



PROCEDURAL DIGEST

Legislative Assembly

FIFTY-SEVENTH PARLIAMENT, FIRST SESSION
NO. 9/2020: 10 – 19 NOVEMBER 2020

November 2020				
M	T	W	T	F
9	10	11	12	13
16	17	18	19	20

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.

CHAMBER

Remembrance Day 2020

On Tuesday 10 November the House agreed to suspend Standing and Sessional Orders to provide for proceedings to commence at 1.00 pm on Remembrance Day, 11 November. The later than usual starting time allowed for Members to mark Remembrance Day either in their own electorates or in the city.

Votes and Proceedings: 10/11/2020, p. 905.

Standing Orders 97 and 365.

Members seated in the galleries

Members and staff continued to observe social distancing measures that were put in place earlier in the year in response to the COVID-19 pandemic. In order for the largest possible number of Members to participate in the final sitting period of 2020, Members were seated in the Chamber, the Speaker's Gallery, and additionally the Cooper and Northern Galleries. The Speaker advised the House that Members would not be able to speak from the upper galleries, but that they could seek the call and then proceed to the Chamber to speak.

Hansard (Proof): 10/11/2020, p. 1.

Standing Order 55.

BILLS

2020-21 Budget bills

The NSW Budget for the 2020-21 financial year was considered by the House during the 17-19 November sitting week.

To facilitate the Treasurer's Budget speech on 17 November and the Leader of the Opposition's speech in reply on 19 November, the normal Routine of Business was altered by a suspension of Standing and Sessional Orders, agreed to by the House on 12 November.

On Tuesday 17 November the Treasurer, the Hon. Dominic Perrottet MP, introduced the Appropriation Bill 2020, together with the cognate Appropriation (Parliament) Bill 2020 and the Payroll Tax Amendment Bill 2020 (the Budget bills).

The Treasurer moved that the bills be read a second time and gave his second reading speech (the Budget speech). At the conclusion of the Treasurer's speech debate was adjourned and the Budget papers for 2020-21 were tabled.

On Thursday 19 November the Leader of the Opposition, Ms Jodi McKay MP, gave her speech in reply, after which the Budget bills were passed by the House and forwarded to the Council for concurrence. The Treasurer then moved that the House take note of the Budget Estimates and related papers for 2020-21 and debate on the motion was adjourned until a later time.

Eight days later, on Friday 27 November the Speaker, after resuming the Chair on the ringing of one long bell, reported messages from the Legislative Council returning the Appropriation Bill and the Payroll Tax Amendment Bill without amendment and the Appropriation (Parliament) Bill with three amendments. The amendments sought to provide an additional appropriation to the ICAC and new funding arrangements for the Council.

The Treasurer moved that the Legislative Council amendments to the Appropriation (Parliament) Bill be disagreed to and that, pursuant to section 5A of the *Constitution Act 1902*, the Bill be presented to the Governor for assent without the amendments being made. During debate, the Treasurer tabled an [opinion dated 7 March 1992](#) from the then Solicitor-General, Keith Mason, QC, and an [opinion dated 20 November 2020](#) from Solicitor-General Michael Sexton, SC on the applicability of section 5A to a bill appropriating a sum for the services of the Legislature.

Debate ensued and the motion was agreed to on division. The Assembly agreed to a motion that a message be sent advising the Council that its amendments had been disagreed to and that the Bill, together with the Appropriation Bill and Payroll Tax Bill, would be sent to the Governor for assent. The Budget bills were assented to by the Governor on 27 November 2020.

The full details of the 2020-21 Budget bills, along with information on their passage through both Houses, can be found [here](#) on the Parliament of NSW website.

Votes and Proceedings: 12/11/2020, pp. 930-1; 17/11/2020, pp. 949-50; 19/11/2020, pp. 1019-20, pp. 1029-30 and pp. 1032-3.

Standing Orders 97, 188, 193, 203, 222, 224, 239, 264 and 365.
Section 5A, *Constitution Act 1902*.

(Procedural note:

Change of date for delivery of the Budget due to COVID-19

Each year the Treasurer moves cognate annual appropriation bills to appropriate money from the Consolidated Fund for Government expenditure over the next financial year. The bills, known collectively as the Budget bills, are usually introduced and considered in June in readiness for the start of the financial year on 1 July.

However, this year the Treasurer [announced in March](#) that delivery of the 2020-21 NSW Budget would be deferred until late 2020, owing to the impact of the COVID-19 pandemic.

In May, the *COVID-19 Legislation Amendment (Emergency Measures—Treasurer) Act 2020* was passed by both Houses. This Act allowed for: the deferral of the Budget until later in the year, extended the time for the Treasurer to authorise payments from the Consolidated Fund on the

lapsing of appropriations made by the 2019-20 Budget and, with the Governor's approval, authorisation of payments for emergencies resulting from COVID-19.

Amendments to appropriation bills

The Legislative Assembly has special powers in relation to money bills, which are those bills that impose taxation or appropriate money from the Consolidated Fund for Government spending. The most significant money bills are the annual budget (appropriation) bills.

Section 5 of the *Constitution Act* provides that all money bills must originate in the Legislative Assembly. Section 5A further provides that, while the Legislative Council may suggest amendments to a bill appropriating revenue or moneys for the ordinary annual services of the Government, if the Assembly does not agree to those amendments it may send the bill to the Governor for assent, notwithstanding that the Council has not agreed to the bill in the same form.

In this case the Assembly did not agree with the amendments made by the Council to the Appropriation (Parliament) Bill and considered the bill fell within the provisions of section 5A of the *Constitution Act*. Consequently, the Assembly sent the bill to the Governor for assent without the amendments being made and without the concurrence of the Council.

There has only been one other occasion where the Legislative Assembly sent an appropriation bill to the Governor for assent under section 5A. In that case, in 1996, it was also a Parliament Appropriation Bill to which the Council had suggested amendments to which the Assembly did not agree.

Electricity Infrastructure Investment Bill 2020

The Minister for Energy and the Environment, the Hon. Matt Kean MP, introduced the Electricity Infrastructure Investment Bill on Tuesday 10 November. The bill provides for new methods of generating, transmitting and storing electricity in NSW, including by establishing renewable energy zones and investing in new storage infrastructure.

The bill passed the Assembly, with amendment, on 17 November and was sent to the Legislative Council for concurrence. The Council considered more than 250 proposed amendments to the bill over more than thirty hours, ultimately agreeing to only two of them. The amendments related to promoting consultation and negotiation for traditional owners of land on which electricity infrastructure might be constructed, and also increased employment and income opportunities for Aboriginal and Torres Strait Islander people in NSW. The amended bill was returned to the Assembly for concurrence on Thursday 19 November, with the Assembly agreeing to both amendments on the voices.

Further information on the bill can be found [here](#) on the Parliament of NSW website.

Votes and Proceedings: 10/11/2020, p. 913; 17/11/2020, p. 950, pp. 983-92; 19/11/2020, pp. 1030-2 and pp. 1033-4.

Standing Orders 188, 203, 222 and 224.

BUSINESS

Message from Legislative Council regarding referral of the Premier to the Independent Commission Against Corruption

On Thursday 12 November the Leader of the House, the Hon. Mark Speakman MP, moved that, upon receipt of a message from the Legislative Council regarding a proposed referral to the Independent Commission Against Corruption (ICAC), Standing and Sessional Orders be suspended to:

- permit consideration forthwith of the message and a resolution to disagree with the Council's proposal for a reference to the ICAC; and
- provide for up to six speakers to speak to the motion.

Debate ensued and the motion was agreed to on division.

Later that day the Deputy Speaker, the Hon. Leslie Williams MP, reported the Legislative Council message proposing the ICAC referral. The referral related to a current investigation of the ICAC into activities of a former member of the Legislative Assembly. The message informed the Assembly that:

- the Council had agreed to a resolution referring the Premier to the ICAC;
- the Council requested that the Assembly pass a similar resolution; and
- in the event that the Assembly did not pass a similar resolution, the Clerk of the Legislative Council would communicate the Council's resolution to the ICAC.

The Deputy Speaker ordered that the message be considered immediately, after which Mr Alister Henskens MP, moved that the Legislative Assembly disagree to the proposed reference and that a message be sent to the Legislative Council informing it of the resolution.

Debate ensued and the motion was agreed to on division.

Votes and Proceedings: 12/11/2020, pp. 935-7 and pp. 937-47.

Standing Orders 85, 340 and 365.

(Procedural note: Standing Order 340 provides that messages from the Legislative Council may be considered 'forthwith', 'at a later hour', 'tomorrow', or 'on a future day'. On this occasion the House agreed to suspend Standing and Sessional orders for the message from the Council to be considered forthwith, and for limits on the number of speakers and the maximum time allowed to speak on the motion to disagree to the Council's proposal.)

Message from the Legislative Council regarding referral of Transport for NSW to the Independent Commission Against Corruption

On Wednesday 18 November the Deputy Speaker, the Hon. Leslie Williams MP, reported another message from the Legislative Council regarding the referral of Transport for NSW to ICAC. The referral related to the purchase of land by Transport for NSW as part of the construction of the Parramatta Light Rail. Similar to the earlier message from the Council regarding the referral of the Premier to the ICAC, the message informed the Assembly that:

- the Council had agreed to a resolution referring Transport for NSW to the ICAC;
- the Council requested that the Assembly pass a similar resolution; and
- in the event that the Assembly did not pass a similar resolution, the Clerk of the Legislative Council would communicate the Council's resolution to the ICAC.

The Deputy Speaker ordered that the message be taken into consideration at a later hour. Later that day the Leader of the House, the Hon. Mark Speakman MP, moved that Standing and Sessional Orders be suspended to:

- permit consideration of the message from the Council and a resolution to disagree with the Council's proposal to refer Transport for NSW to the ICAC
- provide for up to six speakers to speak to the motion.

The motion was agreed to on the voices. Immediately afterwards the Minister for Transport, Mr Andrew Constance MP, moved that the Legislative Assembly disagree to the proposed reference and that a message be sent to the Legislative Council informing it of the resolution.

Debate ensued and the motion was agreed to on division.

Votes and Proceedings: 18/11/2020, pp. 1004-6 and pp. 1008-9.

Standing Order 340.

Question Time

For the final sitting period of the year Question Time returned to its usual format of the answering of ten questions per day, with five questions being allocated to Government Members, four to Opposition Members and one to a Cross-bench Member.

Standing Order 131.

Facebook livestreaming

On Tuesday 17 November the Leader of the House, the Hon. Mark Speakman MP, moved, by leave, that the House authorise the live streaming of the Treasurer's Budget speech and the Leader of the Opposition's speech in response to the Budget bills.

Votes and Proceedings: 17/11/2020, p. 949.

Standing Orders 96 and 368.

(Procedural note: This is the third occasion this year on which the House has agreed to have its proceedings streamed live on Facebook. When Members speak in Parliament, they have freedom to speak, under parliamentary privilege, without fear of prosecution or being sued for defamation. Live video broadcasts of Legislative Assembly proceedings have been made available via the Parliament's website since 2002 and parliamentary privilege extends to the broadcast of proceedings.)

Days of meeting for 2021

On Thursday 12 November the Leader of the House, the Hon. Mark Speakman MP, moved a motion to provide that the House meets on the following dates in 2021:

Autumn Sittings: February 9, 10, 11, 16, 17, 18; March 16, 17, 18, 23, 24, 25; May 4, 5, 6, 11, 12, 13; June 8, 9, 10, 22, 23, 24.

Spring Sittings: August 3, 4, 5, 10, 11, 12; September 7, 8, 9, 14, 15, 16; October 12, 13, 14, 19, 20, 21; November 9, 10, 11, 16, 17, 18 and November 23, 24, 25 as a potential reserve week.

Debate ensued and the Manager of Opposition Business, Mr Ryan Park MP, moved that the motion be amended by adding an additional sitting week at the beginning of June (June 1, 2 and 3). The amendment was negated on division and the House agreed to the original motion on the voices.

Votes and Proceedings: 12/11/2020, p. 934.

Standing Order 34.

First electronic petition debate

On Thursday 19 November the first debate on an electronic petition (ePetition) signed by 20,000 or more persons was conducted in the Legislative Assembly. The topic of the ePetition and the debate was the ongoing survival of the live music industry in NSW.

Votes and proceedings: 19/11/2020, p. 1028.

Standing Order 125A.

(Procedural note: As we reported in [Digest no 8](#), the Legislative Assembly introduced ePetitions in August of this year. In the same way that paper-based petitions with 10,000 or more signatures are debated in the House, ePetitions with 20,000 or more signatures also trigger a debate in the House, with the question being 'that the House take note of the petition'.

Up to six Members are able to speak in the debate including a Minister or Parliamentary Secretary responding on behalf of the Government.)

Long bell and special adjournment

During the last scheduled sitting week it became apparent that the Legislative Council would not return some important government bills before the Assembly concluded its routine of business on Thursday 19 November.

The Leader of the House, Mr Mark Speakman MP, moved, by leave, that Standing and Sessional Orders be suspended to permit the House to continue to sit after the conclusion of the giving of Community Recognition Statements, to enable the House to consider any messages from the Legislative Council regarding Government Business. The Government anticipated the need for the Speaker to leave and then resume the Chair on the ringing of a long bell, and this option was noted in the suspension motion.

Later that day the Government Whip, Mr Adam Crouch MP, moved that, upon rising, the Legislative Assembly adjourn until Tuesday 9 February 2021 at 12 noon.

The Temporary Speaker, Mr Gurmesh Singh MP, subsequently left the Chair at 8.34 pm and the House resumed again on the ringing of a long bell on Friday 27 November at 2.00 pm to consider the Budget Bills and the Electricity Infrastructure Investment Bill, all of which had been returned from the Legislative Council. At 4.34 pm the House rose for the year and will meet again on Tuesday 9 February 2021.

Votes and Proceedings: 19/11/2020, p. 1026 and p. 1028.

Standing Orders 34 and 365.

(Procedural note: Suspending proceedings to extend a sitting over more than one business day allows the House to be resumed without the requirement to observe a new routine of business, and it gives the House more flexibility to consider pressing business before it.

While the House broke on Thursday 19 November and resumed eight days later on Friday 27 November, the meeting on 27 November was, procedurally, a continuation of the 19 November

sitting day. The 27 November proceedings were therefore recorded in Hansard and the Votes & Proceedings as part of the 19 November records.)

Christmas felicitations

On Thursday 19 November, in accordance with a suspension of Standing and Sessional Orders on 18 November, the Premier, the Leader of the Opposition and other Members spoke on a motion that the House take note of Christmas felicitations.

Votes and Proceedings: 18/11/2020, p. 998, 19/11/2020, p. 1027 and 1028.
Standing Order 365.

COMMITTEES

Committee on Investment, Industry and Regional Development

On Wednesday 18 November the Chair of the Committee on Investment, Industry and Regional Development, Mr Justin Clancy MP, informed the House that the Committee had resolved to conduct an inquiry into the Inland Rail Project and regional NSW. The Committee will examine potential economic development opportunities for regional NSW arising from the Project and the way it aligns with the NSW Freight and Ports Plan 2018-2023 and State Infrastructure Strategy 2018-2038.

Further information on the inquiry can be found on the Committee's [web page](#).

Votes and Proceedings: 18/11/2020, p. 997.
Standing Order 299.

Committee on Parliamentary Privilege and Ethics

The Committee on Parliamentary Privilege and Ethics received two referrals in the last sitting period of the year:

- 1) On Thursday 12 November the Leader of the House, the Hon. Mark Speakman MP, moved that the Committee review a proposed resolution for the establishment of a Parliamentary Compliance Officer.

The Parliamentary Compliance Officer would deal with low level, minor misconduct matters and monitor the operation of the Code of Conduct for Members, the pecuniary interest disclosures regime, the Members' entitlements system, and provide advice about reform to the Committee on Parliamentary Privilege and Ethics.

- 2) On Thursday 19 November the Leader of the House moved that the Committee conduct an inquiry into the adequacy of current procedures to protect parliamentary privilege in circumstances where law enforcement and investigative bodies seek to use coercive, intrusive and covert investigatory powers.

The Committee will initially focus on the Memorandum Of Understanding on search warrants between the ICAC and the Parliament, and existing protocols observed in relation to the production of information under [s22. of the ICAC Act](#).

In both cases the referral motions were passed on the voices.

Votes and Proceedings: 12/11/2020, pp. 931-4; 19/11/2020, pp. 1026-7.

(Procedural note: The Committee on Parliamentary Privilege and Ethics was established in 2003. The Committee considers and reports on any matters relating to privilege which are referred to it by resolution of the House. It also has responsibilities under the *ICAC Act* to review the Code of Conduct for Members, carry out education and give advice in relation to ethical standards.)