



## LEGISLATIVE ASSEMBLY

# Procedural Digest

## Fifty-eighth Parliament, First Session

No. 3/2024: 7 – 16 May 2024

*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.*

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## Members

### Resignation of the Member for Northern Tablelands

On Tuesday 14 May 2024 the Speaker, Mr Greg Piper, informed the House that on 13 May he received the resignation of the member for Northern Tablelands, Mr Adam Marshall. Following the announcement by the Speaker, the House, on the motion of the Leader of the House, Mr Ron Hoenig, declared the seat of Northern Tablelands vacant. The Speaker then informed the House that he had issued a medial release advising of his intention to issue a writ for a by-election to be held on 22 June 2024.

This is the first instance where the current Speaker has had cause to issue a writ for a by-election. The writ, addressed to the Acting NSW Electoral Commissioner, is to be returned to the Speaker within 60 days, once the outcome of the by-election is determined and the results are declared. While the latest date for the return of the writ is set at 30 July 2024, it is expected that the writ will be returned on or about 12 July 2024. The writ contains the following details:

Date of Writ: 31 May 2024

Date of Nomination: 6 June 2024

Polling Day: 22 June 2024

Return of Writ: 30 July 2024

On the afternoon of 14 May, the Speaker advised the House that, following the resignation of Mr Marshall, he had ordered the removal from the Business Paper of two notices of motion for bills and three general notices of motion standing in Mr Marshall's name.

Mr Marshall is the first member of the Legislative Assembly to resign in the 58th Parliament. Mr Marshall delivered his Valedictory Speech in the House, on 8 May 2024, five days prior to his resignation.

*Votes and Proceedings:* 14/05/2024, p. 607, p. 610

Standing Order 63 (inaugural or valedictory speech)

Legislation ss75-9, *Electoral Act 2017*, s33 *Constitution Act 1902*.



### Procedural note

Section 33 of the *Constitution Act 1902* prescribes that any member of the Legislative Assembly may resign their seat by providing a written resignation letter to the Speaker. Once received by the Speaker, the resignation is effective immediately and a member may not nominate a time or date on which the resignation is to take effect.

On this occasion the seat was declared vacant by resolution of the House and the Speaker subsequently issued a writ for a by-election to fill the vacancy, in accordance with section 76 of the *Electoral Act 2017*. If Mr Marshall had resigned during a period where the House was adjourned for more than seven days, s76 provides that the Speaker *may* issue a writ for a by-election without a resolution of the Assembly. Essentially, if the Speaker has not yet issued a writ at the time they advise the House of the resignation of the member, then the House will pass a resolution to declare the seat vacant.

It is practice of the House that any Notices of Motion under the resigned member's name are removed from the Business Paper by the Speaker. However, any orders of the day standing in the name of the member remain on the Business Paper, as once a motion has been moved it is then in possession of the House.

## Business

### Routine of Business — Friday Sitzings

On Thursday 16 May 2024, the Leader of the House, Mr Ron Hoenig moved that standing and session orders be suspended to permit the moving a motion without notice to amend the previous resolution of the House setting out the sitting days for 2024 and to establish a routine of business for sitting Fridays. The motion was agreed to on the voices and without debate.

Mr Hoenig then moved that the previous resolution of the House of 19 October 2023, setting out the sitting days for 2024, be amended to include six additional days, all of which were Fridays, and confirming the House would sit during the reserve week. The motion also included a proposed Routine of Business for the additional sitting Fridays.

During the debate both the Member for Wairoonga, Mr Alister Henskens and the Member for Newtown, Ms Jenny Leong moved amendments to the proposed routine of business. Following further, and at times hectic debate, the Member for Canterbury, Ms Sophie Cotsis moved that the question be now put, on which the House divided 48 to 35.

The questions on the amendments were then put. The amendment of Ms Leong which proposed that the routine of business for sitting Fridays be determined following consultation with all members was defeated 39 to 44 on division. The amendment of Mr Henskens which proposed the routine include a Question Time and 40 minutes for consideration of General Business Orders of the Day for bill was defeated 33 to 49 on division. Following these divisions, the original motion passed on the voices.

Ultimately, the House agreed there will be six Friday sittings in 2024, with the new Routine of Business including time for General Business Notices of Motion for Bills, Committee reports—take note debates, petition debates as well as Government Business, Community Recognition Statements and Private Member's Debate. The House will adjourn at the end of Private Member's Business or at 4pm, whichever comes first.



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Mr Hoenig stated in his contribution to the motion that the reason to introduce additional dates was to prevent "...the House having to sit until the early hours of the morning waiting for the Legislative Council to conclude its review functions" and that this was a "... request of crossbench members, who wanted far more time for private members' business."

See the updated Sitting Day Calendar for 2024 [here](#).

*Votes and Proceedings*: 16/5/2024, p. 630 - 633

*Hansard (Proof)*: 16/5/2024, p. 21 - 30

Standing Orders 86 (Motion "that the question be put"), 97 (Routine of Business)

### Bills

#### Three private members bills introduced on the one day

The Routine of Business provides that on Thursdays up to twenty minutes is set aside for the introduction of private members bills and up to two and a half hours is set aside for debate on private members bills.

On Tuesday 7 May the Manager of Opposition Business and Member for Wahroonga, Mr Alister Henskens, gave notice that he would introduce the *Bail Amendment (Serious Personal Violence and Electronic Monitoring) Bill*. Later that day Mr Henskens moved that Standing and Sessional Orders be suspended to permit the introduction and second reading speech for his bill to take place that day and for the second reading debate to resume the following Tuesday, 7 May. This was outside the usual time allocated for private members bills. The motion was negated on division, with 40 in favour and 48 opposed to the motion.

However, on the following day, Wednesday 9 May, the Member for Sydney, Mr Alex Greenwich, moved that Standing and Sessional Orders be suspended on Thursday 9 May to allow the Member for Murray, Mrs Helen Dalton, to complete her second reading speech for the *ICAC and other Independent Commissions Legislation Amendment (Independent Funding) Bill*; the Member for Barwon, Mr Roy Butler, to introduce and complete his second reading speech for the *Electricity Infrastructure Investment Amendment (Renewable Energy Sector Plan) Bill*; and Mr Henskens to introduce and complete his second reading speech for the *Bail Amendment (Serious Personal Violence and Electronic Monitoring) Bill*. The motion was agreed to on the voices.

The effect of Mr Greenwich's suspension was that the usual twenty minutes set aside for introduction of private members bills was extended to allow for Mrs Dalton to complete her second reading speech, begun a week earlier, and for the introduction and second reading speeches to be given on two further private members bills.

*Votes and Proceedings*: 7/5/2024, p.586, 8/5/2024, p. 593

Standing Orders 97 (Routine of Business) and 365 (Suspension of Standing Orders)

#### Attempt to suspend standing orders to provide for a bill in the carriage of another Member to proceed through all stages

The standard procedure for the passage of a bill originating in the Assembly is for debate on the bill to be adjourned for at least five days after the member with carriage of the bill gives his or her second reading speech. This period of adjournment allows members time to fully consider the provisions of the bill, to consult with public stakeholders, to determine their support or opposition to the bill and to have drafted any proposed amendments to the bill.



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However, the Standing Orders also recognise that there will be occasions when it is necessary for a bill to progress and ultimately become law as soon as possible. Standing Order 189 provides for the member in charge of a bill, immediately after making their second reading speech, to declare a bill urgent. If the House agrees to consider the bill urgent, all remaining stages of the bill may proceed immediately without any period of adjournment.

It has become recent practice for the Government of the day, rather than make use of SO 189, to suspend Standing Orders to provide for a bill to proceed through all stages. Such suspensions are generally moved prior to the introduction of the bill and thus (if agreed to by the House) provide some earlier notice of the fact that the second reading debate will commence directly after the mover's speech.

Wednesday 15 May 2024 saw the unusual, if not unprecedented, situation where one member sought to suspend Standing Orders in order to have a bill in the carriage of another member take precedence of all other items of business and to proceed through all remaining stages at that sitting.

Just before Question Time, the Attorney General gave notice of a motion to introduce the *Bail and Other Legislation Amendment (Domestic Violence) Bill*. After Question Time, the Leader of Opposition Business, Mr Alister Henskens, moved the suspension which, if it had been agreed to, would have seen the Assembly pass the bill that day and forward it to the Legislative Council with a message requesting the Council conclude its proceedings on the bill that week.

Debate on the motion was impassioned with the Member for Newtown, Ms Jenny Leong, and the Member for Sydney, Mr Alex Greenwich, both being granted leave to address the House. The motion was defeated on division with 37 in favour and 47 opposed. Immediately after the division, the Attorney General introduced the bill in question and gave his second reading speech, after which debate on the bill was adjourned for the standard period.

*Votes and Proceedings*: 15/5/2024, p. 616, pp. 618-20  
Standing Order 189 (Procedure for urgent bills)

### **A bill when introduced must correspond to the notice of motion for its introduction**

On Tuesday 19 March 2024, the Member for Barwon, Mr Roy Butler, gave notice of motion for the introduction of the *Electricity Infrastructure Investment Amendment (Tender Moratorium) Bill*. In accordance with Standing Order 188(2), Mr Butler simply read out the short title of the bill. The notice of motion that subsequently appeared in the Business Paper read:

That a bill be introduced for an Act to amend the *Electricity Infrastructure Investment Act 2020* to prohibit the conduct of a competitive tender for and LTES agreement until the completion of a parliament inquiry into the operation of that Act, including in relation to local content requirements, site selection, impacts on agriculture and business and the adequacy of regional community consultation; and for related purposes.

On Thursday 16 May, Mr Butler gave a new notice of motion for the introduction of the *Electricity Infrastructure Investment Amendment (Tender Moratorium) Bill*. Later that same day, after Question Time and in the place in the Routine of Business where the Speaker asks if any member wishes to dispose of any business standing in their name, Mr Butler, in accordance with Standing Order 141 (1) withdrew his 19 March notice of motion, which was number six of the nine general business notices of motions (for bills) listed on the Business Paper.



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The new notice of motion given earlier by Mr Butler was placed at the end of the list of general business notices of motions (for bills). Mr Butler gave the new notice of motion to ensure that when he did introduce his bill, that the introduction complied with Standing Order 188 (5) which provides "That the bill as introduced shall correspond with the notice of motion."

The new notice of motion given by Mr Butler as it appears in the Business Paper is almost identical to that of 19 March 2024, however the new notice omits the words "local content requirements" from the long title of the bill.

*Votes and Proceedings*: 19/3/2024, p. 545; 16/5/2024, p. 628  
Standing Order 188 (Introduction of bills)

### Procedural note

It is not uncommon for members to give notice of motion for the introduction of a bill even though they are still in negotiation with the Office of Parliamentary Counsel regarding finalising the content of the bill. Of course, when members plan to introduce a bill they must ensure they have a finalised tabling copy as prepared by PCO. If during negotiations with PCO the content of the bill changes to such an extent that warrants a change to the long title of the bill, then a new notice of motion for the bill will be required. Alternatively, as did occur recently on 23 November 2023, a member could seek the leave of the House to amend the motion before moving the introduction of the bill. In taking such action a member would need to take into consideration that it takes only one dissenting voice to deny leave.

### Question on second reading of a bill amended to refer the bill to a Committee for inquiry and report

On 16 May 2024 debate resumed on the second reading of the *Residential Tenancies Amendment (Prohibiting No Grounds Evictions) Bill*, which had been introduced by the Member for Newtown, Ms Jenny Leong, on 8 February 2024. This was the last sitting day on which the bill could be considered by the House as it was due to lapse, in accordance with the standing orders, on 31 May 2024.

During debate the Leader of the House moved that the motion be amended to have the bill referred to a Select Committee for inquiry and report. The amendment included a number of details pertaining to the operation of the committee and the scope of its inquiry, including that the Chair of the committee be Ms Leong and that the committee report to the House by 20 September 2024.

Following further debate, the Leader of the House then moved that standing and sessional orders be suspended to have the question, and the amendment to the question, put forthwith and that the resumption of the debate on the second reading of the bill be restored to the Business Paper on the tabling of the select committee's report and that the lapsing date of the bill be extended until 25 October 2024. The suspension and the subsequent amendment to the question on the second reading were put and passed on the voices.

*Votes and Proceedings*: 16/5/2024, pp.634-5  
Standing Order 198 (Referral to Committee)