION
NO. 2/2022: 22 – 31 MARCH 2022

| March 2022 | | | | |
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| 21 | 22 | 23 | 24 | 25 |
| 28 | 29 | 30 | 31 | |

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.

MEMBERS

Ministerial Announcement – Acting Premier Paul Toole MP

On Tuesday 22 March 2022, the Leader of the House, the Hon Alister Henskens MP, on behalf of the Deputy Premier, informed the House that on 17 March 2022 in accordance with section 36 of the *Constitution Act 1902* (NSW), Her Excellency the Governor authorised the Hon Paul Toole MP to act for and on behalf of the Premier for the period on and from 17 March 2022 to 3 April 2022.

Votes and Proceedings: 22/03/2022, p.1596

Four new Members of the Legislative Assembly

On Tuesday 22 March 2022, four new Members, Dr Michael Holland MP (Member for Bega), Mrs Nicole Overall MP (Member for Monaro), Mr Jason Li MP (Member for Strathfield) and Mr Tim James (Member for Willoughby), took their places in the Legislative Assembly after being elected at by-elections on 12 February.

The four Members were introduced, took the pledge of loyalty or oath of allegiance, signed the Roll of the House and then took their seats.

In accordance with a motion agreed to by the House on 22 March, Mrs Overall and Mr James gave their inaugural speeches on 22 March, Mr Li gave his inaugural speech on 23 March and Dr Holland gave his inaugural speech on 29 March.

Votes and Proceedings: 22/03/2022, pp. 1596-1598, p. 1602; 23/03/2022, p. 1613; 29/03/2022, p.1633.

Hansard (Proof): 22/03/2022, pp. 20-27; 23/03/2022, pp. 44-48; 29/03/2022, pp. 21-24.

Standing Orders: 23(2) (Pledge or oath other than on first sitting day), 24 (Roll of Members) and 63 (Inaugural or valedictory speeches).

Procedural note:

A Member's inaugural speech is the first speech they give in the Legislative Assembly.

SO 63 provides for the House to agree for business to be interrupted at a specified time so that a new Member may give their inaugural speech. Members may speak for up to 20 minutes.

Members are not prevented from participating in parliamentary business, for example, voting, making Private Members' Statements and asking questions, prior to giving an inaugural speech.

Suspension of the Member for Kiama

On Wednesday 23 March 2022, the Acting Premier, the Hon. Paul Toole MP, tabled in the House a memorandum of legal advice received from the Crown Solicitor entitled 'Expulsion or Suspension of a Member of the LA charged with a criminal offence'. Once the papers were tabled, the Acting Premier then gave notice of a motion of Business with Precedence for the suspension of the Member for Kiama under SO 255.

On the 24 March, at the time allocated in the Routine of Business for Business with Precedence, the Acting Premier moved the motion to suspend the Member for Kiama. After a short [debate](#), the motion passed on the voices.

On 31 March, the Leader of the House, the Hon. Alister Henskens MP, moved that the House refer an inquiry to the Standing Committee on Parliamentary Privilege and Ethics into options available to the House regarding the withholding of remuneration and other entitlements of a Member suspended from the service of the House. The House agreed to the motion on the voices. As per the motion, the Committee is to report on the inquiry by 12 May 2022 and a message was sent to the Legislative Council informing that House of the referral.

Procedural note:

SO 255 has been used only once since its adoption by the Legislative Assembly in 1906. The Standing Order in full reads:

255. If the House decides not to proceed on a matter which has been initiated in the House concerning the alleged misconduct of a Member on the grounds that the Member may be prejudiced in a criminal trial then pending on charges founded on the misconduct, the House may suspend the Member from its service until the verdict of the jury has been returned or until it is further ordered.

Votes and Proceedings: 23/03/2022, p.1611; 24/03/2022, p.1621; 31/03/2022, pp. 1674-1675.

Hansard (Proof): 23/03/2022, p 34. 24/03/2022, pp. 38-40.

Standing Orders: 118 (Business with Precedence), 255 (Criminal trial pending)

BUSINESS

New Sessional Order – Suspension of Standing Orders

On Thursday 24 March 2022, the Manager of Opposition Business, Mr Ron Hoenig MP, moved pursuant to notice, as by leave amended, a motion to amend Standing Order 365 (suspension of Standing Orders) for the remainder of the current session. The House agreed to the motion on the voices.

The amendment to SO 365 agreed to by the House permits any Member, at any time after 10.00am and up to 1.15pm, without leave, to move a motion to suspend Standing and Sessional Orders to deal with any matter. Prior to the amendment, Members who were not Ministers needed leave of the House to move a motion to suspend Standing and Sessional Orders.

On Thursday 31 March, Mr Hoenig used the newly amended SO 365 to move that Standing and Sessional Orders be suspended to provide for the consideration of General Business Notice of

Motion No. 3328 (relating to further proposed sessional orders) standing in his name on 10 May 2022. The suspension was agreed on the voices.

Mr Hoenig's motion to be considered on 10 May seeks to amend the arrangements for Question Time in the Legislative Assembly. It would amend SO 129 to require that answers to questions be 'directly relevant', and SO 131 to alter the procedure for Question Time by extending the time allowed for questions to be asked and increasing the number of questions from 10 to 16. It also reduces the time for answers from five minutes to three minutes, retaining the option for the questioner to request that the Speaker grant an extension of two minutes.

Votes and Proceedings: 24/3/2022, p. 1619; 30/3/2022, p. 1670 -1671.

Standing Orders 365 (Suspension of Standing Orders), 101 (Establishing program for General Business Days), 129 (Answer relevant) and 131 (Question Time (oral questions)).

Independent Complaints Officer

On Tuesday 22 March 2022, the House received a message from the Legislative Council advising that it had that day agreed to a resolution establishing an Independent Complaints Officer. The Officer is to receive and investigate complaints regarding alleged breaches of the Members' Code of Conduct relating to:

- misuse of allowances and entitlements
- other less serious misconduct matters falling short of corrupt conduct
- allegations of bullying, harassment and other types of inappropriate behaviour minor breaches of the pecuniary interests disclosure scheme.

On 29 March, at the time allocated in the Routine of Business before Question Time, the Chair of the Legislative Assembly Committee on Parliamentary Privilege and Ethics, Mr Peter Sidgreaves MP, gave a notice of motion of Business with Precedence under SO 118, that the Legislative Assembly consider and adopt a proposed resolution for the establishment of an Independent Complaints Officer, which had been agreed to at a meeting of the Committee held earlier that day.

At this time, Mr Sidgreaves also sought the leave of the House to table a copy of the proposed resolution for the establishment of an Independent Complaints Officer – a lengthy resolution – rather than reading it onto the record. The resolution differed in some respects from the one agreed to by the Legislative Council on 22 March. Leave was granted.

Later that day, the Leader of the House, the Hon Alister Henskens MP moved to suspend Standing and Sessional Orders to provide for the motion regarding the Independent Complaints Officer to be called on forthwith. The suspension was agreed to on the voices. Accordingly, Mr Sidgreaves moved the motion, giving a short speech in support.

Mr Ron Hoenig MP, Manager of Opposition Business, and also a member of the Legislative Assembly Committee on Parliamentary Privilege and Ethics, advised the House that the Opposition concurred with the motion as moved by Mr Sidgreaves. The motion was then agreed to on the voices.

Votes and Proceedings: 22/03/2022, pp. 1602-1608; and 29/03/2022, pp. 1631 and 1633-1639.

Hansard (Proof): 22/03/2022, pp. 40-43; and 29/03/2022, pp. 11 and 24-28.

Standing Orders 96 (Leave), 97 (Routine of Business), 118 (Business with Precedence), 133(1)(d) (Notice given verbally – Business with Precedence) 142 (Moving motions), 339 (Report of messages) and 365 (Suspension of Standing Orders).

Procedural note:

SO 133(1)(d) provides that a notice of motion for Business with Precedence (except motions of condolence and the printing of papers) must be given **verbally** at the time prescribed in the Routine of Business. Therefore, in giving his notice of motion of Business with Precedence under SO 118 regarding consideration and adoption of a proposed resolution for the establishment of an Independent Complaints Officer, Mr Sidgreaves had to seek the leave of the House to table the lengthy resolution, rather than reading it out in full.

SO 97 provides that Business with Precedence is dealt with in the Routine of Business following Question Time. Further, SO 142 provides that a Member may not move a motion unless:

- (1) Pursuant to a notice of motion appearing on the Business Paper; or
- (2) By leave; or
- (3) Pursuant to Standing Orders or Sessional Orders; or
- (4) By resolution of the House.

Therefore, so that Mr Sidgreaves could move the motion regarding the Independent Complaints Officer the same day as he gave notice of it (29 March) – without opportunity for the notice of motion to appear on the Business Paper – the Leader of the House moved to suspend Standing and Sessional Orders.

BILLS

Roads and Crimes Legislation Amendment Bill 2022

On Wednesday 30 March 2022, the Attorney General, the Hon. Mark Speakman MP, gave notice of and introduced the *Roads and Crimes Legislation Amendment Bill 2022*. The bill amends the *Roads Act 1993* and the *Crimes Act 1900* to create offences for certain behaviours that cause damage to major roads or major public facilities.

At the conclusion of his second reading speech the Attorney General moved that, in accordance with SO 189, the bill be considered an urgent bill. The motion was carried on division, with five members voting in the minority.

As the House had agreed that the bill was urgent, the second reading debate proceeded forthwith (rather than waiting the usual five clear days between the giving of the second reading speech and the second reading debate). The House sat late on Wednesday evening to complete the second reading debate and consider the bill in detail. The Opposition and the Greens moved a number of amendments to the bill, however none were agreed to. The bill was read a third time following a minority division and transmitted to the Legislative Council for concurrence at approximately 11.30pm.

The Legislative Council considered the bill on Thursday 31 March. Also on 31 March, the Assembly agreed (via minority division) to a suspension of Standing Orders which would allow it to continue to sit after the conclusion of private members statements to consider any messages from the Legislative Council regarding Government Business, including the option for the Speaker to leave and resume the Chair on the ringing of one long bell.

Pursuant to this suspension, the Temporary Speaker, Mr Dave Layzell MP, left the chair at 7.29 pm on Thursday 31 March and the House resumed again following the ringing of a long bell at 3.30 pm on Friday 1 April to consider the bill which had been returned from the Legislative Council with seven amendments.

The Speaker then ordered that the amendments made by the Legislative Council in the bill be considered forthwith. During debate, the Greens moved an amendment which was not agreed to. Following debate, the Council amendments were agreed to and the bill was sent to the Governor for urgent assent. The Governor assented to the bill on the evening of 1 April 2022.

Further information on the [bill](#) can be found on the Parliament's website.

Votes and Proceedings: 30/03/2022, pp. 1661-7; 31/03/2022, p. 1673, pp. 1675-8.

Standing Orders 188 (Introduction of bills), 189 (Procedure for urgent bills), 203 (Proceedings after the second reading), 218 (Bill passes), 221 (Message to Council), 222 (Return of bill with proposed amendments), 224 (Forms of question on Council amendments) and 239 (Procedure after bills passed).

Procedural note: Urgent Bills

SO 189 provides that, at the conclusion of the giving of a second reading speech, the Member in charge of the bill may declare it to be an urgent bill. The Speaker will put the question 'that the bill be considered an urgent bill' and the question must be decided without debate or amendment. If the House agrees to consider the bill as an urgent bill, the second reading debate and all other stages of the bill may proceed forthwith.

SO 189 has been rarely used in the Assembly. Prior to the *Roads and Crime Amendment Bill*, the House last agreed to a motion to declare a bill urgent in 1995.

Procedural Note: Ringing of the long bell

Rather than adjourning on 31 March, the sitting of the Legislative Assembly was suspended until the "ringing of one long bell" and the Mace remained on the Table overnight. The practice of suspending proceedings to extend over more than one day allows for the business of the House to be resumed without the requirement to observe a new routine of business. One long bell is rung at the time the House is to resume proceedings to call Members to the Chamber. When the House resumed on 1 April it was a continuation of the sitting held the day before on 31 March.

Children and Young Persons (Care and Protection) Amendment (Family is Culture) Bill 2021

On Thursday 31 March 2022, Mr Greg Piper MP gave the second reading speech for the *Children and Young Persons (Care and Protection) Amendment (Family is Culture) Bill 2021*. The bill, introduced in the Legislative Council by Mr David Shoebridge MLC and already passed by the Council, gives effect to a number of recommendations of the 2019 *'Family is Culture – Independent Review of Aboriginal Children and Young People in Out of Home Care (OOHC)'* (the *'Family is Culture Report'*). The bill amends the *Children and Young Persons (Care and Protection) Act 1998* and the *Adoption Act 2000* in relation to out-of-home care for Aboriginal and/or Torres Strait Islander children and young people and the adoption of Aboriginal and/or Torres Strait Islander children.

At the conclusion of his second reading speech, Mr Piper sought leave to table two letters advising the House of the six co-sponsors in the Legislative Assembly for the bill. Co-sponsorship is a symbolic show of support for a bill. A bill co-sponsor has no special status or responsibility in relation to the carriage of the bill through either House. Leave was granted, and the letters were tabled.

Further information on the [bill](#), including the bill's co-sponsors, can be found on the Parliament's webpage. The [letters](#) tabled by Mr Piper may be found in the Tabled Papers and Reports section of the Parliament's website.

Votes and Proceedings: 31/03/2022, p. 1670.

Standing Order 96 (Leave of the House) and 266 (Tabling and printing of papers).