



Legislative Council

**Sessional and Temporary order variations to the  
standing orders**

First Session of the Fifty-Seventh Parliament

Current as at 18 March 2021



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**STANDING RULES AND ORDERS  
AS AMENDED BY SESSIONAL ORDER**

**CHAPTER 1 – REPEAL AND OPERATION OF STANDING ORDERS**

**1. Repeal of previous rules and orders**

All existing standing rules and orders of the House are repealed.

**2. Where cases not provided for**

In any case not provided for in these standing orders, any matter may be decided by the President or Chair of Committees as they think fit. In making any ruling the President or Chair may base their decision on the customs, usages, practices and precedents of the House and parliamentary tradition.

**3. Practice notes**

- (1) The President may issue practice notes on the procedure and practice to be followed under any standing order.
- (2) A practice note may be disallowed, in whole or in part, by motion on notice.
- (3) A motion for disallowance will have precedence as business of the House.

**4. Rights of House not restricted**

Nothing in these standing orders affects the rights, privileges and powers of the House.

## **CHAPTER 2 – OPENING OF PARLIAMENT**

### **5. Proceedings on opening of Parliament by Governor**

- (1) On the first day of the meeting of a session of Parliament to be opened by the Governor, where there is a President:
  - (a) the President will take the Chair at the time stated in the proclamation and read the prayers,
  - (b) the Clerk will read the proclamation calling Parliament together, and
  - (c) the Governor will be introduced to the chamber by the Usher of the Black Rod.
- (2) On the first day of the meeting of a session of Parliament to be opened by the Governor, where there is no President:
  - (a) at the time specified in the proclamation the Clerk will read the proclamation calling Parliament together,
  - (b) the Governor will be introduced to the chamber by the Usher of the Black Rod.

### **6. Proceedings on opening of Parliament by commission**

- On the first day of the meeting of a session of Parliament to be opened by commissioners:
- (a) the Clerk will read the proclamation calling Parliament together,
  - (b) the Clerk will announce the commissioners appointed to open the Parliament,
  - (c) a commissioner will direct the Usher of the Black Rod to request the attendance of the members of the Legislative Assembly to hear the commissioners' message,
  - (d) members of the Assembly will sit in the Council chamber,
  - (e) a commissioner will then inform the members of both Houses of the purpose of the meeting,
  - (f) the Clerk will read the commission appointing the commissioners to open Parliament,
  - (g) a commissioner will read the commissioners' message, and the members of the Assembly will withdraw,
  - (h) the Clerk will announce the names of the members elected at the periodic election,
  - (i) the Clerk will also announce the names of commissioners for swearing members, and read the commission,
  - (j) new members will take and sign the oath or affirmation of allegiance required by law and sign the roll of the House, and
  - (k) the House will then proceed to elect a President.

### **7. Governor's speech**

- (1) When the Governor attends the chamber, the Usher of the Black Rod will announce and conduct the Governor to the dais.
- (2) The Governor will direct the Usher of the Black Rod to command the immediate attendance of the Assembly in the Council chamber.
- (3) When the members of the Assembly have come with their Speaker into the Council chamber the Governor will address both Houses of the Parliament.

- (4) The President and the Speaker will each receive a copy of the Governor's speech and the Governor will withdraw from the Council chamber.

**8. Address-in-reply**

- (1) The President will report to the House the speech of the Governor.
- (2) A motion for an address-in-reply to the speech may be made forthwith or on a future day, and must be seconded.
- (3) Consideration of the Governor's speech will be dealt with as government business.
- (4) When the address has been agreed to, a motion will be made that it be presented to the Governor by the President and members.
- (5) The President will report to the House the presentation of the address and the reply of the Governor.

**9. Opening of Parliament by the Queen**

When Her Majesty the Queen is present in the State and intends to address both Houses of Parliament on opening the session, references in this chapter to the Governor will be read as references to Her Majesty the Queen.

**10. Swearing of new members**

New members may present themselves and take and sign the oath or affirmation required by law and sign the roll of the House at any time during the sitting of the House when there is no business then under consideration.

## CHAPTER 3 – OFFICE OF THE PRESIDENT

### 11. Term of office

The office of President becomes vacant:

- (a) immediately before the House assembles for the dispatch of business at its first meeting following a periodic Council election,
- (b) if the President ceases to be a member of the House,
- (c) if the President is removed from office by a vote of the House, or
- (d) if the President resigns in writing addressed to the Governor.

### 12. Election of President

- (1) Whenever the office of the President becomes vacant the Clerk will act as Chair of the House for the election of the President, and will have the powers of the President under the standing orders while acting.
- (2) A member, addressing the Clerk, will propose to the House as President a member then present, and move that the member take the Chair of the House as President. The speech of the member proposing the motion and of any other member may not exceed 15 minutes.
- (3) If only one member is proposed as President, the member proposed is declared elected without any question being put. ~~The newly elected President will then express a sense of the honour proposed to be conferred on them, and will be conducted to the Chair.~~
- (4) If 2 or more members are proposed as President, a motion will be made regarding each such member, that the member take the Chair of the House as President, ~~and~~ ~~Each member so proposed will express a sense of the honour proposed to be conferred on them, and~~ may address the House.
- (5) On taking the chair the newly elected President will express a sense of the honour proposed to be conferred on them.<sup>1</sup>**

### 13. Ballot

- (1) When a ballot is required, the bells will be rung and the doors locked, as in a division.
- (2) When two members have been proposed as President, ballot papers will be distributed by the Clerks to all members in their places. Members must write on the ballot paper the name of the candidate for whom they wish to vote, and deposit it in the ballot box provided by the Clerk. The candidate who has the greater number of votes is to be declared elected President, and will be conducted to the Chair.
- (3) When two or more members have been proposed, the votes will be similarly taken and the member who has the greatest number of votes will be the President, provided that member has also a majority of the votes of the members present.
- (4) If no candidate has such a majority, the name of the candidate having the smallest number of votes will be withdrawn, and a fresh ballot will take place; and this will be done as often as necessary, until one candidate is elected as President by such a majority, and the member elected will be conducted to the Chair.
- (5) If there is an equality of votes, the votes will be again taken, and if again there is an equality of votes, the Clerk will determine, by lot, which of the candidates, having the

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<sup>1</sup> Resolved—LC Minutes 17 March 2021 p. 2010.

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same number of votes will be withdrawn, as if the candidate had obtained the lesser number of votes.

### **14. Presentation to Governor**

- (1) Having been conducted to the Chair, the member so elected will return acknowledgments to the House and assume the Chair.
- (2) Members may congratulate the President, and a Minister will inform the House of the time at which the Governor will receive the House for the purpose of presenting their President.



## **CHAPTER 4 – DEPUTY PRESIDENT AND CHAIR OF COMMITTEES**

### **15. Election of Deputy President**

- (1) At the commencement of the sittings following a periodic Council election, or when any vacancy occurs, the House is, by motion without notice, to elect a member to be Deputy President and Chair of Committees.
- (2) The Deputy President and Chair of Committees will be elected in a similar manner as the President. However, the President will conduct the election, and where there is an equality of votes, will exercise a casting vote.

### **16. Term of Office – Deputy President**

The Deputy President will hold office for the life of the Parliament in which elected and until a successor is elected.

### **17. Duty of Chair**

- (1) The Deputy President, when presiding in the House, will exercise the same authority and have the same duties and powers as the President, but will give place to the President whenever the President arrives in the House.
- (2) The Chair of Committees will take the Chair at the table in all committees of the whole House.

### **18. Temporary Chairs**

The President will nominate at the commencement of each session a panel of not less than three members who may act as Temporary Chairs of Committees when requested, or in the absence of the Chair of Committees.

### **19. Title**

The Chair of Committees and Temporary Chair of Committees may be referred to as Chairperson, Chairman or Chairwoman.

## CHAPTER 5 – ABSENCE OF PRESIDENT, DEPUTY PRESIDENT AND OFFICERS

### 20. Absence of President

In the absence of the President, the Deputy President will perform the duties and exercise the authority of President in relation to all proceedings of the House.

### 21. Absence of President and Deputy President

- (1) If both the President and the Deputy President are absent, one of the Temporary Chairs of Committees will act as President.
- (2) If no Temporary Chairs are available in the absence of the President and Deputy President, the members present, if a quorum, will elect a member present to act as President for that day only, the question being put to the House by the Clerk.

### 22. Relief of President

- (1) The Deputy President will take the Chair when requested by the President, without any announcement to the House.
- (2) In the absence of the Deputy President, one of the Temporary Chairs will take the Chair, without any announcement to the House.

### 23. Leaving the Chair

The President may leave the Chair at any time to suit the convenience of the members, without any question being put.

### 24. Absence of Clerk

In the absence of the Clerk, the Clerk's duties will be performed by the Deputy Clerk, or in the absence of both, by the next senior officer.

### 25. Parliamentary secretary

#### **Sessional order – Parliamentary secretaries—SO25**

- (1) A parliamentary secretary may act as a Minister in the House in all respects, ~~except in relation to answering questions with and without notice.~~
- (2) **A parliamentary secretary may not ask questions without notice or written questions.**
- (3) **A parliamentary secretary may not make a "Members' Statement".**
- (4) **A parliamentary secretary may not be a Chair or Deputy Chair of a standing committee or portfolio committee.**
- (5) **A parliamentary secretary may be required to attend to give evidence and answer questions at a budget estimates hearing, but may not substitute for a Minister at Budget Estimates.<sup>2</sup>**

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<sup>2</sup> Resolved—LC Minutes 8 May 2019 p. 77.

**26. Leadership of parties and groups**

After each periodic Council election and whenever changes occur, the leaders of parties or groups with two or more members in the House may announce the leadership of the parties or groups represented in the House.

## CHAPTER 6 – SITTING, QUORUM AND ADJOURNMENT OF HOUSE

### 27. Meeting of Council

The bells will ring for two minutes prior to the time appointed for a meeting of the Council, and the President on being announced by the Usher of the Black Rod, will then take the Chair, and acknowledge the House.

### 28. Prayers

(1) The President, on taking the Chair each day, will read the following prayers:

Almighty God, we humbly beseech Thee to vouchsafe Thy blessing upon this Parliament. Direct and prosper our deliberations to the advancement of Thy glory, and the true welfare of the people of our state and Australia.

Our Father, who art in Heaven: Hallowed be thy name. Thy Kingdom come. Thy will be done on earth, as it is in Heaven. Give us this day our daily bread. And forgive us our trespasses, as we forgive those who trespass against us. And lead us not into temptation; but deliver us from evil: For Thine is the kingdom, and the power, and the glory, for ever and ever, Amen.

(2) The President may nominate another member, or request the Clerk to read the prayers.

### 29. Quorum at commencement of sitting

#### Sessional order – Adjourning the House in the absence of a Quorum – SO29 and 30

(1) If there is no quorum present when the Chair is taken at the time appointed for a meeting of the House, the bells will again ring for five minutes. If there is still no quorum present the President will adjourn the House ~~to~~ **until a later hour of the day or** the next sitting day.

(2) A member who enters the chamber at or after the time appointed for the meeting of the Council may not withdraw until a quorum is formed or the House is adjourned.

(3) When the House is adjourned for lack of a quorum, the names of the members present will be entered in the Minutes of Proceedings.<sup>3</sup>

### 30. Quorum during sitting

#### Sessional order – Lapsed questions, resumption of debate following loss of Quorum – SO29 and 30

(1) If it appears, on the report of a division of the House by the tellers, that a quorum is not present, the President will adjourn the House ~~to~~ **until a later hour of the day or** the next sitting day. No decision of the House will be considered to have been reached by that division.

(2) When the Chair of Committees informs the President that a quorum is not present in committee, the bells will ring for five minutes. The President will then count the House, and if a quorum is still not present, will adjourn the House until **a later hour of the day or** the next sitting day. However, if a quorum is then present, the President will leave the Chair and the committee resume.

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<sup>3</sup> Resolved—LC Minutes 8 May 2019 p. 61-62

- (3) If a member draws attention to the lack of a quorum, the bells will be rung until a quorum is formed but for no longer than five minutes. If after five minutes a quorum is not present, the President will adjourn the House ~~to~~ **until a later hour of the day or** the next sitting day.
- (4) When the attention of the President, or the Chair of Committees, has been called to the absence of a quorum, a member may not leave until the House or committee has been counted.
- (5) The doors of the House will be unlocked while the President is counting the House.
- (6) When the House has adjourned for lack of a quorum the names of the members present will be entered in the Minutes of Proceedings.<sup>4</sup>

### 31. Adjournment of the House

- (1) Except where the standing orders provide for the President or Clerk to adjourn the House without putting a question, the House can be adjourned only by its own resolution.
- (2) The adjournment of the House to terminate the sitting may be moved at any time by a Minister.
- (3) The motion for the adjournment of the House to terminate the sitting may not be amended.
- (4) On any motion for adjournment to terminate a sitting:
  - (a) the question will be put no later than 30 minutes after the motion has been moved, or, when a Minister wishes to speak or is then speaking, at the conclusion of the Minister's remarks,
  - (b) any member may speak for five minutes on matters not relevant to the question, but may not refer to matters which are otherwise not in order.
- (5) If, before the days and hours of sitting have been appointed by the House, an adjournment takes place without the day and hour being fixed for meeting, the House will meet on the days and at the hour appointed in the previous session.
- (6) Whenever the House is adjourned for lack of a quorum to the next sitting day, and that day is a general holiday or public holiday, the House will stand adjourned to the following sitting day.

### 32. Interruption for adjournment

#### Sessional order – Interruption of business – SO32 and 46

- (1) The House may appoint the time that proceedings will be interrupted ~~on Thursdays and Fridays~~ **each sitting day** to permit a motion for adjournment to be moved, if a Minister so wishes, to terminate the sitting.
- (2) If, at the time of interruption:
  - (a) **a vote or** a division is in progress, the ~~vote division~~ will be completed and the result announced **before the business is interrupted,**
  - (b) the House is in committee of the whole, the Chair will **interrupt business and inquire if the Minister wishes the Chair to** report progress **to the House to**

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<sup>4</sup> Resolved—LC Minutes 8 May 2019 p. 61-62

**allow the motion for the adjournment to be moved.** ~~and seek leave to sit again.~~

- (3) When any business under discussion, if not disposed of, is interrupted by the operation of this standing order, the **business** ~~debate~~ will **be set down as stand adjourned** ~~and be made an order of the day for a later hour of the sitting without any question being put.~~ ~~the next sitting day at the end of government or general business, as the case may be, fixed for that day, unless a motion is moved without amendment or debate for the adjournment of the debate to another day (to be stated).~~
- (4) **A member speaking when proceedings are interrupted may continue speaking when proceedings are resumed.**<sup>5</sup>

#### Sessional order – Interruption for adjournment (midnight) – SO32

- (1) That, during the current session and in accordance with standing order 32, proceedings must be interrupted at 10.00 pm on Tuesday, Wednesday and Thursday, to permit a motion for the adjournment to be moved to terminate the sitting if a Minister thinks fit.
- (2) That, notwithstanding anything to the contrary in the standing orders, during the current session:
- (a) If the motion for the adjournment has not been moved by a minister before midnight on a sitting day, the President shall propose the question that the House do now adjourn, and that question shall be open to debate.
- (b) If at that time:
- (i) a vote or division is in progress, the vote will be completed and the result announced before the business is interrupted,
- (ii) a question is before the House, the President is to interrupt proceedings, and resumption of debate on that question is to be made an order of the day for a later hour of the day without any question being put, and
- (iii) the House is in committee, the chair shall leave the chair and report progress to the House, and on such a report being made the President shall forthwith propose the questions that the House do now adjourn, and that question shall be open to debate.
- (c) Debate on the question for the adjournment shall not exceed 30 minutes, or, when a Minister wishes to speak or is then speaking, at the conclusion of the Minister's remarks, and a member shall not speak to that question for more than 5 minutes.<sup>6</sup>

### 33. Ministerial reply to adjournment matters

A Minister may, before the House proceeds to the business of the day, make a statement in relation to any matter raised on the adjournment at a previous sitting.

### 34. Minister to be present in the House

The House will not meet unless a Minister is present in the House.

<sup>5</sup> Resolved—LC Minutes 8 May 2019 p. 63

<sup>6</sup> Resolved—LC Minutes 8 May 2019 p. 63

## CHAPTER 7 – TIMES OF SITTING AND ROUTINE OF BUSINESS

### 35. Times of meeting

The days and times of meeting of the House in each sitting week will be determined by the House from time to time.

#### Sessional order - Sitting days

That, in accordance with standing order 35, during the current session and unless otherwise ordered, this House meet for the despatch of business each sitting week as follows:

Monday	11.00 am
Tuesday	2.30 pm
Wednesday	10.00 am
Thursday	10.00 am
Friday	11.00 am. <sup>7</sup>

#### Sessional order – Postponement of a scheduled meeting

That, during the current session, in the event of a public health concern the President, or if the President is unable to act on account of illness or other cause, the Deputy President, following consultation with the leader or designated representative of each party and independent crossbench members:

- (a) be authorised to postpone a scheduled meeting of the House by communication addressed to each member, and
- (b) be authorised to fix an alternative day or hour of meeting by communication addressed to each member of the House.<sup>8</sup>

### 36. Recall of House

- (1) The President, at the request of an absolute majority of members that the House meet at a certain time, must fix a time of meeting in accordance with that request, and the time of meeting must be notified to each member.
- (2) A request by the leader, ~~or the deputy leader~~ **or designated representative**<sup>9</sup> of a party in the Council is deemed to be a request by every member of that party.
- (3) A request may be made to the President by delivery to the Clerk, who must notify the President as soon as practicable.
- (4) If the President is unavailable, the Clerk must notify the Deputy President, or, if the Deputy President is unavailable, any one of the Temporary Chairs of Committees, who must summon the Council on behalf of the President, in accordance with this standing order.

<sup>7</sup> Resolved—LC Minutes 8 May 2019 p. 59; and Resolved—LC Minutes 26 February 2020 p. 809.

<sup>8</sup> Resolved—LC Minutes 24 March 2020, p877

<sup>9</sup> Resolved—LC Minutes 24 March 2020, p877

**37. Conduct of business**

**Sessional order - Conduct of business variation to SO37**

- (1) A Minister may move a motion connected with the conduct of government business at any time without notice.
- (2) **Any member may move a motion, without notice, that standing and sessional orders be suspended to allow the moving of a motion forthwith relating to the conduct of the business of the House.<sup>10</sup>**

**38. Routine of business**

The House is to proceed each day with business in the following routine:

- Formal business under standing order 44
- Presentation of papers
- Presentation of petitions
- Notices of motions
- Matters of public interest
- Ministerial statements
- Ministerial replies to matters raised on the motion for adjournment
- Motions and orders of the day, or vice versa, as set down on the Notice Paper.

**39. Business of the House**

The following business is to be placed on the Notice Paper as business of the House, and will take precedence of government and general business for the day on which it is set down for consideration:

- (a) a motion for leave of absence to a member,
- (b) a motion concerning the qualification of a member,
- (c) a motion concerning the operations of the chamber.

**40. Government and general business**

The House must appoint the days or times on which government business and general business is to take precedence.

**Sessional order – Scheduling of Government and General business – SO40**

**That, in accordance with standing order 40, during the current session and unless otherwise ordered:**

- (1) **Government business is to take precedence of general business on Monday, Tuesday, Thursday and Friday each sitting week.**
- (2) **General business is to take precedence on Wednesday each sitting week.<sup>11</sup>**

**41. Reports of committees – precedence**

The House must appoint the day and time on which motions for the consideration or adoption of reports of committees of the House and any government responses on such reports are to take precedence.

<sup>10</sup> Resolved—LC Minutes 8 May 2019 p. 66

<sup>11</sup> Resolved—LC Minutes 8 May 2019 p. 68-69; and Resolved—LC Minutes 26 February 2020 p. 809.



**Sessional order - Scheduling and duration of debate on committee reports and government responses – SO41**

**That, during the current session and unless otherwise ordered, and in accordance with standing order 41, debate on committee reports and government responses is to take precedence after Questions on Tuesdays until 6.30 pm.<sup>12</sup>**

**42. Presentation of documents**

- (1) Documents ordered to be presented, returns, reports of committees, papers and statutory instruments may be presented when no business is before the House.
- (2) Private members may only table documents by leave of the House.

**43. Government business on Notice Paper**

Ministers may arrange the order of their notices of motions and orders of the day on the Notice Paper.

**44. Formal motions**

**Sessional order - Formal motions – SO44**

- (1) Before the House proceeds to the business on the Notice Paper ~~each day, the President will ask whether there is any objection to notices of motions or orders of the day for the third reading of a bill being taken as a formal motion, without amendment or debate. If no objection is taken by any member, the motion is to be taken as a formal motion~~ **the House will consider formal motions.**
- (2) ~~Formal motions are to take precedence of all other motions and orders of the day and will be disposed of in the order in which they stand on the Notice Paper.~~ **Any member wishing to have a notice of motion standing in the name of that member on the Notice Paper be taken as a formal motion must hand a signed request to one of the Clerks-at-the-Table by 4.00 pm on the sitting day on which the member wishes the matter to be considered as a formal motion.**
- (3) **At the time for formal motions, the President will ask with respect to each notice of motion for which a request has been received, in the order in which they appear on the Notice Paper, whether there is any objection to it being taken as a formal motion. If no objection is taken, the motion shall be taken as a formal motion.**
- (~~3~~ 4) The question ~~of~~ **on** a formal motion must be put and determined without amendment or debate.
- (~~4~~ 5) An order of the day for the third reading of bills may be dealt with as a formal motion.<sup>13</sup>

**45. Postponement of business**

- (1) After the formal motions are disposed of and before the business of the day is proceeded with, the President will ask whether any member wishes to postpone any notice of motion or order of the day of which the member is in charge on the Notice Paper for that day. A notice of motion or order of the day may be postponed to a later hour on the same day or a subsequent day, on motion. The question must be put and

<sup>12</sup> Resolved—LC Minutes 8 May 2019 p.72, see also standing order no. 232.

<sup>13</sup> Resolved—LC Minutes 8 May 2019 p. 65

determined without amendment or debate.

- (2) Business may also be postponed, on motion, at the time when it is called on.

#### 46. Interruption of business

##### Sessional order - Interruption of business – SO46

- (1) If any business before the House or a committee of the whole is interrupted by the operation of any standing or other order of the House, **with the exception of the interruption for the adjournment**, the business may be dealt with at a later hour of the same day, or will be set down on the Notice Paper for the next sitting day. ~~at the end of business already set down.~~
- (2) When an order of the House specifies a time for the consideration of a matter, at the specified time:
  - (a) **if a vote or division is in progress, the vote will be completed and the result announced before the business is interrupted,**
  - (~~a~~b) if a question is before the House, the President is to interrupt proceedings, and resumption of debate on that question is to be made an order of the day for a later hour of the day without any question being put,
  - (~~b~~c) if the House is in committee, the Chair is to interrupt proceedings and report progress to the House. The President is to fix further consideration of the business before the committee as an order of the day for a later hour of the sitting without any question being put., ~~or~~
  - (~~c~~) ~~if a vote is being taken, the vote will be completed and the procedures in paragraph (a) and (b) then followed as appropriate.~~
- (3) A member speaking when proceedings are interrupted may continue speaking when proceedings are resumed.<sup>14</sup>

#### 47. Questions

##### Sessional order – time for questions without notice – SO47

- (1) The House is to appoint the time when questions without notice will be taken each sitting day.
- (2) Until a time is appointed by the House, questions will be taken at the time and day last appointed by the House.

**That during the current session and unless otherwise ordered, and in accordance with standing order 47:**

- (1) **Questions are to commence at 4.00 pm on Monday and Tuesday, and at 12.00 noon on Wednesday, Thursday and Friday.**
- (2) **Whenever the House adjourns to a day and time later than the time appointed in paragraph 1, questions are to commence 30 minutes after the time appointed for the meeting of the House.**<sup>15</sup>

#### 48. Ministerial statements

- (1) A Minister may make a statement regarding government policy at any time when there

<sup>14</sup> Resolved—LC Minutes 8 May 2019 p. 63.

<sup>15</sup> Resolved—LC Minutes 8 May 2019 p. 69.

## Sessional and temporary order variations to the standing orders

is no other business before the House.

- (2) The Leader of the Opposition, or a member nominated by the Leader of the Opposition, may speak to a ministerial statement, not exceeding the time taken by the Minister in making the statement.

### **Sessional order – Members' Statements**

**That during the current session, for 30 minutes immediately after questions on Wednesdays, private members may make statements without any question before that Chair, provided that a member shall not speak for more than 3 minutes.<sup>16</sup>**

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<sup>16</sup> Resolved—LC Minutes 8 May 2019 p. 74-75; amended 26 February 2020 p. 809.

## **CHAPTER 8 – JOURNALS AND RECORDS OF THE HOUSE**

### **49. Journals**

- (1) All proceedings of the House are to be recorded by the Clerk and published in the Minutes of Proceedings, signed by the Clerk.
- (2) A business paper containing notices of motions and orders of the day is to be published by the Clerk.
- (3) Publication, in written or electronic form, of the Minutes of Proceedings, Questions and Answers Paper and Notice Paper is authorised under this standing order.

### **50. Custody of records**

- (1) The Clerk is to have custody of the journals, records and all documents tabled in the House. They may only be taken from the office of the Clerk by a resolution of the House, or if the House is adjourned for more than two weeks, by approval of the President.
- (2) The House is to be notified at its next sitting whenever approval is given by the President for any such removal.

### **51. Hansard**

- (1) The Clerk is to ensure that a Hansard record is kept of all the debates in the House.
- (2) Publication, in written or electronic form, of the record of debate in the House or any committee, known as Parliamentary Debates and Hansard, including publication of Hansard ‘galley proofs’, is authorised under this standing order.

## CHAPTER 9 – TABLING OF DOCUMENTS

### 52. Order for the production of documents

- (1) The House may order documents to be tabled in the House. The Clerk is to communicate to the Premier's Department, all orders for documents made by the House.
- (2) When returned, the documents will be laid on the table by the Clerk.
- (3) A return under this order is to include an indexed list of all documents tabled, showing the date of creation of the document, a description of the document and the author of the document.
- (4) If at the time the documents are required to be tabled the House is not sitting, the documents may be lodged with the Clerk, and unless privilege is claimed, are deemed to have been presented to the House and published by authority of the House.
- (5) Where a document is considered to be privileged:
  - (a) a return is to be prepared showing the date of creation of the document, a description of the document, the author of the document and reasons for the claim of privilege,
  - (b) the documents are to be delivered to the Clerk by the date and time required in the resolution of the House and:
    - (i) made available only to members of the Legislative Council,
    - (ii) not published or copied without an order of the House.
- (6) Any member may, by communication in writing to the Clerk, dispute the validity of the claim of privilege in relation to a particular document or documents. On receipt of such communication, the Clerk is authorised to release the disputed document or documents to an independent legal arbiter, for evaluation and report within seven calendar days as to the validity of the claim.
- (7) The independent legal arbiter is to be appointed by the President and must be a Queen's Counsel, a Senior Counsel or a retired Supreme Court Judge.
- (8) A report from the independent legal arbiter is to be lodged with the Clerk and:
  - (a) made available only to members of the House,
  - (b) not published or copied without an order of the House.
- (9) The Clerk is to maintain a register showing the name of any person examining documents tabled under this order.

### Temporary order—Privileges Committee and Independent Legal Arbiter Reports—COVID-19 Pandemic

- (1) That this House notes that the opportunity for the House to sit over the coming months may be limited due to ongoing public health concerns.
- (2) That, until the House orders otherwise, if the House is not sitting due to ongoing public health concerns and is not expected to meet within one week:
  - (a) on receiving a report of the Independent Legal Arbiter appointed to evaluate a disputed claim of privilege on documents returned to the House under standing order 52 the Clerk is to refer the report to the Privileges Committee for consideration,
  - (b) the Privileges Committee is authorised to undertake the role usually performed by the House in dealing with disputed claims of privileges over returns to order under standing order 52, including taking the

- decision to make public the report of the Independent Legal Arbiter and any documents over which privilege has been claimed but not upheld by the Independent Legal Arbiter,
- (c) any document authorised to be made public by the committee under this resolution is deemed to have been presented to the House and published by authority of the House, and
  - (d) on the next sitting day, the committee is to report to the House what action, if any, it has taken under this resolution.<sup>17</sup>

#### Sessional Order – Privileges Committee and Independent Legal Arbiter Reports

That, notwithstanding anything to the contrary in the standing and sessional orders, during the current session and unless otherwise ordered, in instances where a report of the Independent Legal Arbiter on a disputed claim of privilege is received more than three weeks before the next sitting of the House:

- (a) on receiving a report of the Independent Legal Arbiter appointed to evaluate a disputed claim of privilege on documents returned to the House under standing order 52 the Clerk is to refer the report to the Privileges Committee for consideration,
- (b) the Privileges Committee is authorised to undertake the role usually performed by the House in dealing with disputed claims of privilege over returns to order under standing order 52, including taking the decision to make public the report of the Independent Legal Arbiter and any documents over which privilege has been claimed but not upheld by the Independent Legal Arbiter,
- (c) any document authorised to be made public by the committee under this resolution is deemed to have been presented to the House and published by the authority of the House, and
- (d) on the next sitting day, the committee is to report to the House what action, if any, it has taken under this resolution.<sup>18</sup>

#### Sessional Order – Varying the scope of an order for papers

- (1) That, for the duration of the current session and unless otherwise ordered, in exceptional circumstances, where an agency subject to an order for papers under standing order 52 considers that:
  - (a) the timeframe for production of documents for an order for papers is unduly onerous, or
  - (b) the terms of the order is likely to result in producing a significantly large number of documents which are reasonably believed to be not directly relevant to the original order for papers,
  - (c) the Department of Premier and Cabinet may, by communication in writing to the Clerk within 7 days of the date of the passing of the order for papers, seek the approval of the House for the scope of the order to be varied.

<sup>17</sup> Resolved—LC Minutes 24 March 2020 p. 873

<sup>18</sup> Resolved—LC Minutes 6 August 2020 p. 1197-1198

- (2) An application to vary the scope of an order for papers must be supported by reasons setting out:
  - (a) why a review of the period for production of document is required, or
  - (b) why a review of the nature of the documents relevant to the order for papers is necessary, including a general description or list of the classes of relevant documents (for example: emails (including deleted items), notes of meetings or telephone calls, text messages), or
  - (c) an estimate of the significant number or volume of documents involved, or
  - (d) an estimate of the likely cost of complying with the order for papers, or
  - (e) the required information can be provided by compilation of a document, or
  - (f) the required documents can be provided by alternative means (for example, by electronic communication in a data storage device).
- (3) An application to vary the scope of an order must also include any document brought into existence as a result of this order.
- (4) An application under this order must have regard to the objective of the order for papers and the overriding obligation to provide all documents covered by the order for papers.
- (5) The Clerk is to provide the correspondence seeking to vary an order to the President and the member who moved the original order for papers.
- (6) If the President and the member agree to all or any part of the request, the Clerk is to advise the Department of Premier and Cabinet in writing of the varied terms agreed to.
- (7) Compliance with the agreed varied terms of the order is taken to be compliance with the original order of the House until such time as the House considers the varied terms of the order on the next sitting day.
- (8) On the next sitting day, the Clerk is to table the correspondence from the Department of Premier and Cabinet and the varied terms of the order.
- (9) The House will then decide on a question proposed without amendment or debate, “That the varied terms of the order be agreed to”, except a statement by the member who moved the original order for papers and a Minister not exceeding 10 minutes each.
- (10) If the question is resolved in the negative, the original order remains in force.<sup>19</sup>

### 53. Documents from the Governor

The production of documents concerning:

- (a) the royal prerogative,
- (b) dispatches or correspondence to or from the Governor, or
- (c) the administration of justice,

will be in the form of an address presented to the Governor requesting that the document

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<sup>19</sup> Resolved—LC Minutes 10 November 2020 pp. 1555-1556

be laid before the House.

**54. Other methods of tabling documents**

- (1) The President and Ministers may table documents at any time when there is no other business before the House.
- (2) The Clerk, under the authority of any Act or by resolution of the House, may table documents at any time when there is no other business before the House.
- (3) The publication of documents tabled by the President, a Minister or the Clerk is authorised under this standing order.
- (4) Other members may table documents by leave, and unless authorised by the House to be made public, are available for inspection by members of the House only.

**55. Tabling of reports and documents when House not sitting**

**Sessional order - Tabling of reports and other documents when House not sitting – SO55**

- (1) Where, under any Act, a report or other document is required to be tabled in the House by a Minister, and the House is not sitting, such report or document may be lodged with the Clerk.
- (2) Any report or document lodged with the Clerk is:
  - (a) on presentation, and for all purposes, deemed to have been laid before the House,
  - (b) to be printed by authority of the Clerk,
  - (c) for all purposes, deemed to be a document published by order or under authority of the House, and
  - (d) to be recorded in the Minutes of Proceedings of the House.
- (3) ~~Documents may not be lodged with the Clerk when the House has been prorogued~~  
**Any report or other document which is not required under an Act to be tabled in the House by a Minister may not be lodged with the Clerk when the House has been prorogued.**<sup>20</sup>

**56. Documents quoted in debate**

- (1) A document relating to public affairs quoted by a Minister may be ordered to be laid on the table, unless the Minister states that the document is of a confidential nature or should more properly be obtained by order.
- (2) An order under paragraph (1) may be made by motion without notice moved immediately on the conclusion of the speech of the Minister who quoted the document.

**57. Motion after tabling**

**Sessional order - Consideration of a document – SO57**

- (1) On a document being laid before the House, other than a petition or a return to an address or order, a motion may be made:
  - (a) that a day be appointed for its consideration, or

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<sup>20</sup> Resolved—LC Minutes 8 May 2019 p. 60



- (b) that it be printed.
- (2) (a) A motion moved under paragraph (1) (a) will take the form: 'That the House take note of the document'.
- (b) Debate on the motion is to be immediately adjourned and set down on the Notice Paper for resumption on the next sitting day as government or general business, as the case may be.
- (c) Each speaker in the debate on the take note motion is to be limited to 10 minutes, except the mover of the motion who is allowed 15 minutes and a further 10 minutes in reply.
- (d) If the motion is not sooner disposed of, after one hour the President is to interrupt proceedings to allow the mover of the motion to speak in reply and put all questions necessary to dispose of the motion and any amendments.<sup>21</sup>

**58. Amendments after tabling**

Clerical or typographical errors may be corrected, by authority of the President, in a document that has been ordered to be printed. No other amendments may be made except by authority of the House.

**59. Printing of tabled papers and documents**

- (1) On the first sitting day of each month, a Minister is to table a list of all papers tabled in the previous month and not ordered to be printed.
- (2) On tabling, a motion may be moved without notice, that certain papers on the list be printed.

**60. Inspection of documents**

- (1) Documents may be inspected in the offices of the Clerk at any reasonable time.
- (2) The Clerk may charge a reasonable fee for copies of extracts from documents or papers tabled in the House.

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<sup>21</sup> Resolved—LC Minutes 8 May 2019 p. 60

## CHAPTER 10 – ATTENDANCE

### 61. Record of members

- (1) The Clerk is to keep a roll of members, showing:
  - (a) the name of each member elected to the Council,
  - (b) the date of election,
  - (c) term of service,
  - (d) date of taking oath or affirmation,
  - (e) expiry of term of service,
  - (f) date of ceasing to be a member, and
  - (g) length of service.
- (2) A member must sign the roll when the member takes the oath or affirmation of allegiance required by law.
- (3) A list of current members is to be published by the Clerk.

### 62. Attendance of members

A record is to be kept in the Minutes of Proceedings each day of members who do not attend at some time during the sitting.

### 63. Leave of absence

- (1) The House may by motion on notice stating the cause and period of absence give leave of absence to a member.
- (2) A member who has been granted leave of absence is excused from service in the House or on a committee for the period of the absence.
- (3) A member will forfeit leave of absence by attending in the House or a committee before the expiration of the leave.

## CHAPTER 11 – QUESTIONS SEEKING INFORMATION

### 64. Questions to Ministers and other members

#### Sessional order – Questions to Ministers and other members

- (1) Questions may be put to Ministers relating to public affairs with which the Minister is officially connected, to proceedings pending in the House, or to any matter of administration for which the Minister is responsible.
- (2) **Questions without notice may be put to Parliamentary Secretaries relating to public affairs with which the Parliamentary Secretary is officially connected, to public affairs connected with the portfolio of the Minister to whom the Parliamentary Secretary is connected, to proceedings pending the House, or to any matter of administration for which the Parliamentary Secretary is responsible.**
- (~~2~~ 3) Questions may be put to other members relating to any matter connected with the business on the Notice Paper of which the member has charge.
- (~~3~~ 4) Questions may be put to a chair of a committee relating to the activities of that committee, but the question must not attempt to interfere with the committee's work or anticipate its report.
- (~~4~~ 5) At the discretion of the President:
  - (a) one supplementary question may be immediately put by the member who asked a question to elucidate **the answer, and**
  - (b) **one further supplementary question may then be immediately put by another non-government member to elucidate the same answer.**
- (~~5a~~ 6) The asking of each question must not exceed one minute and the answering of each question must not exceed ~~four~~ **three** minutes. A Minister may seek leave to extend the time for an answer by one minute.
- (~~5b~~ 7) The asking of a supplementary question must not exceed one minute and the answering of each supplementary question must not exceed two minutes.<sup>22</sup>

#### Sessional order – Supplementary questions and written answers, next sitting day

**That, during the current session:**

- (1) **At the discretion of the President, at the conclusion of questions without notice, supplementary questions may be put by members to elucidate answers given earlier during questions.**
- (2) **The rules for questions apply to supplementary questions and answers under this order.**
- (3) **Each party and any independent member is limited to one supplementary question each question time under this order.**
- (4) **Ministers must lodge answers to supplementary questions with the Clerk by 10.00 am the next working day.**

<sup>22</sup> Resolved—LC Minutes 8 May 2019 p. 78.

- (5) The written reply to a supplementary question may be delivered to the Clerk, whether or not the House is sitting.
- (6) When a reply to a supplementary question is received by the Clerk, it is for all purposes deemed to be a document published by order or under the authority of the House.
- (7) When the House next sits, supplementary answers are to be provided to the House for incorporation in Hansard.
- (8) If an answer to a supplementary question is not received by 10.00 am the next working day, the President is to inform the House on the next sitting day the details of any question not answered. The relevant Minister must immediately explain to the House the reason for the non-compliance.
- (9) If, after explanation in the House, the Minister has not submitted an answer within three sitting days, the President is to again inform the House and the Minister will again be called to explain. This procedure is to continue until a written answer is submitted.<sup>23</sup>

## 65. Rules for questions

### Sessional order – Rules for questions, answers to be directly relevant – SO65

- (1) Questions must not contain:
  - (a) statements of fact or names of persons unless they are strictly necessary to render the question intelligible and can be authenticated,
  - (b) arguments,
  - (c) inferences,
  - (d) imputations,
  - (e) epithets,
  - (f) ironical expressions, or
  - (g) hypothetical matter.
- (2) Questions must not ask:
  - (a) for an expression of opinion,
  - (b) for a statement or announcement of the government's policy, or
  - (c) for a legal opinion.
- (3) Questions must not refer to:
  - (a) debates in the current session, or
  - (b) proceedings in committee not yet reported to the House.
- (4) Questions must not anticipate discussion upon an order of the day or other matter on the Notice Paper, except an item of private members' business outside the order of precedence or an order of the day relating to the budget estimates.
- (5) An answer must be **directly** relevant to a question.
- (6) In answering a question a member must not debate the question.
- (7) The President may direct that the language of a question be changed if it is unbecoming or not in conformity with these rules.<sup>24</sup>

<sup>23</sup> Resolved—LC Minutes 8 May 2019 p. 75-76

<sup>24</sup> Resolved—LC Minutes 8 May 2019 p. 78

## 66. Answers to questions without notice

### Sessional order – Timeframe for providing answers to questions and lodgement of written questions – SO66 and 67

- (1) When a Minister refers a question to a Minister in the other place, the Minister must provide the answer to the House within ~~35~~ **21** calendar days after the question was first asked.
- (2) ~~(a)~~ If an answer to a question without notice is not provided within ~~35~~ **21** calendar days, the President is to inform the House on the next sitting day of the details of any question not answered. The relevant Minister must immediately explain to the House the reason for non-compliance.
- ~~(b-3)~~ Unless an answer to a question without notice not provided within ~~35~~ **21** calendar days, but provided before the next sitting day, is accompanied by an explanation of the reasons for the late provision of the answer, the late provision of the answer will be reported to the House by the President, in accordance with paragraph ~~(a2)~~.
- ~~(34)~~ If, after explanation in the House, the Minister has not provided an answer within three sitting days, the President is to again inform the House and the Minister will again be called to explain. This procedure is to continue until an answer is provided.
- ~~(45)~~ The reply to a question without notice may be delivered to the Clerk when the House is not sitting.
- ~~(56)~~ When a reply to a question without notice is received by the Clerk, it is for all purposes deemed to be a document published by order or under the authority of the House.
- ~~(67)~~ On any prorogation of the House, answers to questions without notice delivered to the Clerk since the last sitting of the House, are to be printed and circulated.<sup>25</sup>

## 67. Written questions

### Sessional order–Timeframe for providing answers to questions and lodgement of written questions

- (1) Notices of questions, signed by a member, must be **lodged with the Clerk** ~~handed to one of the Clerks at the Table during the sitting of the House.~~
- (2) The rules for questions apply to written questions.
- (3) The Clerk is to publish in a Questions and Answers Paper, printed and circulated to members, notices of questions in the order in which they are received.
- (4) Notices of questions must be lodged by 4.00 pm for publication in the next Questions and Answers paper.**
- ~~(45)~~ The reply to a question on notice may be delivered to the Clerk, whether or not the House is sitting, and is to be published in the Questions and Answers Paper.
- ~~(56)~~ When a reply to a question on notice is received by the Clerk, it is for all purposes deemed to be a document published by order or under the authority of the House.
- ~~(67)~~ Ministers must lodge answers to questions on notice within ~~35~~ **21** calendar days after the question is first published.
- ~~(78)~~ If an answer to a question on notice is not received within ~~35~~ **21** calendar days, the

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<sup>25</sup> Resolved—LC Minutes 8 May 2019 p. 83-85

## Sessional and temporary order variations to the standing orders

President is to inform the House on the next sitting day the details of any question not answered. The relevant Minister must immediately explain to the House the reason for the non-compliance.

- (89) If, after explanation in the House, the Minister has not submitted an answer within three sitting days, the President is to again inform the House and the Minister will again be called to explain. This procedure is to continue until a written answer is submitted.
- (910) A Questions and Answers Paper is to be printed and circulated on any prorogation of the House.<sup>26</sup>

### Sessional order – Take note of answers to questions on notice

**That, during the current session:**

- (1) Immediately following the conclusion of Questions, a motion may be moved without notice: "That the House take note of answers to questions".
- (2) Debate on the motion may canvass any answers to oral questions asked that day and any deferred answers, answers to written questions or written answers to supplementary questions.
- (3) A speaker will be in order as long as the contribution is relevant to the subject matter of the question asked and the answer given.
- (4) Debate on the motion shall not exceed 30 minutes in total.
- (5) A member may speak for not more than 3 minutes to the motion, the mover is not entitled to a right of reply, and a minister speaking for not more than 3 minutes will close the debate.
- (6) If the question has not been earlier disposed of, at 3 minutes before the expiration of 30 minutes, debate will be interrupted to allow a minister to speak for not more than 3 minutes.
- (7) Where a motion moved under this sessional order will conflict with another sessional order affording certain business precedence, the motion for the take note of answers will take precedence.<sup>27</sup>

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<sup>26</sup> Resolved—LC Minutes 8 May 2019 p. 83-85

<sup>27</sup> Resolved—LC Minutes 8 May 2019 p. 85. Amended—LC Minutes 19 June 2019 p. 230. Amended—LC Minutes 7 August 2019, p 311. Amended—LC Minutes 22 August 2019, p 377.

## CHAPTER 12 – PETITIONS

### 68. Presentation of petitions

- (1) A petition may only be presented to the House by a member.
- (2) At the time provided a member may present a petition, including a petition for a private bill, or relating to a private bill before the House, on public or individual grievances, if it relates to a matter over which the House has jurisdiction.
- (3) When presenting a petition, a member may state:
  - (a) the petitioners,
  - (b) the number of signatures,
  - (c) the subject matter of the petition, and
  - (d) the request for action.
- (4) When presenting a petition, a member may move:
  - (a) “That the petition be received”, and
  - (b) “That the petition be read by the Clerk”.
- (5) No amendment or debate may be made on questions relating to petitions.
- (6) A member may not present a petition from that member.
- (7) The member presenting a petition must sign it at the top of the first page.
- (8) A petition may not be presented to the House once the House proceeds to the orders of the day, except by leave of the House.
- (9) The Clerk must refer a copy of every petition which is received by the House to the Minister responsible for the administration of the matter the subject of the petition.

### Sessional order - Government response to petitions – SO68

**That, during the present session and unless otherwise ordered:**

- (1) **When a petition referred to a Minister under standing order 68 contains more than 500 signatures, the Clerk must also refer the petition to the Leader of the Government in the House who must table a response within 35 calendar days of the petition being received by the House.**
- (2) **If at the time the Leader of the Government in the House is required to table the response the House is not sitting, the response may be lodged with the Clerk.**
- (3) **A response presented to the Clerk is:**
  - (a) **on presentation, and for all purposes, deemed to have been laid before the House,**
  - (b) **to be printed by authority of the Clerk,**
  - (c) **for all purposes, deemed to be a document published by order or under the authority of the House, and**
  - (d) **to be recorded in the Minutes of the Proceedings of the House.**
- (4) **A copy of the response provided by the Leader of the Government is to be forwarded by the Clerk to the member who lodged the petition.**

- (5) When a response to a petition has not been received within 35 calendar days, the President is to inform the House on the next sitting day. If the Leader of the Government has not provided the response by the end of that sitting week, the President is to again inform the House on the first day of each sitting week until the response is provided.<sup>28</sup>**

**69. Form of petitions**

- (1) A petition must be made in ink, and written, typewritten or printed without insertion or erasure.
- (2) A petition must contain a request for action by the House or Parliament.
- (3) A petition is to be in the English language where practicable, and if not, must be accompanied by a translation, in English, certified to be correct by the member who presents it.
- (4) Signatures must be written on a page containing the petition, and must not be pasted or otherwise transferred to it. Additional signatures may be attached to the petition.
- (5) A petition must be signed by the petitioners with their names. A petition may be signed by a person for another person in the case of incapacity. A person not able to write may make a mark in the presence of a witness, who must sign as a witness.
- (6) Petitions of corporations must be made under their common seal.
- (7) No letters, affidavits or other documents may be attached to a petition, except for a private bill.

**70. Content of petitions**

- (1) No reference may be made in a petition to any debate in Parliament of the same session, unless it is relevant to the petition.
- (2) A petition must be respectful, decorous and temperate in its language, and must not contain language disrespectful to the Parliament.
- (3) A member presenting a petition must be acquainted with its contents, and take care that it is in conformity with the rules and orders of the House.
- (4) A petition must not request, either directly or indirectly, a grant of public money.

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<sup>28</sup> Resolved—LC Minutes 8 May 2019 p. 60-61.



## CHAPTER 13 – NOTICES OF MOTIONS

### 71. Giving of notices

- (1) A member may give notice of a motion to initiate a subject for discussion by reading the notice of motion aloud, giving the Clerk at the table a signed written copy and stating the day proposed for moving the motion.
- (2) Lengthy notices need not be read, provided a summary of the intent of the notice is indicated to the House.
- (3) The Clerk will enter notices of motions on the Notice Paper in the order they are given.
- (4) A member may give notice of a motion for any other member not present. The names of both members are placed on the notice.
- (5) Only one general business notice of motion may be given by a member on each call from the Chair.
- (6) A notice of motion must be given before the House proceeds to the business of the day as set out in the Notice Paper, except by leave of the House.
- (7) A notice of motion may not be set down for a day later than four weeks from the day of giving notice.
- (8) A notice which is contrary to these standing orders or practice will be amended before it appears on the Notice Paper.

### 72. Alterations and withdrawals of notices

- (1) A member may by notice change the day proposed for moving a motion, but only to a later day.
- (2) A notice may be withdrawn at any time before the notice is moved.

## CHAPTER 14 – MOTIONS

### 73. Notice required

A motion may only be moved if notice was given at a previous sitting of the House, or by leave of the House, or as provided by the standing orders.

### 74. Precedence of motions

- (1) Motions shall be called on each day in the order shown on the Notice Paper.
- (2) Any motions on the Notice Paper each day which have not been dealt with by the adjournment on that day will be set down on the Notice Paper for the next sitting day, at the end of any business already set down for that day.
- (3) A motion for a special adjournment or which relates to the privileges or business of the House will take precedence of all other motions or orders of the day.
- (4) A motion may be moved without notice by a Minister:
  - (a) for a special adjournment of the House, or
  - (b) expressing appreciation, thanks or condolences of the House.

### 75. Moving of motions

- (1) Motions, other than the motion for the address in reply, do not require a seconder.
- (2) A member at the request of another member who has given notice may move the motion of which notice has been given.
- (3) If a motion on the Notice Paper is not moved when it is called on, it will be withdrawn from the Notice Paper.
- (4) A motion which has been moved is in the possession of the House, and may only be withdrawn by the mover by leave of the House.
- (5) A motion which has been superseded or withdrawn by leave of the House may be moved again during the same session.
- (6) Once an amendment has been proposed to a motion, the original motion may not be withdrawn, unless the amendment has been withdrawn or negatived.

### 76. Leave of the House

- (1) A motion which requires notice may be moved without notice by leave of the House.
- (2) Leave is granted when no member present objects to the moving of the motion or other course of action for which leave is sought.

### 77. Raising matters of privilege

A matter of privilege, unless suddenly arising in proceedings before the House, may only be brought before the House in accordance with the following procedures:

- (1) A member intending to raise a matter of privilege must inform the President of the details in writing.
- (2) The President will consider the matter and determine, as soon as practicable, whether a motion should have precedence of other business.
- (3) The President's decision will be notified in writing to the member, and if the President thinks it appropriate, or determines that a motion relating to the matter should have

precedence, to the House.

- (4) While a matter is being considered by the President, a member must not take any action or refer to the matter in the House.
- (5) Where the President determines that a motion relating to a matter should be given precedence of other business, the member may, at any time when there is no business before the House, give notice of a motion to refer the matter to the Privileges Committee, and that motion will take precedence of all other business on the day for which notice is given.
- (6) If the President decides that the matter should not take precedence, a member is not prevented from referring to the matter in the House or taking action in accordance with the practices and procedures of the House.
- (7) If notice of a motion is given under paragraph (5), and the House is not expected to meet within one week after the day on which the notice is given, the motion may be moved at a later hour of the sitting as determined by the President.

#### **78. Motions for disallowance of statutory instruments**

- (1) A notice of motion to disallow:
  - (a) a statutory instrument under section 41 of the Interpretation Act 1987, or
  - (b) any other statutory instrument or document made under the authority of any Act and which is subject to disallowance by either or both Houses of the Parliament,is to be placed on the Notice Paper as business of the House.
- (2) When the order for disallowance of a statutory instrument is called on, the House will first decide on a question proposed without amendment or debate – That the motion proceed as business of the House.
- (3) If the question is agreed to, the House will then decide, on motion, when the matter will proceed.
- (4) The debate on any motion moved under this order as business of the House is to be conducted as follows:
  - (a) the member moving the motion and the Minister first speaking may speak for not more than 15 minutes,
  - (b) any other member and the mover in reply may speak for not more than 10 minutes,
  - (c) if the motion is not sooner disposed of, after a total time of one and a half hours debate, the President is to interrupt proceedings to allow the mover of the motion to speak in reply, and
  - (d) the President will then put all the questions necessary to dispose of the motion and any amendments.
- (5) When the House determines that a motion for disallowance will not proceed as business of the House, it will be set down as private members' business outside the order of precedence.

#### **79. Resolutions of continuing effect**

The House may adopt resolutions which have continuing effect until such time as they are amended or rescinded.

## CHAPTER 15 – ORDERS OF THE DAY

### 80. Definition

An order of the day is a bill or other matter which the House has ordered to be taken into consideration on a particular day.

### 81. Disposal of orders

- (1) Unless otherwise ordered, orders of the day will be called on and disposed of in the order in which they are shown on the Notice Paper.
- (2) Any orders of the day on the Notice Paper each day which have not been dealt with at the adjournment of the House will be set down on the Notice Paper for the next sitting day at the end of any business already set down for that day.
- (3) An order of the day may be moved or postponed by any other member in the absence of the member in charge of it or at the request of that member.
- (4) An order of the day may be discharged by motion without notice.

### 82. Pre-audience

A member who is in charge of a bill has pre-audience when the order of the day is read.

## CHAPTER 16 – RULES OF DEBATE

### 83. Order maintained by President

- (1) The President will maintain order in the House.
- (2) Whenever the President rises during a debate all members including the member speaking must sit down, and the House must be silent so that the President can be heard without interruption.
- (3) When the President is proposing a question a member may not enter or leave the chamber.

### 84. Conduct of members

- (1) A member should acknowledge the Chair on entering or leaving the chamber.
- (2) A member may not pass between the Chair and a member who is speaking, or between the Chair and the table.
- (3) A member not addressing the House may not converse aloud or make any noise or disturbance during debate.
- (4) Any member persisting in such conduct after being called to order by the President may be dealt with for disorderly conduct.

### 85. Members to address President standing

- (1) A member who wishes to speak must rise in their place and address the President.
- (2) A member unable to stand because of sickness or infirmity may speak when seated.

### 86. President or Deputy President taking part in debate

The President or Deputy President may take part in any debate, but they must speak from the floor of the House and address the House generally.

### 87. Right to speak

- (1) Except where expressly provided, a member may only speak once:
  - (a) on any question before the House, or
  - (b) on an amendment.
- (2) In committee of the whole House members may speak more than once on a question.

### 88. Personal explanations

When there is no question before the House a member may, by leave of the House, make a personal explanation. The subject of a personal explanation may not be debated.

### 89. Explanations of speeches

A member who has spoken on a question may only speak a second time to explain a matter on which the member has been misquoted or misunderstood. The member may not introduce any new matter.

**90. Reply**

- (1) A reply is allowed to a member who has moved a substantive motion or moved the first, second or third reading of a bill. A reply is not allowed to a member who has moved an amendment.
- (2) The reply of the mover of the original question closes any debate.

**91. Rules of debate**

- (1) A member may not reflect on any resolution or vote of the House, unless moving for its rescission.
- (2) A member may not refer to the Queen or the Governor disrespectfully in debate, or for the purposes of influencing the House in its deliberations.
- (3) A member may not use offensive words against either House of the Legislature, or any member of either House, and all imputations of improper motives and all personal reflections on either House, members or officers will be considered disorderly.
- (4) A member may read reasonable lengths of extracts from books, newspapers, publications or documents.
- (5) When an objection is taken to the reading of a list of names of individuals or organisations who have made representations in relation to the matter the subject of the debate, without distinguishing the comments or views of those individuals or organisations, the member must confine their remarks to:
  - (a) a statement of the comments or views of those individuals or organizations, and
  - (b) the number of individuals or organizations making similar representations.

**92. Relevance and anticipation**

- (1) A member may not digress from the subject matter of any question under discussion; or anticipate the discussion of any matter shown on the Notice Paper, except an item of private members' business outside the order of precedence, unless, in the opinion of the President there is no likelihood of the motion or order of the day being called on within a reasonable time.
- (2) This standing order does not prevent debate of any matter on the address-in-reply.

**93. Question may be read**

A member may request that the Clerk read the question at any time during a debate, but may not interrupt a member speaking.

**94. Continued irrelevance or tedious repetition**

- (1) The President or the Chair of Committees may call the attention of the House or the committee to continued irrelevance or tedious repetition of a matter already presented in debate, and may direct a member to cease speaking.
- (2) A member directed to cease speaking may request that the question be put "That the member be further heard". The question must be put without amendment or debate.

**95. Interruption of speaker: points of order or privilege**

- (1) A member may not interrupt another member speaking, except to call attention:
  - (a) to a point of order or privilege, or
  - (b) to the lack of a quorum.
- (2) A member may draw attention at any time to a point of order or a matter of privilege arising during the proceedings then before the House.
- (3) The President may intervene at any time when, in the President's opinion, the speaker is in contravention of the rules and orders of the House.
- (4) On a question of order or a matter of privilege being raised, the business under consideration is suspended until the question of order or matter of privilege is determined.
- (5) On a question of order being raised, any member speaking or called to order must sit down.
- (6) The President or Chair of Committees may hear argument on the question, and may determine it immediately, or at a later time, at the President's or Chair's discretion.
- (7) The President or Chair of Committees may also intervene at any time to determine a point of order.

**96. Dissent from President's ruling**

- (1) Any member may dissent from a ruling of the President by motion moved immediately "That the House dissent from the ruling of the President".
- (2) Debate on the motion may be adjourned on motion, without amendment, until a later hour of the sitting or to the next sitting day.

**97. Motion that member be heard**

Any member may move without notice, that any member who rises to address the House "Be now heard". The Chair must put the question immediately, without amendment or debate.

**98. Motion that member be no longer heard**

- (1) Any member, except a member who has already spoken in the debate, may move without notice that a member who is speaking "Be no longer heard".
- (2) The motion "That the member be no longer heard" may not be debated or amended.
- (3) Before putting the question, the Chair will advise the House to consider whether:
  - (a) the member speaking has had ample opportunity to debate the question,
  - (b) the member speaking is abusing the standing orders or conventions of the House, or is obstructing business, or
  - (c) the motion, if carried, would take away the rights of the minority.

**99. Closure of debate**

- (1) At any time during debate on a question in the House or in committee of the whole, and whether or not a member is addressing the Chair, a member may move "That the question be now put".
- (2) A member, except a Minister, who has spoken in the debate or who has previously

moved that motion, may not move a motion that the question be now put.

- (3) The motion “That the question be now put” may not be debated or amended.
- (4) Before putting the question, the Chair will advise the House to consider whether the motion, if agreed:
  - (a) is an abuse of the rules or conventions of the House,
  - (b) would deny the rights of the minority, or
  - (c) is an abuse of the standing orders.
- (5) If the motion “That the question be now put” is carried, the House or committee will vote on the question immediately before it without further debate or amendment, except for the mover in reply, where any reply is allowed, who may speak for 30 minutes before the motion is put.

#### **100. Putting of question ends debate**

A member may not speak to any question after it has been put by the President and the vote commenced.

#### **101. Adjournment of debate**

- (1) A debate may be adjourned on motion to a later hour of the same day or to a future day.
- (2) A motion to adjourn a debate may be debated or amended.
- (3) When a debate is adjourned, any member may move, without notice, that the order of the day for resumption of the debate take precedence of all other business on the Notice Paper for that day, except government business on a government day.
- (4) A member on whose motion a debate is adjourned is entitled to speak first on the resumption of the debate.
- (5) If a motion for the adjournment of the debate on a question is negatived, the member moving the motion may address the House at any time during the debate.



## CHAPTER 17 – QUESTIONS FROM THE CHAIR

### 102. Putting of question

- (1) When a motion has been moved, the President will propose a question on it to the House.
- (2) When the debate on a question is concluded, the President will put the question to the House.
- (3) The House may, by motion without debate, order a complicated question to be divided.
- (4) When a motion consists of more than one question, the questions should be put sequentially if any member so requests.
- (5) A question being put will be resolved in the affirmative or negative, by the majority of voices, “aye” or “no”.
- (6) The President will state whether the “ayes” or “noes” have it, and if that opinion is challenged the question will be decided by division.
- (7) All questions will be decided by a majority of the members present other than the President or other member presiding. When the votes are equal the President or other member presiding will have a casting vote.

### 103. Same question

- (1) A question may not be proposed if it is the same in substance as any question which has been determined during the same session, unless the order, resolution or vote on such question was determined more than six months previously or has been rescinded.
- (2) This standing order does not prevent a motion for disallowance of an instrument substantially the same in effect as one previously disallowed.

### 104. Rescission of order

A resolution, order or vote of the House may not be rescinded, during the same session, unless seven days notice is given.

### 105. Events superseding a question

Debate on a question may be superseded by a member moving “That the debate be now adjourned”.

### 106. Lapsed question

#### **Sessional order – Resumption of debate following loss of quorum – SO 106**

- ~~(1) If the House is adjourned or committee of the whole is interrupted by the absence of a quorum, the question then under consideration lapses.~~
- ~~(2) Debate on a lapsed question may be resumed, by motion on notice, at the place where it was interrupted.~~

If the proceedings of the House are interrupted by a lack of a quorum and consequent adjournment of the House, the resumption of any debate then under discussion will stand an order of the day for the next day of sitting, and when the order is called on the proceedings will be resumed at the point where they were interrupted.<sup>29</sup>

**107. Form of the previous question**

- (1) The previous question is put in the form – “That the question be not now put”.
- (2) The previous question may not be moved to an amendment, nor in committee of the whole House.
- (3) The motion “That the question be not now put” may not be amended.
- (4) In debating the previous question, the original question and any amendment may be debated.

**108. Determination of previous question**

- (1) If the previous question is carried, the original question and any amendment to it are disposed of, and the House proceeds to the next business.
- (2) If the previous question is negatived, the original question and any amendment before the House must be put immediately without amendment or debate.
- (3) When a motion consists of a series of motions which are under discussion as one motion, and the questions are to be put separately, the decision of the previous question on the first motion is conclusive for all of the motions.

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<sup>29</sup> Resolved—LC Minutes 6 May 2015 p. 62

## CHAPTER 18 – AMENDMENTS

### 109. Moving of amendments

- (1) A member may amend a question:
  - (a) by omitting certain words,
  - (b) by omitting certain words in order to insert or add other words, or
  - (c) by inserting or adding words.
- (2) An amendment may be moved to a proposed amendment as if the proposed amendment were the original question.
- (3) An amendment may not be moved to an earlier part of a question if a later part has been amended or has been proposed to be amended, unless the proposed amendment has been withdrawn by leave of the House.
- (4) An amendment must be relevant to the question it is proposed to amend and must not be a direct negative of the question.
- (5) A proposed amendment may be withdrawn by the mover, or in the absence of the mover with the mover's authority, by leave of the House.
- (6) The mover of a motion or a member who has already spoken in the debate may not move an amendment.
- (7) An amendment to a question must be in writing and signed by the mover, if required by the Chair.
- (8) Amendments do not require a seconder.

### 110. No amendment to words agreed to

A member may not move an amendment to words which the House or Committee has agreed should remain or be inserted or added, except to add other words.

### 111. Procedure for putting of amendments

- (1) The Chair will put the question on every amendment "That the amendment be agreed to".
- (2) When an amendment has been agreed to, the main question must be put as amended.
- (3) When an amendment has been proposed but not agreed to, the original question will be proposed.

## CHAPTER 19 – DIVISIONS

### Temporary order—Conduct of divisions—COVID-19 Pandemic

That, due to the current COVID-19 pandemic and until otherwise ordered, the conduct and counting of divisions be varied as follows:

- (1) Members will stay in their places for each division.
- (2) After the bells have been rung for five minutes, the Chair may direct the Clerk to continue the bells until the Chair is satisfied that all members intending to vote are present.
- (3) When the doors have been locked, the Chair will ask members who are voting 'Aye' to stand in their place.
- (4) The Chair will appoint tellers from the Ayes who will count the Ayes standing, and the Noes sitting.
- (5) When the tellers for the Ayes have counted the votes, the Chair will ask those members to be seated.
- (6) The Chair will then ask members who are voting 'No' to stand in their place.
- (7) The Chair will appoint tellers from the Noes who will count the Noes standing, and the Ayes sitting.
- (8) When the tellers for the Noes have counted the votes for the Noes, the Chair will ask those members to be seated and will declare the result to the House.<sup>30</sup>

#### 112. Calling for divisions

- (1) A question put by the Chair in the House or committee must be resolved by a majority of voices for the “ayes” or “noes”.
- (2) When the Chair states that the “ayes” or the “noes” have it, members may challenge that opinion.
- (3) A division may not be called for unless voices have been given both for the “ayes” and “noes”.
- (4) A division may only be called for by two or more members who have given their voices against the majority as declared by the Chair.
- (5) If only one member calls for a division, the member may ask for their vote to be recorded in the Minutes of Proceedings.
- (6) At any time before the tellers are appointed a call for a division may be withdrawn by leave of the House. The division will not be proceeded with, and the decision of the Chair will stand.

#### 113. Voting in division

##### Sessional order—Votes of members with the care of a child—variation to SO 113

- (1) A member must vote in a division in accordance with that member’s vote by voice.
- (2) A member may not vote in any division on a question in which the member has a direct pecuniary interest, unless it is in common with the general public or it is on a

<sup>30</sup> Resolved—LC Minutes 2 June 2020 p 963.

\* Refer also to Sessional order—Conduct of divisions, for variation to the conduct of divisions during COVID-19.

matter of state policy. If a member does vote, the vote of that member is to be disallowed.

- (3) Except as provided in paragraph (4), a member is not entitled to vote in a division unless the member is present in the chamber when the question is put with the doors locked.** ~~A member is not entitled to vote in a division unless the member is present in the chamber when the question is put with the doors locked.~~
- (4) When a division is called, a member caring for a child and seated in the President's gallery when the question is put with the doors locked may, at the discretion of the President, vote in the division.<sup>31</sup>**

#### **114. Procedure for division\***

- (1) Before a division is taken, strangers may be ordered on motion without notice, to withdraw from the House.
- (2) When a division is called for, the Clerk, by direction of the Chair, must ring the bells for five minutes as indicated by a minute glass timer.
- (3) When the bells stop ringing, the Chair will direct the doors to be locked. A member must not then enter or leave the chamber until after the division is concluded.
- (4) When successive divisions are taken and there is limited or no intervening debate, the Chair may direct that the bells be rung for one minute, if no member objects.
- (5) When the doors have been locked and members are in their places, the Chair must:
  - (a) state the question to the House,
  - (b) direct the “ayes” to go to the right of the Chair and the “noes” to the left, and
  - (c) appoint two tellers for each side.
- (6) Every member present when a question is being decided by division must remain and vote.
- (7) After members have taken their seats on the side of the chamber on which they intend to vote they may not move from those seats once tellers have been appointed and until the result of the division has been declared.

#### **115. Counting of division**

- (1) The names and total number of members voting on each side is recorded by the tellers on each side, who must sign their respective lists, and present them to the Chair, who will announce the result to the House.
- (2) If the tellers' cannot agree on the numbers, the Chair may appoint new tellers.
- (3) If there is only one member on a side in a division, the Chair, without completing the division, must immediately declare the decision of the House.
- (4) The Clerk will record divisions in the House in the Minutes of Proceedings.
- (5) Members paired during any division will be recorded by the tellers and printed in the Minutes of Proceedings and Hansard.

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<sup>31</sup> Resolved—LC Minutes 8 May 2019 p. 66.

\* Refer also to Sessional order—Conduct of divisions, for variation to the conduct of divisions during COVID-19.

**116. Casting vote**

If the numbers voting for each side are equal, the Chair must give a casting vote. The Chair may give reasons for the casting vote and those reasons may be entered in the Minutes of Proceedings.

**117. Points of order in division**

A member taking or speaking to a point of order during a division must remain seated and be covered.

**118. Correction of divisions**

If the numbers or names of members voting in a division are incorrectly reported, the House on being informed of the error may order the record to be corrected.

**119. Divisions in committee**

Divisions in committee of the whole House are to be taken in the same manner as in the House.

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\* Refer also to Sessional order—Conduct of divisions, for variation to the conduct of divisions during COVID-19.

## **CHAPTER 20 – ADDRESSES TO THE GOVERNOR**

### **120. Making of address**

An address to the Governor or the Queen, except an address-in-reply, must be proposed by motion on notice given in the usual manner.

### **121. Presentation of address**

- (1) The whole House, the President or members named for the purpose, may present an address to the Governor.
- (2) An address to the Queen, (or any member of the Royal Family,) must be transmitted to the Governor by the President requesting that it be forwarded for presentation.
- (3) When an address is ordered to be presented by the House, the President, accompanied by members, is to proceed to Government House. On being admitted to the Governor's presence, the President will read the address to the Governor.
- (4) The President must report the Governor's answer to an address as soon as practicable after receipt.

## **CHAPTER 21 – MESSAGES FROM THE GOVERNOR**

### **122. Presentation of message**

- (1) The President must report a message from the Governor to the House as soon as practicable after receipt.
- (2) The message may be taken into consideration at once, or a future day fixed for its consideration.
- (3) If a message is received from the Governor when the House is in committee, the President may resume the Chair without any question being put. After the message has been dealt with, the President may leave the Chair and the committee resume its proceedings.



## **CHAPTER 22 – COMMUNICATIONS BETWEEN THE TWO HOUSES**

### **123. Methods of communication**

All communications with the Legislative Assembly must be by message, conference or by committees conferring with each other.

### **124. Messages from the Council**

A message from the Council to the Assembly must be in writing, signed by the President or Deputy President and delivered by one of the Clerks-at-the-Table.

### **125. Communicating a resolution**

A motion may be moved, without notice, at any time when there is no business under discussion, that any resolution of the House be communicated by message to the Assembly.

### **126. Messages from the Assembly**

- (1) A message from the Assembly will be received, if the House is sitting, by one of the Clerks-at-the-Table, or if the House is not sitting, by the Clerk. The Clerk is to inform the President of every message received.
- (2) The President is to report to the House every message received as soon as practicable, without interrupting any business before the House.
- (3) If any proceeding is necessary on receipt of a message, a future day must be fixed for its consideration.

### **127. Messages to be recorded**

Every message must be recorded in the Minutes, together with any answer given.

## CHAPTER 23 – CONFERENCES

### 128. Requests for conference

- (1) A conference requested by the Council with the Assembly must be by message.
- (2) In requesting a conference, the message from the Council must state the general object of the conference and the names of managers proposed to serve.
- (3) The number of members must be not fewer than five at an Ordinary Conference and 10 at a Free Conference.
- (4) A conference may not be requested by the Council on the subject of a bill or motion of which the Assembly is in possession at the time of the request.

### 129. Appointment of managers

- (1) A motion requesting a conference must contain the names of the members proposed to be the managers for the Council.
- (2) If the House requires, the managers for the Council will be selected by ballot.
- (3) The number of managers to represent the Council in a conference requested by the Assembly will be the same as the Assembly.

### 130. Sitting suspended

During any conference the sitting of the Council must be suspended.

### 131. Time and place of conference

- (1) The Council will appoint the time and place for holding a conference requested by the Assembly.
- (2) When the Council requests a conference, it will agree to it being held at the time and place appointed by the Assembly. The agreement of the Council must be communicated by message.
- (3) At a conference requested by the Assembly, the managers for the Council will assemble at the time and place appointed, and receive the managers of the Assembly.

### 132. Proceedings at ordinary conference

- (1) At ordinary conferences the reasons or resolutions of the Council will be communicated by the managers in writing. The managers will only receive communications from the managers for the Assembly in writing.
- (2) At ordinary conferences the managers for the Council will deliver the reasons or resolutions of the Council to the managers for the Assembly, or receive from the managers of the Assembly the reasons or resolutions communicated by the Assembly.

### 133. Free conference under the Constitution Act

- (1) When the Assembly, under section 5B of the Constitution Act 1902 requests a free conference, the Council must agree to the conference being held without delay. The Council must appoint the time and place for holding the free conference.
- (2) At free conferences the managers for the Council may confer both orally and in writing with the managers for the Assembly.

**134. Report of conference**

When a conference has concluded, the managers for the Council will report the proceedings to the Council in writing as soon as practicable.

## CHAPTER 24 – BALLOTS

### 135. Conduct of ballot

- (1) When the House decides that a ballot will be conducted, the bells will be rung and the doors locked as in a division.
- (2) Ballot papers will be distributed by the Clerks to all members in their places. Members must write on the ballot paper the name or names of the candidate or candidates for whom they wish to vote, and deposit it in the ballot box provided by the Clerk. If any voting paper contains a larger or lesser number of names than are to be elected, the voting paper will be rejected as informal.
- (3) When all voting papers are collected, the Clerk will ascertain and report to the President the names of the members having the greatest number of votes, who will be declared elected.
- (4) If two or more members have an equality of votes, the result of the ballot will be decided by casting vote of the President or other member presiding.

## CHAPTER 25 – PUBLIC BILLS

### Sessional order - Time limits to debate on government bills

That, during the current session and unless otherwise ordered, the following time limits will apply to debate on government bills:

- (1) Where there is debate on the question for the second or third reading of a bill:
  - (a) the Minister moving the motion, the lead Opposition speaker and the first crossbench member may not speak for more than 40 minutes,
  - (b) any other member and the mover in reply may not speak for more than 20 minutes, and
  - (c) a member may move that their time limit be extended by not more than 10 minutes, and such a motion is put without amendment or debate.
- (2) In committee of the whole:
  - (a) each contribution must not exceed 15 minutes, and
  - (b) where the speech of a member is interrupted by the provisions of (2) (a), the member speaking may seek the leave of the House to continue speaking for a period of no longer than 15 minutes.<sup>32</sup>

### Sessional order - Cut-off dates for government bills in the Budget and Spring sitting periods

That, notwithstanding anything to the contrary in the standing and sessional orders, during the current session, the following procedures apply to the passage of government bills introduced by a Minister or received from the Legislative Assembly within the last two sitting weeks of the Budget or Spring sitting periods:

- (1) After the first reading, a Minister may declare a bill to be an urgent bill providing that copies have been circulated to members. The question “That the bill be considered an urgent bill” is to be decided without amendment or debate, except a statement not exceeding 10 minutes each by a Minister and the Leader of the Opposition or a member nominated by the Leader of the Opposition, and two crossbench members not of the same party and not exceeding five minutes each. If that question is agreed to, the second reading debate and subsequent stages may proceed forthwith or at any time during any sitting of the House.
- (2) If the question on urgency is negated or if urgency is not sought:
  - (a) if the bill originated in the Legislative Assembly, a motion may be moved, without notice, that standing orders be suspended to allow the passing of the bill through all its remaining stages during any one sitting of the House in the next session, and
  - (b) the debate on the motion for the second reading of any bill introduced or received within the final two weeks the Budget or Spring sitting periods is to be adjourned at the conclusion of the speech of the Minister moving

<sup>32</sup> Resolved—LC Minutes 8 May 2019 p. 72-73

the motion, and the resumption of the debate is to be made an order of the day for the first sitting day in the next session.<sup>33</sup>

### Selection of Bills Committee—Resolution

#### Functions

- (2) The Selection of Bills Committee is to consider all bills, other than an appropriation bill for the ordinary annual services of the government, introduced into either House and to report as to whether any bill should be referred to a standing committee of the House for inquiry and report.
- (3) A recommendation that a bill be referred to a committee must indicate:
  - (a) the committee to which the bill should be referred,
  - (b) that the bill be referred:
    - (i) on the introduction of the bill in the Legislative Assembly,
    - (ii) on the receipt of a message from the Legislative Assembly conveying the bill,
    - (iii) at the conclusion of the mover's second reading speech, or
    - (iv) at the conclusion of the second reading debate,
  - (c) the date by which the committee must report.

#### Motion to implement the recommendations of the report

- (4)
  - (1) On the tabling of a report by the Selection of Bills Committee, the Chair of the committee, or a member of the committee on behalf of the Chair, may move without notice that the House agree to the recommendations of the committee.
  - (2) The motion may be debated and amended.
  - (3) A member may not speak for more than 5 minutes on the motion, and at the expiration of 30 minutes, if the debate is not sooner concluded, the President is to interrupt proceedings to allow the mover of the motion to speak in reply for not more than 5 minutes. The President will then put every question necessary to dispose of the motion.
  - (4) A bill referred to a committee under this resolution may not be further considered by the House until the committee has reported.
  - (5) A motion to take note of a report under standing order 232 may not be moved to a report of the Selection of Bills Committee.

#### Further consideration of the bill by the House

<sup>33</sup> Resolved—LC Minutes 8 May 2019, pp 59-60.

- (5) **On the tabling of the report by the specified standing committee, a motion may be moved without notice that the bill be restored to the Notice Paper at the stage it had reached prior to referral.<sup>34</sup>**

**\* Note, the above text refers to the Selection of Bills Committee and the House, the full wording of the resolution establishing the Selection of Bills Committee is contained in Committees—Rules, Resolutions and Membership.**

### **136. Initiation**

- (1) A bill, other than a bill received from the Assembly, must be initiated by a motion for leave to bring in a bill.
- (2) A member having leave to bring in a bill must present a copy to the House.
- (3) The title must agree with the order of leave, and no clause may be inserted in a bill which is irrelevant to its title.
- (4) A bill not in accordance with the order of leave, or with the rules and orders of the House, will be ordered to be withdrawn.
- (5) The precise duration of every temporary bill must be expressed in a distinct clause at the end of the bill.
- (6) A second bill may only be introduced under the original order of leave when the order for the second reading or any subsequent stage of the original bill has been discharged.
- (7) When the original bill is withdrawn, the order for the introduction of the second bill may be read.

### **137. First reading**

- (1) The question on the first reading and printing will be taken together as one motion, be put by the President immediately after the bill has been received, and be determined without amendment or debate.
- (2) On every order for the reading of a bill the short title only will be read.
- (3) After the first reading, on any bill other than a bill received from the Legislative Assembly, the second reading may be moved immediately or made an order of the day for a later hour or for a future day. Immediately following the second reading speech by the mover, debate is to be adjourned until a future day which must be at least five calendar days ahead.

### **138. Urgent bills**

- (1) A Minister may declare a bill to be an urgent bill, provided that copies have been circulated to members.
- (2) The question – That the bill be considered an urgent bill – will be put immediately, without amendment.
- (3) When a bill has been declared urgent, the second reading debate and subsequent stages may proceed immediately or at any time during any sitting.

### **139. Cognate bills**

- (1) Cognate bills may be introduced on one motion for leave and proceed through all

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<sup>34</sup> Resolved—LC Minutes 8 May 2019, p 99.

## Sessional and temporary order variations to the standing orders

subsequent stages, except committee of the whole, in a similar manner as a single bill.

- (2) At the request of any member, the motion will be put as separate motions.
- (3) In committee of the whole cognate bills will be considered separately, unless the committee agrees unanimously.

### 140. Second reading

- (1) On the order of the day being read for the second reading of a bill, the question will be proposed:
  - (a) “That this bill be now read a second time”, or
  - (b) “That the order be postponed or discharged”.
- (2) An amendment may be moved to the question for second reading:
  - (a) by leaving out “now” and inserting “this day six months”, which if carried will finally dispose of the bill,
  - (b) by referring the bill to a standing or select committee, or
  - (c) by moving the previous question.
- (3) A bill which has been ordered to be read “this day six months” may not be considered again in the same session.
- (4) When a standing or select committee has reported on a bill, a future day may be fixed for the second reading.

### 141. Committal

#### Sessional order – Instructions to committee of the whole – SO141, 172, 180

- (1) After the second reading, unless the bill is referred to a standing or select committee:
  - (a) the President may inquire of the House if leave is granted to proceed to the third reading of the bill forthwith, or
  - (b) the House will immediately resolve itself into a committee of the whole for consideration of the bill, or
  - (c) a future day may be appointed on motion for consideration of the bill in committee of the whole.
- (2) After a bill has been read a second time a motion may be moved **without notice**:
  - (a) ~~without notice for referring~~ **to refer** the bill to a committee,
  - (b) ~~on notice~~ for an instruction to the committee of the whole.<sup>35</sup>

### 142. Consideration in committee\*

- (1) In committee of the whole, the preamble will stand postponed without question put, and the clauses will be read in their order separately by the Chair.
- (2) On each clause the question will be put – That the clause, as read, stand a clause of the bill.
- (3) In reading the clauses of a bill it will be sufficient to read the numbers only.
- (4) The discussion must be confined to the clause or amendment before the committee.
- (5) A clause may be postponed, whether or not it has been amended.

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<sup>35</sup> Resolved—LC Minutes 8 May 2019 p. 61



- (6) In considering a bill, the committee may, by leave, consider clauses, parts, divisions or schedules together, and in the case of cognate bills, may consider a bill in whole or in part.

**\* Refer to “A Practical Guide to Committee of the Whole” for guidance on practice and procedure in committee of the whole.**

#### **143. Order of consideration**

- (1) The order below will be followed in considering a bill:
  - (a) clauses as printed, and proposed new clauses,
  - (b) postponed clauses (not having been specially postponed until after consideration of other clauses),
  - (c) schedules as printed,
  - (d) proposed new schedules,
  - (e) preamble,
  - (f) title.
- (2) In re-considering a bill, the same order will be observed as far as possible.

#### **144. Amendments in committee**

- (1) An amendment may be made to any part of the bill, provided it is relevant to the subject matter of the bill and otherwise in conformity with the rules and orders of the House.
- (2) No new clause or amendment may be proposed which is substantially the same as one already negatived by the committee, or which is inconsistent with one that has been agreed to by the committee, unless a recommittal of the bill has intervened.
- (3) No amendment or new clause may be inserted which reverses the principle of the bill as read a second time.
- (4) If a clause is amended, a further question will be put “That the clause as amended, be agreed to”.
- (5) If an amendment has been made in the bill, not coming within the original title, the title will be amended, and that amendment will be specially reported to the House.
- (6) No clause, schedule or amendment in substance may be proposed in any bill, except in committee of the whole.
- (7) A clause may be negatived, even if amended, and a new clause proposed in its place.

#### **145. Uncompleted proceedings in committee**

No notice may be taken of any proceedings of a committee of the whole, or of a standing or select committee, on a bill, until those proceedings have been reported.

#### **146. Report from committee**

- (1) When the consideration of a bill in committee of the whole has been concluded the question will be put “That the Chair report the bill (or the bill as amended) to the House”, and if that question is agreed to the Chair will leave the chair and report the bill, if necessary with an amended title.
- (2) On the motion that the Chair report the bill, the reconsideration of any clauses may be moved as an amendment.

- (3) When a bill is reported, the adoption of the report may be moved immediately, or a future day fixed for that purpose.

**147. Recommittal of report**

On the motion for adoption of the report the bill may, on motion, be recommitted, in whole or in part.

**148. Third reading**

- (1) When the report of the committee of the whole is adopted, a future day may be fixed, without notice or debate, for the third reading.
- (2) When the order of the day for the third reading of a bill is called on, the question will be proposed “That this bill be now read a third time”.
- (3) An amendment may be moved to that question:
  - (a) by leaving out “now”, and adding “this day six months”, which, if carried, will finally dispose of the bill during the present session, or
  - (b) the previous question may be moved.
- (4) Before the bill may be read a third time, the Chair of Committees must certify in writing that the bill is in accordance with the bill as reported, which the President will announce to the House.

**149. Recommittal on third reading**

When the order of the day for the third reading is called on and before the motion for the third reading is carried, the bill may, on motion, be recommitted in whole or in part.

**150. Correction**

Amendments of a formal nature may be made, and the Chair of Committees or Clerk may correct clerical or typographical errors, in any part of a bill.

**151. Transmission to Assembly**

- (1) When a bill originated in the Council has been passed, the Clerk will certify at the top of the first page: “This (public) bill originated in the Legislative Council and, having this day passed, is now ready for presentation to the Legislative Assembly for its concurrence”.
- (2) After the third reading a bill will be deemed to have passed and the Clerk will so certify, and the bill will be sent, with a message, to the Assembly for concurrence.

**152. Legislative Assembly amendments to bills originated in the Council**

- (1) When a bill has been returned from the Assembly with amendments, the message and the amendments will be printed and a time fixed for taking them into consideration in committee of the whole either forthwith, at a later time, or this day six months.
- (2) Amendments made by the Assembly may be agreed to with or without amendment, or disagreed to, or the consideration of them postponed, or the bill ordered to be laid aside.
- (3) An amendment may not be proposed to an amendment of the Assembly that is not relevant to it, and an amendment may not be moved to the bill unless it is relevant to, or consequent upon, the acceptance, amendment or rejection of an Assembly amendment.

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- (4) When amendments made by the Assembly have been agreed to by the Council without amendment, a message will be sent informing the Assembly accordingly.
- (5) If Assembly amendments have been agreed to with amendments, the bill will be returned with a schedule of those amendments, and a message requesting the concurrence of the Assembly.
- (6) If Assembly amendments have been disagreed to, the bill may be laid aside, or it may be again sent to the Assembly, with a message requesting its reconsideration.
- (7) When a bill is returned to the Assembly with amendments made by the Assembly disagreed to, the message accompanying the bill must also contain reasons for the Council not agreeing to the amendments proposed by the Assembly.
- (8) The reasons will be drawn up by a committee appointed (on motion without notice) for that purpose when the House adopts the report of the committee of the whole disagreeing to the amendments, or may be adopted by motion at that time.
- (9) When amendments have been made by the Council on the amendments of the Assembly, a schedule of those amendments will be prepared, certified by the Clerk, and accompany the bill.

### **153. Bill again returned from the Assembly**

- (1) If the Legislative Assembly returns a bill with a message informing the House that it:
  - (a) insists on its original amendments to which the Council has disagreed,
  - (b) disagrees to amendments made by the Council to the original amendments of the Assembly, or
  - (c) agrees to amendments made by the Council on the original amendments of the Assembly, with further amendments,the House in committee of the whole may:
  - (d) agree, with or without amendment, to the amendments to which it had previously disagreed, and make, if necessary, consequent amendments to the bill,
  - (e) insist on its disagreement to such amendments,
  - (f) withdraw its amendments and agree to the original amendments of the Assembly,
  - (g) make further amendments to the bill consequent upon the rejection of its amendments,
  - (h) propose new amendments as alternative to the amendments to which the Assembly has disagreed,
  - (i) insist on its amendments to which the Assembly has agreed,
  - (j) agree, with or without amendment, to such further amendments of the Assembly making consequent amendments to the bill, if necessary, or
  - (k) disagree to the further amendments and insist on its own amendments which the Assembly has amended,and if agreement is not reached or if the bill is again returned by the Assembly with any requirements of the Council still disagreed to, the House may order the bill to be laid aside, or request a conference.
- (2) When the Assembly's amendments have been agreed to, or a conference is requested, or when the bill is finally passed in the Council, a message will be sent informing the Assembly accordingly.

- (3) The Clerk will, at every stage, certify on the first page of the bill the action taken by the Council.

#### 154. Bills received from the Legislative Assembly

##### Sessional order – Passing of bill through all stages – variation to SO 154

- (1) Bills coming to the Council for the first time from the Assembly will be proceeded with in the same manner as bills originated in the Council, except for initiation.
- (2) **On any bill being presented by the Legislative Assembly to the Legislative Council for its concurrence and being read a first time and printed, a motion may be moved, without notice, that standing orders be suspended to allow the passing of the bill through all its remaining stages during the present or any one sitting of the House.**
- (23) Whenever the President has several messages from the Legislative Assembly to report transmitting bills for concurrence, the President may inquire if leave is granted for procedural motions for the first reading, printing, suspension of standing orders where applicable, and fixing the day for the second reading, to be dealt with on one motion without formalities.<sup>36</sup>

#### 155. Return of Legislative Assembly bill

- (1) When a bill has been passed by the Council with or without amendment, it will be returned to the Assembly by message, with the Clerk's certificate that the bill has been agreed to by the Council without amendment, or with the amendments indicated by the accompanying schedule, as the case may require, requesting the concurrence of the Assembly to the amendments.
- (2) When any amendments have been made by the Council to a bill which has been first passed by the Assembly, a schedule of the amendments will be prepared containing reference to the page and line of the bill where the words are to be inserted or omitted, and describing the amendments proposed, and this schedule will be certified by the Clerk and will accompany the bill.

#### 156. Disagreement with Council amendments

- (1) If the Assembly returns a bill with amendments made by the Council disagreed to, or further amendments made, the message returning the bill will be printed and a time fixed for taking it into consideration in committee of the whole, or the House may order that the amendments be considered immediately or "this day six months".
- (2) Where the Assembly:
  - (a) disagrees to amendments made by the Council, or
  - (b) agrees to amendments made by the Council with amendments, the Council may:
    - (c) insist or not insist on those amendments,
    - (d) make further amendments to the bill consequent upon the rejection of its amendments,
    - (e) propose new amendments as alternative to the amendments to which the Assembly has disagreed,
    - (f) agree to the Assembly amendments to its own amendments, with or without

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<sup>36</sup> Resolved—LC Minutes 8 May 2019 p. 59.

- (g) amendment, making consequent amendments to the bill if necessary, disagree to its amendments and insist on its own amendments which the Assembly has amended, or
  - (h) order the bill to be laid aside,
- and unless the bill is laid aside, a message will be sent to the Assembly advising of the Council's action.

#### **157. Assembly amendments to Council amendments**

- (1) When a bill is returned to the Assembly with amendments made by the Assembly to the Council's amendments disagreed to, the message returning the bill will also contain reasons for the Council not agreeing to the amendments proposed by the Assembly.
- (2) The reasons will be drawn up by a committee appointed for that purpose when the Council adopts the report of the committee of the whole disagreeing to the amendments, or may be adopted by motion at that time.
- (3) When further amendments are made by the Council to the Assembly amendments on the Council's original amendments to a bill which has been first passed by the Assembly, a schedule of the further amendments will be prepared, will be certified by the Clerk and will accompany the bill.
- (4) The Clerk will, at every stage, certify on the first page of the bill the action taken by the Council.

#### **158. Amendments after disagreement**

Where the Assembly has disagreed with amendments made by the Council in a bill first passed by the Assembly, further amendments may only be made which directly arise from that disagreement.

#### **159. Lapsed bills**

- (1) A bill which lapses by reason of a prorogation before it has reached its final stage may be proceeded with in the next session at the stage it has reached in the preceding session, if a periodic election for the Council has not taken place between the two sessions, under the following conditions:
  - (a) If the bill is in the possession of the House in which it originated, not having been sent to the other House, or, if sent, then returned by message, it may be proceeded with by resolution of the House in which it is, restoring it to the Notice Paper.
  - (b) If the bill is in possession of the House in which it did not originate it may be proceeded with by resolution of the House in which it is, restoring it to the Notice Paper, but such resolution may not be passed unless a message has been received from the House in which it originated, requesting that its consideration be resumed.
- (2) A bill so restored to the Notice Paper may be proceeded with in both Houses as if its passage had not been interrupted by a prorogation, and, if finally passed, may be presented to the Governor for assent.
- (3) If a motion for restoration of a bill to the Notice Paper is not agreed to, the bill may be introduced and proceeded with in the ordinary manner.

**160. Presentation for assent**

- (1) A bill originated in the Council and finally passed by both Houses will be printed and presented by the President to the Governor for Her Majesty's assent, having been certified by the Clerk accordingly.
- (2) On the second sitting day of each month, a Minister is to table a list of all legislation that has not been proclaimed 90 days after assent.

**161. Protest against the passing of a bill**

Any member objecting to the passing of a bill may have a protest entered in the Minutes, copies of which will be forwarded to the Governor by the President.

**162. Procedures after presentation of bills**

- (1) All public Acts assented to and public bills reserved for the signification of Her Majesty's pleasure, will be numbered by the Clerk immediately before the title, in the order of assent or reservation, with the date of assent or reservation added after the title, and commencing with a new series of numbers from the January of each year.
- (2) After numbering, the Act will be enrolled and recorded in the manner required by law.

**163. Explanation, under the Constitution Act, of a departmental bill**

- (1) Any Minister of the Crown who is a member of the Legislative Assembly may, at any time, on motion agreed to by the Legislative Council, according to section 38(A) of the Constitution Act 1902, sit in the Legislative Council for the purpose of explaining the provisions of any bill relating to or connected with any department administered by that Minister.
- (2) Such motions may be moved without notice at any time after the bill has been read a first time.
- (3) The question will be decided without debate or amendment, except for a statement, not exceeding 10 minutes, by the mover in support of the motion.
- (4) Under this standing order a Minister who is a member of the Legislative Assembly may take part in any debate or discussion in the Legislative Council, but may not vote.
- (5) Unless otherwise decided, the consent will extend only to the second reading of a bill and the proceedings in committee following the second reading.
- (6) Only one Minister of the Crown who is a member of the Legislative Assembly may sit in the Legislative Council at any one time under this standing order.

## CHAPTER 26 – PRIVATE BILLS

### 164. Notice of intention

- (1) Notice of the intention to apply for a private bill must, within three months prior to the presentation of the petition (for the private bill), be published once a week, for four consecutive weeks:
  - (a) in the Government Gazette,
  - (b) in at least one daily newspaper published in Sydney, and
  - (c) in one newspaper published in or nearest to the district affected by the bill.
- (2) The published notice must contain a true statement of the general objectives of the bill, and state what private interests, so far as they can be conveniently set forth, will probably be affected by the bill.
- (3) The production of the numbers of the Government Gazette and newspapers containing the notice will be required at the time of presenting the petition, and will be sufficient proof of such notice.

### 165. Initiation

- (1) A private bill may only be initiated in the Council by petition first presented and received, together with a printed copy of the proposed bill. The petition must be signed by one or more of the parties applying for the bill.
- (2) Every petition for a private bill will:
  - (a) commence by stating that the public notice required has been duly given,
  - (b) contain a copy of the public notice, and
  - (c) conclude with a request for leave to bring in the bill.
- (3) When the petition has been received, notice of motion for leave to bring in the bill may be given, as in the case of public bills.
- (4) When leave to bring in a private bill has been given, and before it is read a first time, it will be printed, at the expense of the parties applying for it, in the same form as public bills, and a sufficient number of copies of it will be delivered to the Clerk, for the use of the House.

### 166. Payment for private bills

- (1) Before a private bill may be read a first time, the sum of \$50 towards meeting incurred expenses, must be paid to the credit of the Legislature, and a certificate of such payment must be produced by the member moving the first reading of the bill.
- (2) Whenever the expenses incurred exceed the amount paid, as determined by the Clerk, a further sum of \$50 must be paid to the credit of the Legislature by the parties applying for the bill, and further certificates produced before the bill is further proceeded with.
- (3) Whether the bill is passed, rejected or withdrawn, the promoters must pay any additional sum which may be required to fully pay any expenses incurred. In the event of a balance remaining in favour of the promoters the Clerk will issue a certificate of the actual expenses incurred and arrange for the refund of any unexpended amounts.

### 167. Form of the bill

Every private bill must contain a preamble, reciting the circumstances on which the bill is

founded, and the matters in reference to, or by reason of which the legislation is required.

**168. Reference to select committee**

- (1) When a private bill has been read a first time, it will be referred to a select committee, to be appointed upon notice of motion, and such committee will require proof of the allegation contained in the preamble.
- (2) Every petition for or against a private bill will, if received, be referred without motion to the select committee on the bill, and any petition against a bill must distinctly specify the grounds of opposition.
- (3) The select committee may hear counsel if it is desired, take evidence as required, and decide on matters in issue between the persons conducting and opposing the bill.
- (4) The select committee will determine whether the preamble, with or without amendment, will stand part of the bill. If decided in the affirmative, the several clauses of the bill, together with any amendments, will be considered. If determined in the negative it will be fatal to the bill.

**169. Report of the Select Committee**

When a select committee reports in favour of a private bill, a future day will be appointed for the second reading, and the bill will be proceeded with in the same manner as public bills.

**170. Private bills originating in the Assembly**

Private bills originating in the Assembly, if accompanied by printed copies of the reports and proceedings of the select committee to which they were referred, will be proceeded with in all respects as public bills, unless the House determines otherwise.

**171. Lapsed private bills**

- (1) A private bill, originated in the Council and having been reported by a select committee, which lapses in either house by reason of a prorogation before it has reached its final stage may, upon receipt of a petition by the promoters for leave to proceed, be introduced again, including any amendments already agreed to in the Council, and read a first time without notice or debate.
- (2) Such private bill may also, on motion agreed to, be passed through all subsequent stages through which it had passed in a previous session without further notice or debate.
- (3) If a motion for such proceedings is negatived then the bill may be proceeded with in the ordinary way.
- (4) If a private bill having been read a first time and referred to a select committee, lapses by reason of a prorogation before the committee has reported, it may, upon receipt of a petition from the promoters, and by order of the House, be read a first time and referred to a select committee together with the minutes or evidence taken before, together with all papers, petitions and instructions previously referred or given. When the committee reports on the bill, it may be proceeded with in the ordinary way.
- (5) In the case of every private bill the standing orders will be held to be satisfied in all respects, where they have been complied with in a previous session.



## CHAPTER 27 – COMMITTEE OF THE WHOLE HOUSE

### 172. Appointment of committee

#### Sessional order – Instruction to committee of the whole – SO172, 141, 180

- (1) A committee of the whole House will be appointed by a resolution that the House resolve itself into a committee of the whole immediately or at a future time.
- (2) When an order of the day is read for the House to resolve itself into a committee of the whole the President will leave the Chair without putting any question, and the House then resolve itself into committee, unless a **motion notice** for an instruction to the committee is ~~proposed~~ **moved**.<sup>37</sup>

### 173. Proceedings in committee

- (1) A committee may consider only the matters referred to it by the House.
- (2) A question in committee will be decided in the same manner as in the House.
- (3) A motion contradictory to the previous decision of a committee may not be entertained in the same committee.
- (4) A motion for the previous question may not be made in committee.
- (5) In committee members may speak more than once on the same question, and, when a question has been proposed from the Chair, must confine themselves to that question.
- (6) Motions “That the question be now put” and “That the Chair report progress and ask leave to sit again” must be moved without debate and immediately put and determined, but neither of those motions may be repeated within 15 minutes after either of them has been moved, unless debate on the matter has concluded.
- (7) Except as otherwise provided by the standing orders, the same rules of the conduct of members and of debate, procedures, and the conduct of business will be observed in committee as in the House, the Chair of Committees having the same authority as the President for the preservation of order, but disorder in a committee may be censured only by the House, on receiving a report.

### 174. Appointment of acting Chair

If the Chair wishes to leave the Chair any Temporary Chair may take the Chair, and if no Temporary Chairs are present, then the Chair may appoint any other member to take the Chair, such member having the same powers as the Chair.

### 175. Disorder in committee

- (1) The Chair may name a member for being guilty of a wilful or vexatious breach of any of the standing orders or for interrupting the orderly conduct of the business of the committee.
- (2) When the Chair names a member, the Chair will leave the Chair and report such action to the President.
- (3) After the House has dealt with the named member the Committee will resume.
- (4) If disorder arises in Committee, the President may resume the Chair without any

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<sup>37</sup> Resolved—LC Minutes 8 May 2019 p. 61.

question being put, and may leave the Chair in the same manner, after which the committee will resume its proceedings.

**176. Quorum**

- (1) The quorum in committee of the whole will be the same as for the House.
- (2) If notice is taken of the absence of a quorum in committee, the Chair will count the committee, and if after the bells have been rung for five minutes a quorum is not formed, or if it appears on a division (by which division no decision will be taken to have been arrived at) that a quorum is not present, the Chair will leave the Chair and report to the House.
- (3) When the Chair reports an absence of a quorum in committee to the President, the President will count the House, and if a quorum of members is then present, the House will again resolve itself into a committee of the whole without any question being put.
- (4) If the proceedings of a committee are interrupted by lack of a quorum and consequent adjournment of the House, the resumption of the committee will be an order of the day for the next day of sitting, and when the order is called on the proceedings will be resumed at the point where they were interrupted.

**177. Report of the committee**

- (1) When all matters referred to a committee have been considered, the Chair will be directed to report to the House, and when the consideration of those matters has not been concluded, the Chair may be directed to report progress and ask leave to sit again.
- (2) A motion may be made at any time during the proceedings of a committee that the Chair report progress and ask leave to sit again.
- (3) Resolutions reported from a committee may be agreed to or disagreed to by the House, or agreed to with amendments, recommitted to the committee, or the further consideration of them postponed.
- (4) A motion may be made “That the Chair do now leave the Chair”, which if carried will terminate the proceedings of the committee.
- (5) Any committee whose proceedings have been so terminated may be revived by order on motion.

**178. Objection to Chair’s ruling**

If objection is taken to a decision of the Chair of Committees, such objection must be stated at once in writing. If the committee decides, the Chair will then leave the Chair, and the House resume. When the matter has been laid before the President and disposed of, the committee will resume proceedings where they were interrupted.

## CHAPTER 28 – INSTRUCTIONS BY THE HOUSE TO COMMITTEES

### 179. Effect of instructions

- (1) An instruction may give a committee of the whole House authority to consider matters not otherwise referred to it, or extend or restrict its authority.
- (2) An instruction may be given to a committee on a bill to divide a bill into two or more bills or to consolidate several bills into one.
- (3) An instruction may be given to a committee on a bill to amend an existing Act or consider amendments which are not relevant to the subject matter of the bill but are relevant to the subject matter of the Act it is proposed to amend.

### 180. Notice required; when moved

#### Sessional order - Instruction to committee of the whole – SO 180, 141, 172

- (1) ~~Except as provided in paragraph (2), an instruction may only be moved by motion on notice.~~ A motion for an instruction is to be moved
  - (a) before the House resolves itself into a committee of the whole House, or
  - (b) ~~when~~ **on** the order of the day is **being** read **for consideration in committee of the whole or** the resumption of committee.
- (2) An instruction may be moved as an amendment on the question for the adoption of the report of the committee.<sup>38</sup>

### 181. Debate on instructions

Debate on a motion for an instruction:

- (a) must be relevant to the instruction,
- (b) may not refer to the objects of the bill to which the instruction relates, and
- (c) may not anticipate discussion of a clause in the bill.

### 182. Instruction to select or standing committees

An instruction may be given to a select or standing committee to extend or restrict its terms of reference. Any instruction must be moved before the committee reports.

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<sup>38</sup> Resolved—LC Minutes 8 May 2019 p. 61.

## CHAPTER 29 – PRIVATE MEMBERS' BUSINESS

### 183. Notice given

Any member may give notice of an item of private members' business for debate during the session.

#### Sessional order—Suspension of standing orders 184 and 185

**That for the remainder of the current session, and unless otherwise ordered, standing orders 184 for the consideration of private members business, standing order 185 for the conduct of the draw for precedence of private members business, and the sessional order for the substitution of items in the order of precedence, be suspended.<sup>39</sup>**

### ~~184.—Consideration of~~<sup>35</sup>

~~On days set apart for general business, the House is to consider items of private members' business in the sequence established by a draw conducted by the Clerk at the beginning of the session and from time to time.~~

### ~~185.—Conduct of the draw~~<sup>-35</sup>

#### Sessional order—Substituting an item in the order of precedence – SO 185

- ~~(1) The Clerk is to conduct a random draw of 12 members' names from items of private members' business already placed on the Notice Paper, to establish the order of precedence.~~
- ~~(2) To the extent that there is a sufficient number of notices on the Notice Paper, the draw is to be conducted from the names of members with notices in the following order:
  - ~~(a) Opposition members,~~
  - ~~(b) Cross bench members,~~
  - ~~(c) Government members.~~~~
- ~~(3) The names of members with notices will be drawn separately in the sequence shown in paragraph (2) to determine their relative position in the order of precedence for the first 12 items.~~
- ~~(4) A member is ineligible to be included in the random draw of names if that member has previously been selected in a draw and had an item of business disposed of, when there are other members in the same group in paragraph (2) with notices who have not previously been selected in the draw.~~
- ~~(5) A member whose name is drawn in the ballot may transfer their turn to another member who does not have an item of private members' business inside the order of precedence. Where this occurs both the member whose name was drawn and the member who received the transfer are ineligible to be included in the draw until all other members in the same group in paragraph (2) with notices have been selected in the draw.~~
- ~~(6) The items drawn will appear in numerical sequence from 1 to 12 on the Notice Paper under "Items in the Order of Precedence". Those items not drawn in the order of~~

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<sup>39</sup> Resolved—LC Minutes 3 June 2020 p. 999.

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~~precedence will appear on the Notice Paper under “Items outside the Order of Precedence”.~~

- ~~(7) The Clerk is to notify the members involved of the date, time and place of the draw no later than one day prior to the conduct of the draw.~~
- ~~(8) The order of precedence must not contain more than 12 items at any time.~~
- ~~(9) Any member whose name has been drawn and who has more than one notice of motion on the Notice Paper, must advise the Clerk as soon as possible following the draw which notice of motion is to be placed in the order of precedence. If a member fails to advise the Clerk within two working days, the first motion standing on the Business Paper in the name of the member will be included in the order of precedence.~~
- ~~(10) Further random draws will be conducted as necessary to determine items in the order of precedence, up to a maximum of 12 items.~~

### **Sessional order – Substituting an item in the order of precedence – SO 185<sup>35</sup>**

**That, during the current session, standing order 185 be varied as follows:**

- ~~(1) A member who has an item of private members’ business in the order of precedence may substitute for that item, an item of private members’ business outside the order of precedence standing in the name of that member.~~
- ~~(2) A member substituting an item in the order of precedence must hand a signed notification of the substitution to one of the Clerks at the Table during a sitting of the House.~~
- ~~(3) Notification is to be given no later than the last sitting day in the week preceding the next day on which general business has precedence under the sessional orders.~~
- ~~(4) Once a motion has been moved, it cannot be substituted.<sup>40</sup>~~

### **Sessional order - Expiry of private members’ business notices of motions**

- (1) That, during the current session, a private members’ business notice of motion outside the order of precedence that has remained on the Notice Paper for 20 sitting days without being moved will be removed from the Notice Paper.**
- (2) This sessional order does not apply to notices of motions for bills or for the disallowance of statutory rules.<sup>41</sup>**

## **186. Debate on motions**

### **Sessional order - Debate on private members’ motions – SO 186**

- ~~(1) An item of private members’ business, other than a bill, must not receive more than three hours of debate.~~
- ~~(21) When an item other than a bill is being considered:~~ **The debate of an item of private members’ business other than a bill is to be conducted as follows:**
  - ~~(a) the mover of the motion may speak for not more than 30~~ **20** minutes, ~~and~~
  - ~~(b) any other member may speak for not more than 20~~ **15** minutes,

<sup>40</sup> Resolved—LC Minutes 8 May 2019 p. 64

<sup>41</sup> Resolved—LC Minutes 8 May 2019 p. 63

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- (c) if the motion is not sooner disposed of, after a total time of two hours debate, the President is to interrupt proceedings to allow the mover of the motion to speak in reply for not more than five minutes, and
  - (d) the President will then put all the questions necessary to dispose of the motion and any amendments.
- ~~(3) When an item other than a bill is not earlier disposed of, at 15 minutes before the end of the time provided for the consideration of the item, the President is to interrupt proceedings to allow the mover of the motion to speak in reply for not more than 10 minutes. The President will then put every question necessary to dispose of the motion, forthwith and successively without further amendment or debate, unless the motion is withdrawn as provided by the standing orders.~~
2. When an item other than a bill subject to an overall time limit for debate is interrupted to allow the mover of the motion to speak in reply:
- (a) the mover, or any member who has not already spoken in debate, may move a motion, without notice, to extend the time for the debate and to set time limits for each subsequent speaker in debate, with the mover in reply to be allocated five minutes,
  - (b) the question on a motion moved under paragraph (a) is to be decided without debate, but may be amended, and
  - (c) at the end of the additional time agreed to for consideration of the item, the President is to interrupt proceedings consistent with the procedure set out in paragraph (1).<sup>42</sup>

### Sessional order – Short form motions

- (1) That, notwithstanding anything to the contrary in the standing and sessional orders, during the current session, the following procedure apply to general business notices of motions: On the Clerk calling on a member to move a notice of motion standing in their name other than a motion for a bill, that member, prior to moving the motion, may move that the item of private members' business be considered in a short form format as follows:
- (a) the mover of the motion may speak for not more than five minutes,
  - (b) any other member may speak for not more than three minutes,
  - (c) if the motion is not sooner disposed of, after a total time of 30 minutes, the President is to interrupt proceedings to allow the mover of the motion to speak in reply for not more than three minutes, and
  - (d) the President will then put all the questions necessary to dispose of the motion and any amendments.

### 187. Debate on bills

- (1) Where there is debate on the question for leave to bring in a bill the following time limits will apply:
- (a) a maximum of one hour debate,
  - (b) the mover of the motion, and any other member, may speak for not more than

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<sup>42</sup> Resolved—LC Minutes 8 May 2019 p. 64-65.

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10 minutes, and

- (c) 10 minutes before the end of the time for debate, the President is to interrupt proceedings to allow the mover of the motion to speak in reply for not more than 10 minutes.
- (2) On any motion being agreed to for leave to bring in a bill, the question on the first reading and printing will be taken together as one motion, and put without amendment or debate.
- (3) Where there is debate on the question for the second or third reading of a bill the following time limits will apply:
  - (a) the mover may speak for not more than 30 minutes, and
  - (b) any other member and the mover in reply may speak for not more than 20 minutes.
- (4) After the second reading speech of the mover, debate on the bill must be adjourned for at least five calendar days, while retaining its position in the order of precedence.

### 188. Postponement of items in order of precedence

#### **Sessional order - Postponement of items in the order of precedence – SO 188**

~~An item of private members' business listed in the order of precedence may be postponed. However, an item which is postponed for a third time will be removed from the order of precedence and set down at the end of private members' business outside the order of precedence unless the House otherwise orders, on motion moved without notice.~~

- (1) A notice of motion in the order of precedence may only be postponed once. A notice of motion postponed for a second time will be removed from the order of precedence and returned to its position outside the order of precedence, unless the House otherwise orders, on motion moved without notice.**
- (2) This sessional order does not apply to notices of motions for bills.<sup>43</sup>**

### 189. Time limits to apply

When an item of private members' business is dealt with on days set aside for government business the time limits in this chapter apply.

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<sup>43</sup> Resolved—LC Minutes 8 May 2019 p. 64

## **CHAPTER 30 – CONDUCT OF MEMBERS AND STRANGERS**

### **190. Disorderly conduct by members**

- (1) If a member, after warning by the President:
  - (a) continues to obstruct the business of the House, or
  - (b) continues to abuse the rules of the House, or
  - (c) refuses to comply with an order of the Chair, or
  - (d) refuses to comply with the standing orders, or
  - (e) continues to disregard the authority of the Chair, or
  - (f) otherwise obstructs the orderly conduct of business of the House,the President may name the member and report the member's offence to the House.
- (2) If an offence indicated in paragraph (1) is committed by a member in committee of the whole, the Chair is to suspend the proceedings of the committee and report the offence to the President.
- (3) A member who has been reported as having committed an offence may make an explanation or apology, as the member thinks fit, and then, if required by the Chair, withdraw from the Chamber. A motion may then be moved without notice that the member be suspended from the service of the House. No debate or amendment is allowed on the motion, which must be put immediately by the President.

### **191. Suspension of member**

- (1) A member found guilty of an offence under the standing orders may be suspended from the service of the House by motion moved without notice for any period of time that the House decides.
- (2) Any suspension may have effect:
  - (a) until the House terminates the suspension,
  - (b) until the submission of an apology by the offending member, or
  - (c) both of the above.
- (3) A member who is suspended from the service of the House is excluded from the chamber and galleries, and may not serve on or attend any proceedings of a committee of the House during the period of suspension. If a member enters the chamber during the member's suspension, the President will order the Usher of the Black Rod to remove the member from the chamber.

### **192. Member called to order**

If the President or Chair of Committees calls a member to order three times in the course of any one sitting for any breach of the standing orders, or a member conducts themselves in a grossly disorderly manner, that member may, by order of the President or Chair of Committees, be removed from the chamber by the Usher of the Black Rod for a period of time as the President or Chair may decide but not beyond the termination of the sitting.

### **193. President may suspend sitting or adjourn House**

In cases of serious disorder in the House or in committee of the whole House, the President may suspend the sitting of the House for a time to be stated or adjourn the House until the next sitting day without any motion.



**194. Powers of House not affected**

Nothing in this chapter affects any power of the House to proceed against any member for any conduct unworthy of a member of the House.

## CHAPTER 31 – VISITORS

### 195. Distinguished visitors

Distinguished visitors may be admitted to a seat on the floor of the House, by motion without notice.

### 196. Conduct of visitors

#### Sessional order – Conduct of visitors – SO 196

- (1) Visitors may attend in the galleries during a sitting of the Legislative Council, unless otherwise ordered by the House.
- (2) The President only may admit visitors to the seating in the gallery on either side of the President's Chair.
- (3) No person other than a member, a Clerk-at-the-Table or an officer attending on the House may enter any part of the chamber reserved for members, while the House is sitting.
- (4) Paragraph (3) does not apply in respect of a member breastfeeding **a child or a child under the age of four in the care of a member** ~~an infant~~.
- (5) The Usher of the Black Rod, subject to any direction by the President, is to remove any person who enters any part of the chamber reserved for members while the House is sitting, or causes a disturbance in or near the chamber.<sup>44</sup>

### 197. Removal of strangers for disorderly conduct

If a person, not being a member:

- (a) interrupts the orderly conduct of the business of the House,
- (b) obstructs the approaches to the House, or
- (c) creates a disturbance within the precincts of the House,

the President or Chair of Committees may order the Usher of the Black Rod to remove that person from the precincts of the House and to exclude them from the House for the period directed by the President or Chair.

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<sup>44</sup> Resolved—LC Minutes 8 May 2019 p. 85

## CHAPTER 32 – EFFECT AND SUSPENSION OF STANDING ORDERS

### 198. Suspension of standing orders

#### Sessional order - Suspension of standing and sessional orders – SO 198

- (1) **Except as provided in paragraph (2), in** ~~In~~ urgent cases, any standing order or other order of the House may be suspended by the House in whole or in part:
  - (a) by a motion on notice, or
  - (b) by leave of the House.
- (2) **On the President reading the prayers, calling on any notice of motion, or calling on the Clerk to read the order of the day, a motion may be moved, without notice, that standing and sessional orders be suspended to allow a particular order of the day or motion on the Notice Paper to be called on forthwith.**
- (23) On a motion for the suspension of a standing or other order, **with the exception of motions referred to in paragraph (4),** a member may not speak for more than five minutes, and if the debate is not concluded after the expiration of 30 minutes after the moving of the motion the question on the motion will then be put.
- (4) **On a motion being moved for the suspension of standing orders to allow a notice of motion or order of the day relating to an order for papers under standing order 52, or an Address to the Governor under standing order 53, to be called on forthwith, the question is to be decided without amendment or debate except a statement by the mover and a statement by a Minister not exceeding 5 minutes each.** <sup>45</sup>

### 199. Effect of suspension

The suspension of a standing or other order is limited in its operation to the particular purpose for which the suspension has been sought.

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<sup>45</sup> Resolved—LC Minutes 8 May 2019 p. 65

## **CHAPTER 33 – MATTERS OF PUBLIC IMPORTANCE AND MOTIONS OF URGENCY**

### **200. Proposal for debate**

- (1) A member may give notice of a motion – That the following matter of public importance should be discussed forthwith: [specifying the matter].
- (2) Consideration of the motion is to take precedence of all other business set down on the Notice Paper for that day, except business taking precedence under standing order 74 (3).
- (3) When the motion has been made, the question is to be decided without amendment or debate, except a statement by the mover and a statement by a Minister not exceeding 10 minutes each.
- (4) If the question is agreed to, subsequent discussion of the matter may not exceed one hour thirty minutes, whether on the same or subsequent sitting days, excluding the reply of the mover.
- (5) The following time limits on speeches will apply:
  - (a) member proposing the matter – 15 minutes,
  - (b) any Minister first speaking – 15 minutes,
  - (c) Leader of the Opposition or member nominated by the Leader of the Opposition, when the matter is proposed by a member of the government – 15 minutes;
  - (d) any other member – 10 minutes,
  - (e) proposer in reply – 10 minutes.
- (6) If discussion of a matter is adjourned to another sitting day, the order of the day for its resumption is to take precedence as provided in paragraph (2).
- (7) Only one matter of public importance may be proceeded with on any sitting day, but this is not to preclude the resumption of an adjourned discussion on the same day.
- (8) Matters of public importance will only be considered on days on which government business has precedence.

### **201. Urgency motions**

- (1) A member may move a motion, without notice – That the House now adjourn to discuss the following matter of urgency: [specifying the matter].
- (2) The member proposing the motion to debate the matter of urgency must hand to the President, prior to the commencement of the sitting on the day to which the proposal relates, a written statement of the proposed matter of urgency.
- (3) The President will inform the House at the conclusion of formal business that a motion has been received, at which time the President will put the question on urgency without amendment or debate, except a statement by the mover and a statement by a Minister not exceeding 10 minutes each.
- (4) If urgency is agreed to, the following time limits on speeches will apply:
  - (a) member proposing the matter – 15 minutes,
  - (b) any Minister first speaking – 15 minutes,
  - (c) Leader of the Opposition or member nominated by the Leader of the Opposition, when the matter is proposed by a member of the government – 15

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- minutes;
  - (d) any other member – 10 minutes,
  - (e) proposer in reply – 10 minutes.
- (5) At the conclusion of the debate the motion will lapse, with no question being put.
- (6) No second motion for the adjournment of the House to discuss a matter of urgency may be made on the same day.

## CHAPTER 34 – CITIZEN'S RIGHT OF REPLY

### 202. Person referred to

- (1) Any person who has been referred to in the House by name, or in such a way as to be readily identified, may make a submission in writing to the President, on any one or more of the following grounds, claiming:
  - (a) that they have been adversely affected:
    - (i) in reputation,
    - (ii) in respect of dealings or associations with others,
  - (b) that they have been injured in occupation, trade, office or financial credit, or
  - (c) that their privacy has been unreasonably invaded, and requesting that they should be able to include an appropriate response in the parliamentary record.
- (2) Where a person makes a submission to the President, the President must, as soon as practicable, consider the submission and decide whether:
  - (a) to refer the submission to the Privileges Committee for inquiry and report, or
  - (b) it is inappropriate to be considered by the committee on the grounds that the subject matter of the submission is trivial, frivolous, vexatious or offensive in character.
- (3) The President must inform the person in writing of the decision.

### 203. Reference to committee

- (1) Where a submission is referred to the Privileges Committee, the committee may decide not to consider a submission referred to it if, in the opinion of the committee, the subject matter of the submission is not sufficiently serious or is frivolous, vexatious or offensive in character. The committee must report its decision to the House.
- (2) Where the committee decides to consider a submission, the committee may confer with, but not take evidence from any person, including:
  - (a) the person who made the submission, and
  - (b) any member who referred to the person in the House.
- (3) In considering any submission, the committee:
  - (a) must meet in private,
  - (b) must not consider or judge the truth of any statements made in the House or in the submission,
  - (c) must not make public:
    - (i) any minutes of proceedings,
    - (ii) any evidence, or
    - (iii) any submissions, either in whole or in part, except in its report to the House.
- (4) In reporting to the House on a submission, the committee may recommend:
  - (a) that no further action be taken by the House or by the committee in relation to the submission, or
  - (b) that a response by the person who made the submission, in a form of words agreed to by the person and the committee and specified in the report of the committee, be published in the Minutes of the Proceedings or incorporated in Hansard, and must not make any other recommendation.
- (5) Any response by a person who made a submission and which is included in a report to the House:

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- (a) must be succinct and strictly relevant to the questions in issue,
  - (b) must not contain anything offensive in character,
  - (c) must not contain any matter where publication would have the effect of:
    - (i) unreasonably adversely affecting or injuring a person, or unreasonably invading a person's privacy, in the manner referred to in paragraph 1, or
    - (ii) unreasonably adding to or aggravating any adverse effect, injury or invasion of privacy suffered by a person.
- (6) In this order, person includes an unincorporated association, a corporation and a body corporate.
- (7) A notice of motion to adopt a report from the Privileges Committee on a citizen's right of reply:
- (a) is to be placed on the Notice Paper as business of the House for six sitting days following the giving of the notice of motion,
  - (b) if not dealt with within the six sitting days, the motion will be placed on the Notice Paper as general business.

## CHAPTER 35 – COMMITTEES

### 204. Sessional committees

- (1) The House may establish sessional committees at the commencement of each session of Parliament to consider matters relating to the provision of services to members.
- (2) The functions and composition of any sessional committee will be as determined by the House from time to time.

### 205. Procedure committee

- (1) A Procedure Committee will be appointed at the commencement of each Parliament.
- (2) The committee may:
  - (a) consider on its own initiative any amendments to the standing orders,
  - (b) propose to the House changes in practice and procedures of the House, and
  - (c) consider any matter relating to the procedures referred to it by the House or the President.
- (3) The President, Deputy President, Leader of the Government and Leader of the Opposition are to be among the members of the committee.
- (4) Members may be appointed to the committee as substitutes for a member of the committee, by notice in writing to the Chair of the committee.
- (5) Nominations may be made by the Leader of the Government, the Leader of the Opposition, the Government and Opposition Whips, and Cross Bench Members, as applicable.

### 206. Standing committees

- (1) The House may establish standing committees which have power to sit during the life of the Parliament.
- (2) The functions, source of references and composition of any standing committee will be as determined by the House in the resolution appointing the committee.

### 207. Select committees

- (1) The House may appoint select committees to consider matters referred by the House. A select committee has power to sit during the life of the Parliament. When the committee completes its inquiry and presents its final report to the House, the committee ceases to exist.
- (2) The composition of any select committee will be as determined by the House.



## GENERAL COMMITTEE PROVISIONS

### 208. Powers

#### Sessional order – Powers of committees – visits of inspection

A committee has power:

- (a) to adjourn from time to time,
- (b) to adjourn from place to place,
- (c) to send for and examine persons, papers, records and things,
- (d) to make visits of inspection:
  - (i) within New South Wales,
  - (ii) ~~if authorised by the House~~, with the approval of the President, elsewhere in Australia, ~~and outside Australia, and~~
  - (iii) **if authorised by the House, with the approval of the President, outside Australia, and**
- (e) to request the attendance of and examine members of the House.<sup>46</sup>

#### Sessional order – Orders for the production of documents by committees

- (1) That this House notes that in 2018, the unredacted copy of the Government's Final Business Case for the Windsor Bridge replacement project was produced to Portfolio Committee No. 5 – Industry and Transport as part of its inquiry into the Windsor Bridge replacement project following assertion by the committee of the power of Legislative Council committees to order the production of State papers.
- (2) That this House notes that Portfolio Committee No. 4 – Legal Affairs in its report on the Budget Estimates 2018-2019, published the following legal advices in relation to the power of Legislative Council committees to order the production of State papers:
  - (a) Crown Solicitor, "Section 38 Public Finance and Audit Act and powers of parliamentary committees", 10 August 2018,
  - (b) Crown Solicitor, "Section 38 Public Finance and Audit Act and powers of parliamentary committees – Advice 2", 12 September 2018,
  - (c) Acting Crown Solicitor, "Draft report of Inspector of Custodial Services", 24 October 2018,
  - (d) Mr Bret Walker SC, "Initial advice documented in email from Clerk of the Parliaments to Clerk Assistant – Committees and Director – Committees", 25 October 2018,
  - (e) Acting Crown Solicitor, "Request by Committee for draft report of Inspector of Custodial Services", 29 October 2018,
  - (f) Solicitor General, "Question of powers of Legislative Council Committees to call for production of documents from witnesses", Advice SG 2018/23 (redacted), and
  - (g) Ms Anna Mitchelmore SC, "Powers of Legislative Council Portfolio Committee No 4 in the context of its Inquiry into Budget Estimates 2018-2019", 19 November 2018.

<sup>46</sup> Resolved—LC Minutes 8 May 2019 p. 85-86

- (3) That this House notes that the Solicitor-General in her advice SG 2018/23 stated:

I should add, however, that it is more likely than not, in my view, that, if this question of the powers of a parliamentary Committee were to be the subject of a decision of a court, a finding would be made that a Committee of the NSW parliament has the power to call for a witness to attend and give evidence, including by the production of a document, subject to claims of privilege, such as public interest immunity and legal professional privilege, that might be made by the witness. There may be some argument as to whether such a power resides in the Parliamentary Evidence Act, Standing Order 208(c) of the Legislative Council or a power based on reasonable necessity but, if the power does exist, it would be likely to emerge in any court proceedings on the basis that such proceedings would be difficult to confine to the limited question of the construction of the Parliamentary Evidence Act.

- (4) That this House welcomes and endorses the opinion of the Solicitor-General as an acknowledgement of the power of Legislative Council committees to order the production of documents.
- (5) That this House further affirms that whilst in the first instance Legislative Council committees will seek to obtain access to necessary documents by request, they do possess the power to order the production of documents which may be exercised in the event a request is declined.
- (6) That this House calls upon the Premier to reissue Premiers memorandum C2011-27 "Guidelines for Appearing before Parliamentary Committees" and M2017-02 "Guidelines for Government Sector Employees dealing with the Legislative Council's Portfolio Committees" in accordance with the Solicitor-General's opinion, and the procedures set out in this resolution.
- (7) That, notwithstanding anything to the contrary in the standing orders, for the duration of the current session:
- (1) Whenever a committee resolves to order the production of documents under standing order 208(c):
    - (a) a copy of the order is to be communicated to the Department of Premier and Cabinet by the Clerk, and
    - (b) a summary of the terms of the order are to be reported to the House by the President on the next sitting day.
  - (2) The terms of the order agreed to by a committee must specify the inquiry to which the order relates, and the date by which the documents are to be returned.
  - (3) When returned, the documents will be lodged with the Clerk of the Parliaments and made available to members of the House.
  - (4) The committee may authorise the publication of documents received, subject to paragraphs (6) – (8).
  - (5) A return under the order is to include an indexed list of all documents returned, showing the date of creation of the document, a description of the document and the author of the document.
  - (6) Where a document is considered to be privileged:

- (a) a return is to be prepared showing the date of creation of the document, a description of the document, the author of the document and reasons for the claim of privilege, and
  - (b) the documents are to be delivered to the Clerk of the Parliaments by the date and time required in the resolution of the committee and not published or copied without an order of the committee.
- (7) A member of the committee may, by communication in writing to the Clerk of the Parliaments, dispute the validity of the claim of privilege in relation to a particular document or documents. On receipt of such communication, the Clerk of the Parliaments is authorised to release the disputed document or documents to an independent legal arbiter, for evaluation and report as to the validity of the claim.
- (8) The independent legal arbiter is to be appointed by the President and must be a Queen's Counsel, a Senior Counsel or a retired Supreme Court Judge.
- (9) A report from the independent legal arbiter is to be lodged with the Clerk of the Parliaments and:
  - (a) made available only to members of the committee, and
  - (b) not published or copied without an order of the committee.
- (10) Documents returned to an order of a committee under standing order 208(c), which are in the custody of the Clerk of the Parliaments, are documents presented to the committee and form part of the evidence of the inquiry to which they relate.<sup>47</sup>

## 209. Must not sit while the House is sitting

- (1) A committee may sit during any adjournment of the House.
- (2) A committee must not sit while the House is sitting, unless the House otherwise orders.

## 210. Membership

### Sessional order - Pecuniary interest – SO 210 (10)

- (1) The composition of each committee is to be determined by the House in the resolution appointing the committee.
- (2) Government members are to be nominated by the Leader of the Government.
- (3) Opposition members are to be nominated by the Leader of the Opposition.
- (4) Cross bench members are to be nominated by agreement between cross bench members.
- (5) In the absence of any agreement the representation on a committee is to be determined by the House.
- (6) Nominations for membership of the committees are to be in writing to the Clerk within seven days of the passing of the resolution appointing the committee.
- (7) Members may also at any time, by motion on notice, be discharged by the House from

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<sup>47</sup> Resolved—LC Minutes 8 May 2019 p. 81-83.

attending a committee, and other members appointed or added.

- (8) The President may not be elected to any committee other than one of which the President is an ex officio member.
- (9) If the Deputy President is elected to serve on a committee and declines to do so, another member is to be elected.
- (10) ~~No member may take part in a committee inquiry where the member has a pecuniary interest in the inquiry of the committee.~~ **No member may take part in a committee inquiry where the member has a direct pecuniary interest in the inquiry of the committee, unless it is in common with the general public, or a class of persons within the general public, or it is on a matter of state policy.**<sup>48</sup>

## 211. Chair and Deputy Chair

### Sessional order – Chair and Deputy Chair – SO 211

- (1) Chairs and Deputy Chairs of Committees are to be appointed or elected by the committee in accordance with the resolution of the House appointing the committee.
- (2) The member nominated as Deputy Chair is to act as Chair when the Chair is absent from a meeting.
- (3) In the absence of both the Chair and Deputy Chair from a meeting of a committee, a member of the committee is to be elected by the members present to act as Chair for that meeting of the committee.
- (4) **In the absence of the Deputy Chair from a meeting of a committee, a member of the committee may be elected by the members present to act as Deputy Chair of the meeting of the committee.**<sup>49</sup>
- (5) **In the specific circumstances where the Chair is attending a committee hearing remotely via electronic means, the Deputy Chair may act as Chair of the hearing at the request of the Chair. Alternatively, if the Deputy Chair is absent, the committee may elect another member present in the hearing room to act as chair of the hearing. However, the chair may resume chairing the proceedings at any time, and must resume chairing the proceedings when the committee is deliberating in private.**<sup>50</sup>
- (46) The Chair, Deputy Chair or other member acting as Chair at a meeting of a committee has a deliberative vote, and, in the event of an equality of votes, a casting vote.

## 212. Priority of references

The priority to be accorded to a reference received by a committee may be determined by the Chair of the committee, unless the committee decides otherwise.

## 213. First meeting

- (1) The Clerk is to fix the time and place for the first meeting of each committee in such a manner as the Clerk thinks fit.

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<sup>48</sup> Resolved—LC Minutes 8 May 2019 p. 66.

<sup>49</sup> Resolved—LC Minutes 8 May 2019 p. 66.

<sup>50</sup> Resolved—LC Minutes 18 November 2020 p. 1675.

- (2) At the first meeting, before proceeding to any other business the Chair and Deputy Chair are to be elected, unless the resolution of the House appointing the committee provides otherwise.

#### **214. Quorum**

- (1) Unless otherwise ordered, the quorum of a committee is three members.
- (2) If, after 15 minutes from the time appointed for the meeting of a committee, a quorum is not present, the meeting is adjourned and the Chair of the committee will fix the next meeting of the committee.
- (3) The clerk of the committee is to record the names of the members present.

#### **215. Loss of a quorum during a meeting**

If, during the sitting of a committee, the loss of a quorum is brought to the attention of the Chair by another committee member, after 10 minutes has elapsed the Chair will suspend the proceedings of the committee to a later hour. If a quorum is not then present, the committee will be adjourned to another day, to be fixed by the Chair.

#### **216. Member attendance**

- (1) A member must seek leave of the committee in order to be absent from four or more consecutive committee meetings.
- (2) If a member fails to attend four consecutive meetings of a committee without leave of the committee, the absence is to be reported by the Chair to the House.
- (3) If the member fails to attend the next meeting without leave of the committee, the Chair is to again inform the House. This procedure is to continue until the member attends a committee meeting.
- (4) These requirements do not apply to those committees for which the House has made provision for substitute members.

#### **217. Sub-committees**

- (1) Where the resolution appointing a committee makes provision for sub-committees, a committee has power to appoint sub-committees consisting of two or more of its members:
  - (a) to assist the committee in the exercise of any of its functions, or
  - (b) to investigate and report on any matter referred to the committee.
- (2) A sub-committee has the same powers as the committee appointing it.
- (3) The committee is to appoint one of its members to act as Chair of any sub-committee and the member appointed has a deliberative vote and, in the event of an equality of votes, a casting vote.
- (4) Unless otherwise ordered, the quorum of a sub-committee is two, of whom one must be a government member and one a non-government member.
- (5) A sub-committee is to report to the committee on any matter referred to it by the committee. The committee may adopt the report, reject the report, or adopt the report with variations.
- (6) A sub-committee is to conduct its meetings and business in the same manner as the committee appointing it.

## 218. Participation by members of the House and others

### Sessional order - Participation by members of the House and others – SO 218

- (1) Unless a committee decides otherwise, a member of the House who is not a member of the relevant committee may take part in the public **or private** proceedings of a committee and question witnesses but may not vote, move any motion or be counted for the purpose of any quorum or division.
- (2) Persons other than members of the House and officers of a committee may ~~attend a public meeting of a committee, but will not~~ **only** attend a private meeting ~~except by express invitation~~ **by resolution** of the committee, and will always be excluded when the committee is deliberating.<sup>51</sup>

### Sessional order – Substitute members

**That, during the current session:**

- (1) **Except as provided in standing order 205 in relation to the Procedure Committee, members may be appointed to a committee as substitute members for any matter before the committee, by notice in writing to the Committee Clerk.**
- (2) **Nominations for substitute government or opposition members are to be made by the Leader of the Government, Leader of the Opposition, Government or Opposition Whips or Deputy Whips, as applicable.**
- (3) **Nominations for substitute crossbench members are to be made by the substantive member or another crossbench member.**<sup>52</sup>

### Sessional order – Electronic Participation in Committee Proceedings

**That, during the current session a committee is authorised to conduct electronic communication without members of the committee or witnesses being present in the one place, provided that:**

- (a) **when a committee deliberates, members of the committee constituting a quorum are able to speak to and hear each other, and**
- (b) **when a witness gives oral evidence, members of the committee constituting a quorum are able to hear the witness and to put questions to the witness.**<sup>53</sup>

## 219. Meeting or joining with other committees

A committee or any sub-committee may:

- (a) join together with any other committee of the House or the Legislative Assembly to take evidence, deliberate and make joint reports on matters of mutual concern, and
- (b) meet with any other State or Commonwealth parliamentary committees to inquire into matters of mutual concern.

<sup>51</sup> Resolved—LC Minutes 8 May 2019 p. 67.

<sup>52</sup> Resolved—LC Minutes 8 May 2019 p. 67.

<sup>53</sup> Resolved – LC Minutes 8 May 2019 p. 73-74; amended —LC Minutes 24 March 2020, p. 878.

## 220. Joint committees

- (1) A proposal for a joint committee of the House and Legislative Assembly must contain the names of the members of the House appointed to serve on the committee.
- (2) Any such proposal agreed to by the House will be forwarded to the Legislative Assembly by message.
- (3) The proceedings of a joint committee will be reported to the House by one of the members appointed to serve on the committee.
- (4) At least three members of the House must be present at any meeting of a joint committee.
- (5) If the House agrees to a proposal from the Legislative Assembly to appoint a joint committee, the House will determine the time and place of the first meeting of the committee.

## 221. Submissions

Any person or body may make written or recorded submissions to a committee with respect to any inquiry being conducted by the committee.

## 222. Evidence

- (1) A committee is to take all evidence in public unless the committee decides otherwise.
- (2) An answer must be directly relevant to a question.** <sup>54</sup>
- ~~(3)~~ A witness before a committee is to be given the opportunity of correcting their transcript of evidence, but corrections must be confined to verbal inaccuracies or explanations of answers. Corrections in substance can only be made by further giving of evidence.

## 223. Publishing submissions and evidence

- (1) A committee has power to authorise publication, before presentation to the House, of submissions received and evidence taken.
- (2) Evidence taken in camera may be published by resolution of the committee where it is in the public interest to do so.
- (3) A committee:
  - (a) may make available to any member of the public a copy of:
    - (i) any written submissions made to it,
    - (ii) the report of any inquiry carried out by it, or
    - (iii) the record of any evidence taken in public, and
  - (b) may charge a reasonable sum for making copies available.
- (4) A committee or sub-committee may authorise the tape recording of its public hearings.

## 224. Unauthorised disclosure of evidence and documents

- (1) The evidence taken by a committee and documents presented to it, which have not been reported to the House, may not, unless authorised by the House or committee, be disclosed to any person other than a member or officer of the committee.

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<sup>54</sup> Resolved—LC Minutes 17 March 2021 p. 2005.

- (2) Paragraph (1) does not apply to:
  - (a) any proceedings of the committee that are open to the public and news media,
  - (b) any member of the committee or officers of the House or committee in the exercise or performance of their duties,
  - (c) press releases or statements made by a member of the committee on the authority of the committee,
  - (d) written submissions presented to a select committee and authorised to be published by the committee,
  - (e) any submission or document of the committee referred to any person for comment to assist the committee in its inquiry, and
  - (f) any document authorised to be published by the committee.
- (3) Any person committing a breach of this standing order may be reported to the House.

#### **225. No representation of witnesses**

A person or body is not entitled or permitted to be represented by counsel or a solicitor at a hearing of a committee unless the committee decides otherwise.

#### **226. Reports**

- (1) A committee has leave to report to the House from time to time its proceedings, evidence taken in public, and recommendations as it deems fit.
- (2) A committee may include in any report made to the House a draft bill to give effect to the recommendations of the committee.
- (3) For the purposes of preparing a draft bill for incorporation in a report to the House, a committee may, with the consent of the relevant Minister, make use of the services of any staff of the Parliamentary Counsel's Office.
- (4) A committee may publish discussion papers for the purpose of any inquiry.

#### **227. Consideration of reports**

- (1) The Chair, on the request of the committee, is to prepare a draft report and submit it to the committee **at least 7 calendar days prior to the date scheduled for the report deliberative, unless the committee decides otherwise.**<sup>55</sup>
- (2) The draft report is to be considered at a meeting convened for that purpose and may be amended as the committee thinks fit. A report may be reconsidered and amended.
- (3) The report of a committee, as agreed to by the committee, must be signed by the Chair, or in the event of the Chair refusing, any other member appointed by the committee.

#### **228. Members' opinions to be reflected**

- (1) The report of a committee is, as far as practicable, to reflect a unanimity of opinion within a committee.
- (2) It is the responsibility of a committee Chair and all members of a committee to seek to achieve unanimity of opinion.
- (3) Where unanimity is not practicable, a committee's report should be prepared so as to reflect the views of all members of the committee.
- (4) Where unanimity is not practicable, any member may append to the report a brief

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<sup>55</sup> Resolved—LC Minutes 20 November 2019 p 729.



statement of dissent, provided that:

- (a) the member has sought to have their opinions included in the report agreed to by the committee,
- (b) the statement of dissent is relevant to the committee's report and the terms of reference of the inquiry,
- (c) the statement does not contain any matter which would unreasonably adversely affect or injure a person, or unreasonably invade a person's privacy,
- (d) the statement of dissent is signed by the member or members making it,
- (e) the statement of dissent is no more than 1,000 words in length.

#### **229. Chair's foreword**

A committee Chair's foreword must be approved by the committee prior to tabling of the committee's report in the House, if the committee so resolves.

#### **230. Tabling reports**

The report of a committee, with accompanying documents, is to be tabled in the House by the member signing the report, or in the absence of the member, by some other member of the committee, within 10 calendar days of the report being adopted by the committee.

#### **231. Tabling out of session**

- (1) If the House is not sitting when a committee wishes to report to the House, the committee is to present copies of its report to the Clerk.
- (2) A report presented to the Clerk is:
  - (a) on presentation, and for all purposes, deemed to have been laid before the House,
  - (b) to be printed by authority of the Clerk,
  - (c) for all purposes, deemed to be a document published by order or under the authority of the House, and
  - (d) to be recorded in the Minutes of the Proceedings of the House.

#### **232. Debate on committee reports**

##### **Sessional order – Scheduling and duration of debate on committee reports and government responses – SO 232**

- (1) On tabling of a report from a committee, a motion may be moved without notice "That the House take note of the report".
- (2) ~~At the conclusion of the speech of the mover, the debate is to be adjourned to the next day on which committee reports have been given precedence.~~ **On a Minister tabling, or the Clerk reporting receipt of a government response to a committee report: a motion may be moved without notice "That the House take not of the government response". The debate must then be immediately adjourned to a later hour or the next sitting day.**
- (3) ~~Unless otherwise ordered, the order of the day for the resumption of debates on committee reports is to be set down on the Notice Paper in the order in which the reports were presented.~~ **A notice of motion to take note of the government response is to be placed on the Notice Paper before orders of the day for committee reports and government response, and when moved, the debate must be immediately adjourned to a later hour or the next sitting day.**

- (4) ~~The debate on committee reports on any day on which the debate has precedence is to be interrupted after one hour. The interrupted debate is to stand adjourned and be set down on the business paper for the next day on which it has precedence~~  
**Resumption of debate on a motion moved under this sessional order will be set down on the Notice Paper for the next sitting day that debate on committee reports and government response takes precedence.**
- (5) **An interrupted debate is to stand adjourned and be set down on the business paper for the next day on which it has precedence.**
- (56) Each speaker in the debate on committee reports **and government responses** is to be limited to 10 minutes, except the **mover** ~~committee Chair~~ who is allowed 15 minutes and a further 10 minutes in reply.<sup>56</sup>

#### **Sessional order – Debate on Committee reports and Government responses**

**That, notwithstanding anything to the contrary in the standing or sessional orders, for the duration of the current session debate on committee reports and the government responses are to proceed as follows:**

- (1) **If debate of a committee report and the government response to that report are orders of the day on the Notice Paper at the time of the adoption of this resolution:**
- (a) **the orders of the day are to be called on together and debated concurrently,**
  - (b) **a member speaking on the motion to take note of the committee report or government response may continue to speak for an additional five minutes beyond their allocated time in order to conclude their speech on both the motion to take note of the committee report and the motion to take note of the government response,**
  - (c) **a member who has spoken on the motion to take note of a committee report but not the government response may speak a second time to the motion that the House take note of the government response,**
  - (d) **the mover of the motion to take note of the committee report will speak in reply to both motions notwithstanding that another member may have moved the motion to take note of the government response to that report, and**
  - (e) **the questions on the motions are to be put as one question.**
- (2) **If debate of a committee report is an order of the day on the notice paper when the government response to the report is tabled:**
- (a) **no motion to take note of the government response may be moved,**
  - (b) **a member speaking on a motion to take note of the report when the government response is tabled may speak for an additional five minutes beyond their allocated time in order to speak to both the committee report and government response,**

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<sup>56</sup> Resolved—LC Minutes 8 May 2019 p. 71-72, see also Standing Order 41.

- (c) a member who has spoken on the motion to take note of a committee report when a government response is tabled may speak a second time on the government response,
  - (d) no separate motion to take note of the government response may be moved while the debate on the committee report is on the notice paper, and
  - (e) the question on the motion to take note of the report will put as follows: "That the House take note of the report and the government response".
- (3) If there is no order of the day for debate on a committee report on the Notice Paper a motion to take note of the government response may be moved on the tabling of the response.<sup>57</sup>

### 233. Government response

#### Sessional order - Government responses – SO233

- (1) On the tabling of a report from a committee, which recommends that action be taken by the government the Clerk is to refer the report to the Leader of the Government in the House who must within six months of a report being tabled, report to the House what action, if any, the government proposes to take in relation to each recommendation of the committee.
- (2) If, at the time at which the government seeks to report to the House, the House is not sitting, a Minister may present the response to the Clerk.
- (3) A response presented to the Clerk is:
  - (a) on presentation, and for all purposes, deemed to have been laid before the House,
  - (b) to be printed by authority of the Clerk,
  - (c) for all purposes, deemed to be a document published by order or under the authority of the House,
  - (d) to be recorded in the Minutes of the Proceedings of the House, and
  - (e) to be distributed by the clerk of the committee to inquiry participants.
- (4) The President is to report to the House when any government response has not been received within the six month deadline.
- (5) **If a response does not address what action, if any, the government proposes to take in relation to each recommendation of the committee, the President is to inform the House on the next sitting day. The relevant Minister must immediately explain to the House the reason for non-compliance.**
- (6) **If, after explanation in the House, the Minister has not provided a full government response within a period of one month, the President is to again inform the House and the Minister will again be called to explain. This procedure is to continue until a full government response to each recommendation is provided.**<sup>58</sup>

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<sup>57</sup> Resolved – LC Minutes 18 March 2021 p. 2036-2037.

<sup>58</sup> Resolved—LC Minutes 8 May 2019 p. 86-87.

**234. Resources**

- (1) A committee is to be provided with the resources necessary to carry out its functions.
- (2) A committee may, with the consent of the appropriate Minister, make use of the services of any staff or facilities of a government department, administrative office or public body.
- (3) A Chair of a committee may report to the President on any matter relating to the administration, functioning or operation of the committee.
- (4) The Clerk is to appoint an officer of the Council to act as clerk to the committee.
- (5) The clerk to a committee must record and include in the committee's report to the House:
  - (a) the names of the members attending each meeting of a committee,
  - (b) the proceedings of the committee and every motion or amendment moved and the name of the mover, and
  - (c) the names of the members voting on each side in a division.

Sessional and temporary order variations to the standing orders

## **EXPIRED SESSIONAL ORDERS**

