

**Legislative Council  
Parliament of New South Wales**

**GENERAL PURPOSE STANDING COMMITTEES**

**MANUAL**

**FOR**

**BUDGET ESTIMATES HEARINGS**

**June 2000**

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## **Preface**

This manual is intended as a guide to practices and procedures for members of the Legislative Council who serve on General Purpose Standing Committees and are involved in the budget estimates hearings. It does not cover all aspects of General Purpose Standing Committee operations, but it will provide guidance to members on the most common practices and procedures.

John Evans  
Clerk of the Parliaments  
June 2000



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# 1 Introduction

## 1.1 Establishment of the General Purpose Standing Committees

The five General Purpose Standing Committees were first constituted by resolution of the Legislative Council on 7 May 1997, during the 51<sup>st</sup> Parliament.<sup>1</sup> On 13 May 1999, shortly after the commencement of the 52<sup>nd</sup> Parliament, the five committees were reconstituted.<sup>2</sup> (A copy of the resolution of 13 May 1999 is provided at Appendix A.)

The General Purpose Standing Committees may inquire and report on:

- (a) any matters referred to them by the House,
- (b) the expenditure, performance or effectiveness of any department of government, statutory body or corporation,
- (c) any matter in any annual report of a department of government, statutory body or corporation.<sup>3</sup>

## 1.2 Portfolios

Ministerial expenditure portfolios applicable to each of the five committees is outlined below:

### General Purpose Committee No 1

- Premiers, Arts and Citizenship
- Treasury, and State Development
- Olympics
- Education and Training
- The Legislature
- Special Minister of State

### General Purpose Committee No 2

- Health
- Community Services, Ageing, Disability Services, and Women
- Small Business, and Tourism
- Mineral Resources, and Fisheries

### General Purpose Committee No 3

- Police
- Attorney General, and Industrial Relations
- Fair Trading, Sport and Recreation
- Juvenile Justice

### General Purpose Committee No 4

- Urban Affairs and Planning, Aboriginal Affairs, and Housing
- Transport, and Roads
- Gaming and Racing
- Public Works and Services

### General Purpose Committee No 5

- Information Technology, Energy, Forestry, and Western Sydney
- Agriculture, and Land and Water Conservation
- Environment, Emergency Services, and Corrective Services
- Local Government, Regional Development, and Rural Affairs

<sup>1</sup> Minutes of Proceedings, No 65, 7 May 1997, p. 677.

<sup>2</sup> Minutes of Proceedings, No 3, 13 May 1999, p. 62 (hereafter referred to as Resolution of 13 May 1999).

<sup>3</sup> Resolution of 13 May 1999, para 3.

### **1.3 Committee members**

Each committee consists of seven members of the Legislative Council, comprising:

- three Government members;
- two Opposition members; and
- two Cross Bench or Independent members.<sup>4</sup>

Details of the membership of each of the committees are provided at Appendix B.

#### **1.3.1 Chairs/Deputy Chairs**

All committees have elected a Chair and Deputy Chair. Names of the Chairs and Deputy Chairs are provided at Appendix B.

Committee Chairs have a deliberative and, in the event of an equality of votes, a casting vote.<sup>5</sup>

#### **1.3.2 Substitute members**

Substitute members may be appointed for any matter before the General Purpose Standing Committees, by notice in writing to the Chair of the relevant committee.<sup>6</sup>

#### **1.3.3 Participating members**

Unless a General Purpose Standing Committee otherwise decides, a member of the Legislative Council, who is not a member of the relevant committee, may take part in the public 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.<sup>7</sup>

In addition, for the purposes of the budget estimates inquiry, any member of the House may attend a meeting of a committee in relation to the budget estimates and question witnesses, participate in the deliberations of the committee at such meeting and make a dissenting statement relating to the budget estimates, but may not vote or be counted for the purpose of any quorum.<sup>8</sup>

#### **1.3.4 Quorum**

The quorum of a General Purpose Standing Committee is three members<sup>9</sup> and it is the responsibility of committee members to maintain a quorum.

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<sup>4</sup> Resolution of 13 May 1999, para 2.

<sup>5</sup> Resolution of 13 May 1999, para 6(2).

<sup>6</sup> Resolution of 13 May 1999, para 7.

<sup>7</sup> Resolution of 13 May 1999, para 10.

<sup>8</sup> Resolution of 29 June 1999, para 3.

<sup>9</sup> Standing Order 241.

If during the sitting of a committee, a quorum is not present, the Chair is to suspend the proceedings of the committee to a stated hour and if a quorum is not then present, the committee must be adjourned to some later time.<sup>10</sup>

## **1.4 Powers of the General Purpose Standing Committees**

The General Purpose Standing Committees have power:

- (a) to send for and examine persons, papers, records and things;
- (b) to adjourn from place to place;
- (c) to make visits of inspection within the State;
- (d) to request the attendance of and examine members of the House;
- (e) to publish, before presentation to the House, submissions received and evidence taken in public; and
- (f) to report from time to time their proceedings, evidence taken in public and recommendations.<sup>11</sup>

## **1.5 Referral of the 2000-2001 Budget Estimates**

On 23 May 2000, the Legislative Council resolved that the budget estimates and related documents presenting the amounts to be appropriated from the Consolidated Funds be referred to the General Purpose Standing Committees for inquiry and report.<sup>12</sup> Each committee is to examine the budget estimates for their relevant portfolios and report to the House before the House adjourns for the winter recess.<sup>13</sup> The last scheduled sitting day for this session is Friday 23 June 2000. (A copy of the resolution of 23 May 2000 is provided at Appendix C.)

The reference of the budget estimates to the committees is modelled on that used by the Australian Senate and is particularly appropriate for the Legislative Council which, while having a scrutiny function concerning Government expenditure, is not able to prevent the passage of the appropriations for the ordinary annual services of the Government.

### **1.5.1 Timetable for initial round of budget estimates hearings**

Under the resolution referring the budget estimates to the General Purpose Standing Committees, not more than three committees can hear evidence on the budget estimates simultaneously.<sup>14</sup>

The Government has provided a proposed timetable for the initial round of budget estimates hearings, with hearings scheduled for the evenings of 6, 7, and 8 of June and during the day of 9 June 2000, at Parliament House. A copy of the timetable is provided at Appendix D.

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<sup>10</sup> Standing Order 245.

<sup>11</sup> Resolution of 13 May 1999, para 8.

<sup>12</sup> Minutes of Proceedings, No 41, 23 May 2000, pp. 443-444 (hereafter referred to as Resolution of 23 May 2000).

<sup>13</sup> Resolution of 23 May 2000, para 17.

<sup>14</sup> Resolution of 23 May 2000, para 5.

Committees may choose to hold supplementary hearings for some portfolios (refer to section 5, below).<sup>15</sup> In addition, hearings to investigate those portfolios that are not dealt with during the initial round may be held at some time in the future. Individual committees are responsible for making decisions about future hearing dates.

### **1.5.2 Leave to sit during sittings and adjournments**

For the purposes of the budget estimates reference, the committees have leave to sit during the sittings or any adjournment of the House.<sup>16</sup>

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<sup>15</sup> Resolution of 23 May 2000, para 11 (b), para 12 and para 13.

<sup>16</sup> Resolution of 23 June 2000, para 10.

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## **2 Prior to the initial round of budget estimates hearings**

### **2.1 Committee meetings prior to hearings**

Committees may hold deliberative meetings prior to the scheduled commencement time of estimate hearings. The Clerk of the Parliaments has advised “There is nothing in the resolution referring the Budget Estimates to prevent Committees from resolving to meet prior to the scheduled starting time for a particular hearing in order to deliberate.”<sup>17</sup> (see Appendix E). The resolution referring the budget estimates to the General Purpose Standing Committees permits the committees to sit during the sittings or any adjournment of the House.<sup>18</sup>

### **2.2 Questions placed on notice prior to hearings**

Questions may be placed on notice by members for written response prior to estimates hearings.

Committees may decide to move resolutions relating to timeframes for questions on notice lodged prior to the budget estimates hearings. These resolutions specified dates by which questions are to be lodged with the Committee Clerk for referral to Ministers.

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<sup>17</sup> Correspondence of Clerk of the Parliaments, to Members of the Legislative Council, dated 16 September 1999, p. 5.

<sup>18</sup> Resolution of 23 May 2000, para 10.

## **3 Procedures at budget estimates hearings**

### **3.1 Attendance of witnesses**

The General Purpose Standing Committees have the power to request the attendance of and examine members of the House, which includes Ministers who are members of the House.<sup>19</sup> In addition, the committees have the power to send for and examine persons.<sup>20</sup>

The resolution referring the budget estimates states that the committees may ask for explanations from Ministers in the House, or officers of Departments, Statutory bodies or Corporations.<sup>21</sup> Ministers may bring officers of their choice to the budget estimates hearings, although committees may sometimes specify particular officers who must attend.

### **3.2 Meeting procedure**

At the commencement of each budget estimates hearing, the committee Chair is to call the meeting to order and deal with the following procedural matters:

- (a) Advise substitute member arrangements, where relevant.
- (b) Seek a motion from the committee authorising the sound and television broadcasting of the committee's public proceedings (if the committee so desires). (Refer to section 3.9, below.)
- (c) Determine/clarify timeframes for answers to written questions on notice forwarded for response prior to the hearing (where relevant). (Refer to section 2.1, above.)
- (d) Propose/facilitate negotiations between committee members about allocated times for examination of the various expenditure areas.
- (e) Open the meeting to the public and media and call in witnesses.

The Chair should then declare the committee hearing open and make a statement advising witnesses of procedural matters including:

- (a) If agreed to by the committee, explain the rules governing the authorisation of broadcasting of the committee's public proceedings. (Refer to section 3.9, below.)
- (b) Advise that members of the Legislative Assembly and any members' staff should not approach the Table.<sup>22</sup>
- (c) Outline the requirement for departmental officials to state their name and departmental title prior to answering any question.

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<sup>19</sup> Resolution of 13 May 1999, para 8 (d).

<sup>20</sup> Resolution of 13 May 1999, para 8 (a).

<sup>21</sup> Resolution of 23 May 2000, para 7.

<sup>22</sup> While there has been provision in previous years' budget estimates resolutions for members of a committee and substitute members to refer directly to their own staff at any time, there is no such provision in the current resolution. Members and their staff are therefore advised that, in accordance with practice, any messages should be delivered through the attendant on duty or committee staff, as would be the case in the Chamber or in any other committee proceedings. Adherence to this practice will assist to reduce the risk of members of the public threatening the personal safety of members, and minimise disruptions to the operation of the Committees.

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- (d) Where relevant, advise Ministers about committee resolutions relating to written questions on notice forwarded for response prior to the hearing. (Refer to section 2.1, above.)
- (e) If agreed, advise Ministers about the allocated times for examination of various program areas.
- (f) Call on items of expenditure in the order agreed and declare the proposed expenditure open for examination.<sup>23</sup>

It is usual for Chairs to ask Ministers if they wish to make a brief opening statement before members ask questions.

Once questioning has concluded the Chair should ensure the room is cleared before the committee commences any deliberations.

### 3.3 Examination of witnesses

Witnesses attend committees voluntarily and are not summoned under the *Parliamentary Evidence Act 1901* and as such they are not sworn prior to questioning.

Members may ask for explanations from Ministers in the House, or officers of departments, statutory bodies or corporations, relating to the items of proposed expenditure. All members of the committee are permitted to direct questions to witnesses, including the Chair.

Wide latitude is allowed in asking questions on any of the budget estimates and related documents before the committee. It would assist the budget estimates process if members are able to preface their questions by making reference to a specific line item or program area set out in the budget papers, although there is no requirement to do so.<sup>24</sup>

Advice from the Clerk with respect to committees placing time limits on responses to questions, and its applicability to Ministers, is canvassed in Appendix E.

The Chair will determine if questions are in order, but as a general guide the Chair would normally leave it to a witnesses to object to questions.

In answering a question it is a witnesses prerogative to answer as the witness thinks fit, although the usual rules of debate (relevancy and unparliamentary expressions) still apply.

Questions of a policy nature should be directed to and answered by the Minister. If a Minister is not present, the Chair may decide to ensure that public servants are not required to comment on matters of Government policy, but it is not incumbent on the Chair to do so.

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<sup>23</sup> Resolution of 23 May 2000, para 6.

<sup>24</sup> In previous years the resolutions referring the budget estimates have dictated that questions be linked to specific program areas. For example, in 1997 and 1998, the resolution referring the budget estimates stated "... Members may question Ministers, or officers of any department of Government, Statutory body or Corporation, relating to each program area, or where possible, proposed income or expenditure or other relevant matter in each program area ...". Minutes of Proceedings, No 75, 29 May 1997, p. 780, para 5, and Minutes of Proceedings, No 45, 4 June 1998, p. 543, para 5. The current resolution states "The Committees may ask for explanations from Ministers in the House, or officers of departments, statutory bodies or corporations, relating to the items of proposed expenditure". Resolution of 29 June 1999, para 7.

### **3.4 Questions placed on notice at hearings**

Questions may be placed on notice by members for written response at estimates hearings.

During a hearing, questions may be placed on notice in one of two ways. Firstly, witnesses may elect to take questions on notice during the course of a hearing. As it may not always be clear if a witness has agreed to provide a written answer to a question, the Chair should always clarify such matters immediately.

Secondly, members may wish to lodge written questions at the end of a hearing. Members must ensure that written questions are legible, and include the following information:

- Name of member lodging the question
- Hearing date
- Name of committee
- Name of relevant Minister
- Name of agency to which question relates (and, where possible, reference to a specific area set out in the budget papers)
- Signature of member.

It is suggested that members follow the layout shown in the pro-forma at Appendix G. Committee Clerks will have blank copies of the pro-forma for use by members at hearings.

Written questions should be given to the Clerk at the hearing, who will pass them on to the General Purpose Standing Committees Secretariat for processing.

The General Purpose Standing Committees Secretariat will provide Ministers with a list of all questions to be answered, along with advice about the dates set for the return of answers.

### **3.5 Documents provided by witnesses**

Where practicable witnesses should provide nine copies of any document submitted to a committee: one for each committee member, one for the committee Clerk and one for Hansard.

Any document to be tabled or incorporated into the official transcript should be clearly identified by the Chair for the benefit of members and Hansard.

Committees will need to resolve to accept documents submitted by witnesses during the course of hearings. At the end of each hearing a committee resolution will also be required to authorise publication of submissions or tabled documents attained from the hearings. (Refer also to section 3.10, below.)

### **3.6 Immunity of witnesses**

The immunities for witnesses appearing before the committees are:

- The privilege under article 9 of the Bill of Rights adopted in New South Wales by the *Imperial Acts Application Act 1969* which guarantees that the freedom of speech and debates or proceedings in Parliament ought not be impeached or questioned in any court or place outside of Parliament. Since the committees are a creature of the House, their proceedings are covered by article 9 of the Bill of Rights.
- Section 18 of the *Defamation Act 1958* provides a defence of absolute privilege for a publication in the course of an inquiry under the authority of a House of Parliament.
- Section 17 (1) of the *Defamation Act 1958* provides a defence of absolute privilege for the publication of a document under the authority of a House of Parliament, while section 17 (2) provides for publication of the debates and proceedings of the House.

### 3.7 Dissent from ruling of the Chair

Where debate occurs on a procedural motion, or a member dissents from a ruling of the Chair, it is normal for a committee to deliberate in private session.

### 3.8 Public proceedings

The resolution referring the budget estimates to the committees requires the committees to hear all evidence in public.<sup>25</sup>

### 3.9 Broadcasting of proceedings

On 11 October 1994 the Legislative Council adopted a resolution allowing the broadcasting of proceedings.<sup>26</sup> A copy of the resolution appears at Appendix H.

The resolution provides that a committee may, by a vote of the committee, authorise the sound broadcasting and television broadcasting of its public proceedings.<sup>27</sup> A committee may also:

- determine terms and conditions, not inconsistent with paragraphs 1(3) and 1(4) of the resolution, for the sound recording and television broadcasting of its proceedings,
- give instructions for the observance of terms and conditions determined under paragraph (a), or
- order that part of its proceedings not be recorded or broadcast.<sup>28</sup>

If a committee decides to permit the broadcasting or televising of proceedings, a witness who is to appear before the committee in those proceedings must be given a reasonable opportunity, before appearing in the proceedings, to object to the broadcasting or televising of proceedings. The witness may state the grounds of the objection. The committee must consider an objection having regard to the protection of the witness and the public interest in the proceedings. If the committee decides to permit the broadcasting or televising of proceedings despite an objection

<sup>25</sup> Resolution of 23 May 2000, para 4.

<sup>26</sup> Minutes of Proceedings, 11 October 1994, pp. 279-281.

<sup>27</sup> Broadcasting Resolution, para. 2 (1).

<sup>28</sup> Broadcasting Resolution, para. 2 (2).

of a witness, the witness must be informed before appearing in the proceedings of the committee.<sup>29</sup>

### **3.10 Authorisation to publish documents and evidence**

Section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975*, authorises a committee to publish a document received by it or evidence given before it.

Section 6 of the Act provides that it is a defence to any action or proceeding, civil or criminal, brought in respect of the publication of any document or any copy thereof or any evidence if it is proved that the publication of the document, the document from which the copy was made or the evidence was authorised under section 4.

Standing Order 252 states that evidence taken by a committee and documents presented to the committee which have not been reported to the House, may not, except with the permission of the committee, be disclosed or published by any member of the committee or by any other person.

In order to ensure that committees have an opportunity to review documents which are to be published on their authority, it is suggested that each committee authorise publication of tabled documents at the conclusion of each hearing.

### **3.11 Publication of Hansard**

A daily Hansard record of the hearings of a committee on the budget estimates is to be published as soon as practicable after each day's proceedings.<sup>30</sup>

Proof copies of Hansard will be provided to members of the Legislative Council and Ministers. In addition, proof copies of Hansard will be loaded on to the internal Parliament House Lotus Notes system (attached to the relevant committee), and on to the Parliament House website ([www.parliament.nsw.gov.au](http://www.parliament.nsw.gov.au)) via the "committees" heading, for external users.

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<sup>29</sup>Broadcasting Resolution, para. 2 (3).

<sup>30</sup> Resolution of 23 May 2000, para 9.

## 4 After the initial round of budget estimates hearings

### 4.1 Overview of sequence of events

The resolution referring the budget estimates to the General Purpose Standing Committees dictates that the following sequence of events occur after the initial round of hearings:

- The committee is to agree to its report to the House.<sup>31</sup> Committees will need to schedule a deliberative meeting after 9 June 2000, the purpose of which will be to consider report content. (Refer to section 4.3, below.)
- Once the committee has agreed to its report, it can set a date for the return of answers to questions taken on notice. (Refer to section 4.4, below.)
- A committee may then choose to set a date for supplementary hearings, although it does not have to. A supplementary hearing can not be held for at least 10 days after the date set for the return of answers to questions on notice. (Refer to section 5, below.)
- If a committee elects to hold a supplementary hearing, members must give notice three days before the hearing of matters they wish to raise at the hearing. At a supplementary hearing, questions may only be asked about those matters of which notice has been given. (Refer to section 5, below.)

Further detail about these events is provided below.

### 4.2 Reports

The General Purpose Standing Committees are required to report back to the House on the budget estimates by the last sitting day in June 2000. The resolution referring the budget estimates indicates that committees must agree upon their first report prior to setting a date for return of responses to questions on notice, and prior to supplementary hearings (if they are held).<sup>32</sup>

#### 4.2.1 Report content

Committees may find it useful to discuss the general content of their report immediately after the conclusion of each estimates hearing, especially where it is apparent that there may be items of particular concern. Committees may also wish to set a date for a deliberative meeting to consider the Chair's draft report.

<sup>31</sup> This report would ordinarily provide commentary on all the portfolios considered by a Committee during its initial round of estimates hearings. If a Committee has scheduled a first-time hearing for a portfolio beyond the period 6 June – 16 June 2000, the Committee should exclude that portfolio from their initial report. An additional report should be made once the late hearing has been conducted.

<sup>32</sup> Resolution of 23 May 2000, para 11.

Committee Clerks and the General Purpose Standing Committees Secretariat will provide assistance to committee Chairs in the drafting of reports. The format and content of committee reports on estimates can vary, although, committee reports must:

- report that the matters referred have been considered and noted; and
- include comments on individual items of particular concern.

The report of a committee on the budget estimates may propose the further consideration of any items.<sup>33</sup>

Reports do not contain a Hansard record as these are published separately.

#### **4.2.2 Participation in committee deliberations on reports**

For the purposes of the budget estimates inquiry, any member of the House may participate in the deliberations of a committee about the content of its report, however, only members of a committee may vote or be counted for the purpose of any quorum.<sup>34</sup>

#### **4.2.3 Statements of dissent**

A member of the House who participates in deliberations of the committee may append to a report of the committee a statement of dissent in relation to any part of the report.<sup>35</sup>

#### **4.2.4 Tabling of reports when the House is not sitting**

If the House is not sitting when a committee wishes to report to the House, a committee is authorised to present its report to the Clerk of the House. A report presented to the Clerk is deemed to have been laid before the House and published by order or under authority of the House. The report is recorded in the Minutes of the Proceedings for the next sitting of the House.<sup>36</sup>

#### **4.2.5 Final reporting date**

Where a committee decides to conduct supplementary hearings they are to present a final report to the House on the budget estimates by the first sitting day in August 2000.<sup>37</sup>

### **4.3 Questions placed on notice after hearings**

As mentioned in sections 2.1 and 3.4 above, questions requiring written response may be placed on notice by members prior to, at, and/or after estimates hearings.

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<sup>33</sup> Resolution of 23 May 2000, para 8.

<sup>34</sup> Resolution of 23 May 2000, para 3.

<sup>35</sup> Resolution of 23 May 2000, para 3.

<sup>36</sup> Resolution of 13 May 1999, para 11.

<sup>37</sup> Resolution of 23 May 2000, para 17.

The resolution referring the budget estimates states that written questions relating to the budget estimates may be supplied to the Clerk of the Committee, who must distribute them to the relevant Minister and to members of the committee. Answers must be supplied to, and circulated by the Clerk.<sup>38</sup>

In reality, the General Purpose Standing Committees Secretariat will be responsible for monitoring and collating answers to questions on notice, so all written questions lodged after the hearings and answers to all questions on notice (including those lodged before, at and after hearings) should be lodged directly with the Secretariat.

To ensure questions placed on notice are handled as quickly as possible, members should ensure a signed paper copy of the questions is provided to the secretariat. An electronic version of the questions (via e-mail) should also be provided.

The General Purpose Standing Committees Secretariat will provide Ministers with a list of all questions to be answered, along with advice about the dates set for the return of answers.

After a committee has considered proposed expenditure referred to it by the House and agreed to its report to the House, the committee must fix a day for the submission to the committee of any written answers or additional information relating to the proposed expenditure.<sup>39</sup>

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<sup>38</sup> Resolution of 23 May 2000, para 16.

<sup>39</sup> Resolution of 23 May 2000, para 11 (a).

## 5 Supplementary hearings

After the committee has considered proposed expenditure referred to it by the House and agreed to its report to the House, the committee may fix a day for the commencement of supplementary meetings of the committee to consider matters relating to the written answers or additional information, or otherwise relating to the proposed expenditure. This day must not be less than 10 days after the day fixed for the submission to the committee of any written answers or additional information.<sup>40</sup>

A member may lodge with a committee, not less than three working days before the day fixed for the commencement of supplementary meetings, notice of matters relating to the written answers or additional information, or otherwise relating to the proposed expenditure referred to the committee, which the member wishes to raise at the supplementary meetings of the committee.<sup>41</sup>

Any notice lodged with a committee must be forwarded by the committee to the Minister in the House responsible for the matters to which the notice relates.<sup>42</sup> Committee Clerks, in conjunction with the General Purpose Standing Committees Secretariat, will be responsible for forwarding notices to Ministers.

A committee may determine at any time the number and duration of any supplementary meetings.<sup>43</sup>

At a supplementary meeting, questions may be put to Ministers or officers of departments, statutory bodies or corporations, relating to matters of which notice has been given, and the proceedings of the committee must be confined to those matters.<sup>44</sup>

The committee must present a final report to the House by first sitting day in August 2000.<sup>45</sup> Where supplementary hearings are held a committee may report to the House any recommendation for further action by the House arising from the committee's supplementary meetings.<sup>46</sup>

Committees must hear evidence conducted in supplementary budget estimates hearings in public<sup>47</sup>, and a daily Hansard record of the hearings is to be published as soon as practical after each day's proceedings.<sup>48</sup>

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<sup>40</sup> Resolution of 23 May 2000, para 11 (b).

<sup>41</sup> Resolution of 23 May 2000, para 12 (1).

<sup>42</sup> Resolution of 23 May 2000, para 12 (2).

<sup>43</sup> Resolution of 23 May 2000, para 13.

<sup>44</sup> Resolution of 23 May 2000, para 14.

<sup>45</sup> Resolution of 23 May 2000, para 17.

<sup>46</sup> Resolution of 23 May 2000, para 15.

<sup>47</sup> Resolution of 23 May 2000, para 4.

<sup>48</sup> Resolution of 23 May 2000, para 9.

## **6 Staff**

### **6.1 General Purpose Standing Committees Secretariat**

The General Purpose Standing Committees Secretariat is responsible for coordinating the budget estimates inquiries, including the preparation of committee reports and handling of questions on notice.

Inquiries about the budget estimates should be made to the:

- Clerk Assistant-Committees, Warren Cahill, on telephone 9230 2464, facsimile 9230 2981 and e-mail: warrencahill@parliament.nsw.gov.au
- Director of the Standing Committee on State Development, Steven Carr, on telephone 9230 3074, facsimile 9230 2981 and e-mail: stevencarr@parliament.nsw.gov.au

### **6.2 Committee Clerks and Assistant Clerks**

Senior staff of the Legislative Council will be performing the roles of committee Clerks and Assistant Clerks, and will provide procedural support to Chairs and members during hearings.

Committee Clerks are responsible for recording the minutes of committee proceedings including:

- Opening and adjournment times of meetings.
- The names of all members present at meetings, including an identification of substitute members (where relevant).
- The names of all witnesses at hearings (supplied by departmental contacts).
- Resolutions of the committee.
- Items of expenditure called on for questions.
- Documents and exhibits provided at the hearing (both those incorporated into Hansard and those not incorporated). If not incorporated, documents should be identified in the minutes as having been tabled.
- Any document or exhibit which is not suitable for reproduction due to its volume (eg books) or nature (eg audio or video tapes). Such material will be identified as having been presented and retained by the Clerk for tabling as 'additional information'.

Committee Clerks are also responsible, in conjunction with the Director of the General Purpose Standing Committees, for assisting committee Chairs to draft their reports on the budget estimates.

### **6.3 Ministerial contact officers**

The normal arrangement is that an officer from each Minister's office is nominated as the contact officer to co-ordinate matters between the Minister/Department and the Legislative Council.

It is the responsibility of the contact officer to liaise with, and ensure the attendance of, all witnesses from a department and the relevant statutory bodies/corporations.

The contact officer should:

- Identify themselves to the committee Clerk as soon as they arrive at the hearing.
- Be accessible to committee staff during the hearing.
- Provide to the committee Clerk 12 copies of a list of all their witnesses under each agency title (including statutory bodies and corporations) including the appropriate form of address, and name and job title, for circulation to members, committee staff and Hansard. The Departmental officer should also have spare copies to provide to journalists at the hearing. (NB As last minute changes to witnesses need to be reflected in the list, provision of the list in advance is seldom practical.)
- Provide desk name cards for all witnesses and advisers.

The Ministerial contact officers should also be available to liaise with the General Purpose Standing Committees Secretariat in relation to the coordination of responses to questions placed on notice.

## **Appendix A - Resolution of 13 May 1999, establishing the General Purpose Standing Committees**

1. That, notwithstanding anything to the contrary in the Standing Orders, during the present session and unless otherwise ordered, five General Purpose Standing Committees reflecting Government Ministers' portfolio responsibilities be appointed, as follows:

(a) Committee No 1

Portfolios  
Premiers, Arts and Citizenship  
Treasury, State Development  
Olympics  
Education and Training  
The Legislature

(b) Committee No 2

Portfolios  
Health  
Community Services, Ageing, Disability Services, Women  
Small Business, Tourism  
Mineral Resources, Fisheries

(c) Committee No 3

Portfolios  
Police  
Attorney General, Industrial Relations  
Fair Trading, Sport and Recreation  
Juvenile Justice, Youth

(d) Committee No 4

Portfolios  
Urban Affairs and Planning, Aboriginal Affairs, Housing  
Transport, Roads  
Gaming and Racing, Hunter Development  
Public Works and Services

(e) Committee No 5

Portfolios  
Information Technology, Energy, Forestry, Western Sydney  
Agriculture, Land and Water Conservation  
Environment, Emergency Services, Corrective Services  
Local Government, Regional Development, Rural Affairs

- (1) Each Committee is to consist of 7 Members, comprising:
    - (f) 3 Government Members nominated by the Leader of the Government;
    - (g) 2 Opposition Member nominated by the Leader of the Opposition;
    - (h) 2 Cross Bench or Independent Member nominated by agreement between Cross Bench and Independent Members. In the absence of any agreement the representation on the Committee is to be determined by the House.
  - (2) Nominations for membership of the Committee must be made in writing to the Clerk of the House within 7 days of the passing of this Resolution.
2. The Committees may inquire into and report on:
    - (a) any matters referred to them by the House;
    - (b) the expenditure, performance or effectiveness of any department of government, statutory body or corporation;
    - (c) any matter in any annual report of a department of government, statutory body or corporation.
  3. A meeting of a Committee may be convened at the request of any three Members of the Committee in writing to the Clerk of a Committee.
  4. The Clerk of a Committee must convene a meeting of the Committee within 7 days of the receipt of the request.
  5. (1) Before proceeding to any business at its first meeting each Committee must elect a Chair and a Deputy Chair. The Deputy Chair is to act as Chair when the Chair is absent from a meeting of a Committee or the position of Chair is vacant.
    - (2) The Chair of a Committee has a deliberative vote and in the event of an equality of votes a casting vote.
  6. (1) Government or Opposition Members may be appointed to the Committees as substitutes for a Member of the Committees for any matter before the Committees, by notice in writing to the Chair of a Committee.
    - (2) Cross Bench or Independent Members may be appointed to the Committees as substitutes for another Cross Bench or Independent Member of the Committees for any matter before the Committees by notice in writing to the Chair of a Committee.
    - (3) Nominations for substitute Government or Opposition Members may be made by the Leader of the Government, Leader of the Opposition, Government or Opposition Whips or Deputy Whips, as applicable.
    - (4) Nominations for substitute Cross Bench or Independent Members may be made by another Cross Bench or Independent Member.

8. The Committees have power:
- (a) to send for and examine persons, papers, records and things;
  - (b) to adjourn from place to place;
  - (c) to make visits of inspection within the State;
  - (d) to request the attendance of and examine Members of the House;
  - (e) to publish, before presentation to the House, submissions received and evidence taken in public; and
  - (f) to report from time to time its proceedings, evidence taken in public and recommendations.
9. A Member of a Committee may append to a report of the Committee made to the House a statement of dissent in relation to any part of the report.
10. Unless a Committee otherwise decided, a Member of the House, who is not a member of the relevant Committee may take part in the public 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.
11. (1) If the House is not sitting when a Committee wishes to report to the House, the Committee is to present its report to the Clerk of the House.
- (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.

*(Minutes of the Proceedings, No. 3, 13 May 1999, pp. 57 – 68)*

Note:

General Purpose Standing Committee No.1 also considers the expenditure of the Government Ministerial portfolio of Special Minister of State.

## Appendix B - Committee membership

### General Purpose Standing Committee No 1

The Hon Revd Fred Nile MLC (Chair)	Cross-bench
The Hon Tony Kelly MLC (Deputy Chair)	Government
The Hon Patricia Forsythe MLC	Opposition
The Hon Doug Moppett MLC	Opposition
The Hon Peter Primrose MLC	Government
The Hon Henry Tsang MLC	Government
The Hon Dr Peter Wong MLC	Cross-bench

### General Purpose Standing Committee No 2

The Hon Dr Brian Pezzutti MLC (Chair)	Opposition
The Hon Dr Arthur Chesterfield-Evans MLC (Deputy Chair)	Cross-bench
The Hon Alan Corbett MLC	Cross-bench
The Hon Ron Dyer MLC	Government
The Hon Doug Moppett MLC	Opposition
The Hon Janelle Saffin MLC	Government
The Hon Henry Tsang MLC	Government

### General Purpose Standing Committee No 3

The Hon Helen Sham-Ho MLC (Chair)	Independent
The Hon John Hatzistergos MLC (Deputy Chair)	Government
The Hon Don Harwin MLC	Opposition
The Hon John Johnson MLC	Government
The Hon Andy Manson MLC	Government
Ms Lee Rhiannon MLC	Cross-bench
The Hon Jim Samios MLC	Opposition

### General Purpose Standing Committee No 4

The Hon Jenny Gardiner MLC (Chair)	Opposition
The Hon Ian Cohen MLC (Deputy Chair)	Cross-bench
The Hon John Hatzistergos MLC	Government
The Hon Charlie Lynn MLC	Opposition
The Hon Ian Macdonald MLC	Government
The Hon David Oldfield MLC	Cross-bench
The Hon Janelle Saffin MLC	Government

### General Purpose Standing Committee No 5

The Hon Richard Jones MLC (Chair)	Independent
The Hon Ron Dyer MLC (Deputy Chair)	Government
The Hon Richard Bull MLC	Opposition
The Hon Jan Burnswood MLC	Government
The Hon John Jobling MLC	Opposition
The Hon John Johnson MLC	Government
The Hon Malcom Jones MLC	Cross-bench

## **Appendix C - Resolution of 23 May 2000, referring the 2000-2001 budget estimates to the General Purpose Standing Committees**

1. That the Budget Estimates and related documents presenting the amounts to be appropriated from the Consolidated Fund be referred to the General Purpose Standing Committees for inquiry and report.
2. That the Committees consider the Budget Estimates in accordance with the allocation of portfolios to the Committees.
3. For the purposes of this inquiry any Member of the House may attend a meeting of a Committee in relation to the Budget Estimates and question witnesses, participate in the deliberations of the Committee at such meeting and make a dissenting statement relating to the Budget Estimates, but may not vote or be counted for the purpose of any quorum.
4. The Committees must hear evidence on the Budget Estimates in public.
5. Not more than 3 Committees are to hear evidence on the Budget Estimates simultaneously.
6. When a Committee hears evidence on the Budget Estimates, the Chair is to call on items of expenditure in the order decided on and declare the proposed expenditure open for examination.
7. The Committees may ask for explanations from Ministers in the House, or officers of departments, statutory bodies or corporations, relating to the items of proposed expenditure.
8. The report of a Committee on the Budget Estimates may propose the further consideration of any items.
9. A daily Hansard record of the hearings of a Committee on the Budget Estimates is to be published as soon as practicable after each day's proceedings.
10. The Committees have leave to sit during the sittings or any adjournment of the House.
11. After a Committee has considered proposed expenditure referred to it by the House and agreed to its report to the House, the Committee must fix:
  - (a) a day for the submission to the Committee of any written answers or additional information relating to the proposed expenditure, and

- (b) a day for the commencement of supplementary meetings of the Committee to consider matters relating to the proposed expenditure, which day must be not less than 10 days after the day fixed under subparagraph (a).
12. (1) A Member may lodge with a Committee, not less than 3 working days before the day fixed under subparagraph (11) (b), notice of matters relating to the written answers or additional information, or otherwise relating to the proposed expenditure referred to the committee, which the Member wishes to raise at the supplementary meetings of the Committee.
- (2) Any notice lodged with a Committee must be forwarded by the Committee to the Minister in the House responsible for the matters to which the notice relates.
13. A Committee may determine at any time the number and duration of any supplementary meetings.
14. At a supplementary meeting, questions may be put to Ministers or officers of departments, statutory bodies or corporations, relating to matters of which notice has been given, and the proceedings of the Committee must be confined to those matters.
15. A Committee may report to the House any recommendation for further action by the House arising from the Committee's supplementary meetings.
16. Written questions relating to the Budget Estimates may be supplied to the Clerk of the Committee, who must distribute them to the relevant Minister and to Members of the Committee. Answers must be supplied to, and circulated by, the Clerk.
17. The Committees must:
- (a) present a first report to the House before the House adjourns for the winter recess, and
- (b) present a final report to the House by the first sitting day in August 2000.

*(Minutes of the Proceedings, No.41, 23 May 2000, pp. 443-444)*

## Appendix D - Budget estimates timetable

### Daily schedules (6 June – 9 June 2000 inclusive)

#### Tuesday 6 June 2000

Time	Portfolios	Committee No	Room
5:30pm - 7:30pm	Premier, Arts and Citizenship	1	LC Chamber
5:30pm - 7:30pm	Small Business, and Tourism	2	Room 815
5:30pm - 7:30pm	Police	3	Room 814
8:00pm – 10:00pm	Olympics	1	Room 814
8:00pm – 10:00pm	Urban Affairs and Planning, Aboriginal Affairs and Housing	4	Room 815
8:00pm – 10:00pm	Environment, Emergency Services and Corrective Services	5	LC Chamber

#### Wednesday 7 June 2000

Time	Portfolios	Committee No	Room
5:30pm - 7:30pm	Treasury, and State Development	1	LC Chamber
5:30pm - 7:30pm	Health	2	Room 814
5:30pm - 7:30pm	Gaming and Racing	4	Room 815
8:00pm – 10:00pm	Special Minister of State	1	LC Chamber
8:00pm – 10:00pm	Community Services, Aging, Disability Services, and Women	2	Room 814/815
8:00pm – 10:00pm	Transport, and Roads	4	Jubilee Room

#### Thursday 8 June 2000

Time	Portfolios	Committee No	Room
7:00pm – 9:00pm	Education and Training	1	LC Chamber
7:00pm – 9:00pm	Fair Trading, Sport and Recreation	3	Jubilee Room
7:00pm – 9:00pm	Local Government, Regional Development, and Rural Affairs	5	Room 814/815

(...cont)

**Friday 9 June 2000**

<b>Time</b>	<b>Portfolios</b>	<b>Committee No</b>	<b>Room</b>
9:30am – 11:30am	Mineral Resources, and Fisheries	2	Room 814/815
9:30am – 11:30am	Juvenile Justice	3	Jubilee Room
9:30am – 11:30am	Information Technology, Energy, Forestry, and Western Sydney	5	LC Chamber
1:00pm – 3:00pm	Attorney General, and Industrial Relations	3	Jubilee Room
3:30pm – 5:30pm	Public Works and Services	4	LC Chamber
3:30pm – 5:30pm	Agriculture, and Land and Water Conservation	5	Room 814/815
4:30pm – 6:30pm	The Legislature	1	Jubilee Room

**Individual committee schedules****General Purpose Standing Committee No 1**

<b>Date</b>	<b>Time</b>	<b>Portfolios</b>	<b>Room</b>
6 June 2000	5:30pm - 7:30pm	Premier, Arts and Citizenship	LC Chamber
6 June 2000	8:00pm – 10:00pm	Olympics	Room 814
7 June 2000	5:30pm - 7:30pm	Treasury, and State Development	LC Chamber
7 June 2000	8:00pm – 10:00pm	Special Minister of State	LC Chamber
8 June 2000	7:00pm – 9:00pm	Education and Training	LC Chamber
9 June 2000	4:30pm – 6:30pm	The Legislature	Jubilee Room

**General Purpose Standing Committee No 2**

<b>Date</b>	<b>Time</b>	<b>Portfolios</b>	<b>Room</b>
6 June 2000	5:30pm - 7:30pm	Small Business, and Tourism	Room 815
7 June 2000	5:30pm - 7:30pm	Health	Room 814
7 June 2000	8:00pm – 10:00pm	Community Services, Aging, Disability Services, and Women	Room 814/815
9 June 2000	9:30am – 11:30am	Mineral Resources, and Fisheries	Room 814/815

**General Purpose Standing Committee No 3**

<b>Date</b>	<b>Time</b>	<b>Portfolios</b>	<b>Room</b>
6 June 2000	5:30pm - 7:30pm	Police	Room 814
8 June 2000	7:00pm - 9:00pm	Fair Trading, Sport and Recreation	Jubilee Room
9 June 2000	9:30am - 11:30am	Juvenile Justice	Jubilee Room
9 June 2000	1:00pm - 3:00pm	Attorney General, and Industrial Relations	Jubilee Room

**General Purpose Standing Committee No 4**

<b>Date</b>	<b>Time</b>	<b>Portfolios</b>	<b>Room</b>
6 June 2000	8:00pm - 10:00pm	Urban Affairs and Planning, Aboriginal Affairs and Housing	Room 815
7 June 2000	5:30pm - 7:30pm	Gaming and Racing	Room 815
7 June 2000	8:00pm - 10:00pm	Transport, and Roads	Jubilee Room
9 June 2000	3:30pm - 5:30pm	Public Works and Services	LC Chamber

**General Purpose Standing Committee No 5**

<b>Date</b>	<b>Time</b>	<b>Portfolios</b>	<b>Room</b>
6 June 2000	8:00pm - 10:00pm	Environment, Emergency Services and Corrective Services	LC Chamber
8 June 2000	7:00pm - 9:00pm	Local Government, Regional Development, and Rural Affairs	Room 814/815
9 June 2000	9:30am - 11:30am	Information Technology, Energy, Forestry, and Western Sydney	LC Chamber
9 June 2000	3:30pm - 5:30pm	Agriculture, and Land and Water Conservation	Room 814/815

**Appendix E – Advice from the Clerk of the Parliaments to members of the Legislative Council concerning committee procedure, dated 16 September 1999**



LEGISLATIVE COUNCIL

OFFICE OF THE CLERK OF THE PARLIAMENTS

MEMORANDUM

To Honourable Members of the Legislative Council

From Clerk of the Parliaments

Subject Advice provided to General Purpose Standing Committees in relation to Budget Estimates hearings

Date 16 September 1999

Reference

During the Budget Estimates hearings conducted by General Purpose Standing Committees, my advice has been sought on a number of procedural issues. As these issues were not addressed in the *Manual for Budget Estimates Hearings*, published under my hand earlier this month, and the circumstances which have given rise to these requests for advice may arise again during further Budget Estimates hearings, or indeed during other inquiries conducted by the General Purpose Standing Committees, I believe it is important for the advice provided to be circulated to all Members.

**1. (A) Can a General Purpose Standing Committee resolve to limit the time taken by a witness to answer questions?**

A Committee of the House has the power and responsibility to determine its own practices and procedures, subject to: the resolutions establishing the Committee; any reference from the House; the Standing Orders of the House; and established Committee practice.

The key provisions in the resolution of the House referring the Budget Estimates relating to the taking of evidence are:

2. That the Committees consider the Budget Estimates in accordance with the allocation of portfolios to the Committees.

6. When a Committee hears evidence on the Budget Estimates, the Chair is to call on items of expenditure in the order decided on and declare the proposed expenditure open for examination.

7. The Committees may ask for explanations from Ministers in the House, or officers of departments, statutory bodies or corporations, relating to the items of proposed expenditure.<sup>1</sup>

The only provision in the resolution establishing the General Purpose Standing Committees relating to the taking of evidence is:

10. Unless a Committee otherwise decides, a Member of the House, who is not a member of the relevant Committee may take part in the public proceedings of a Committee and question witnesses..<sup>2</sup>

The Standing Orders of the House do not prescribe specific procedures for the taking of evidence. However, the procedures by which Committees take evidence are well established. These procedures are set out in each of the relevant authorities on parliamentary practice and procedure.<sup>3</sup> *Odger's Senate Practice* notes that "the Standing Orders allow the Senate and its Committees to formulate procedures for the giving of evidence before them.. This allows maximum flexibility."<sup>4</sup>

There is nothing in the resolution establishing the General Purpose Standing Committees, the reference of the Budget Estimates to these Committees, the Standing Orders of the House, or established Committee practice, that would preclude the Committees from limiting the time taken by a witness to answer a question. The Committees therefore do have the power to limit the time taken by a witness to answer a question. (However, it would be hoped that any Committee resolving to impose a limit on the time taken by a witness to answer a question would make provision for a witness to apply for an extension of time if required, and that any such time limits would be applied somewhat flexibly.)

#### 1. (B) If so, can such time limits be applied to a Minister from the Lower House?

Paragraph 7 of the resolution referring the Budget Estimates, set out above, provides for the Committee to "ask for explanations from Ministers in the House, or officers of departments, statutory bodies or corporations". Paragraph 8 of the resolution establishing the General Purpose Standing Committees provides the Committees with powers "to send for and examine persons.." and "to request the attendance of, and examine members of the House".<sup>5</sup>

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<sup>1</sup> Minutes of Proceedings, No 14, 29 June 1999, pp 163-164.

<sup>2</sup> Minutes of Proceedings, No 3, 13 May 1999, p 62.

<sup>3</sup> See for example *Erskine May*, 22<sup>nd</sup> Edition, 1997, pp 650-651; *Odger's Senate Practice*, 8<sup>th</sup> Edition, 1997, p 421; *House of Representatives Practice*, 3<sup>rd</sup> Edition, 1997, pp 599-601.

<sup>4</sup> *Odger's Senate Practice*, p 421.

<sup>5</sup> Minutes of Proceedings, No 3, 13 May 1999, p 62.

The Standing Orders of the House do not specifically address the attendance of Members (including Ministers) from the Legislative Assembly before Legislative Council Committees (or indeed the attendance of Members of the Legislative Council before Legislative Council Committees).

The relevant authorities on parliamentary practice and procedure provide consistent information in relation to the attendance of Members before Committees. The position is that a Member may give evidence before a Committee but cannot be compelled to do so. Where a Member refuses a request to attend to give evidence before a Committee, the Committee is required to inform the House, in order that the House determine the matter. However, a Member cannot be summoned to attend to give evidence before a Committee. This also applies to Members of one House giving evidence before a Committee of the other House in a bicameral Legislature.<sup>6</sup>

Where a Member (including a Member or Minister from the other House in a bicameral Legislature) appears before a Committee, they are treated like any other voluntary witness. *Erskine May* states that:

A Member who has submitted himself to examination without any order of the House is treated like any other witness. When a Member's refusal to answer questions has been reported to the House by a select committee, the House has ordered that he should submit his objection to the Committee.<sup>7</sup>

While a Minister from the Legislative Assembly is attending and giving evidence before a General Purpose Standing Committee (including during Budget Estimates hearings) they will be subject to any procedures established by such a Committee, including any time limits for the answers to questions agreed to by the Committee. A failure to comply with any such procedures established by such a Committee would need to be reported to the House by the Committee.

However, as a Minister from the Legislative Assembly cannot be compelled to attend and give evidence before a General Purpose Standing Committee (or any other Legislative Council Committee), a Minister from the Legislative Assembly may decide to leave such a hearing at any time, if they did not wish to comply with any procedures established by such a Committee, including any time limits for the answers to questions agreed to by the Committee.

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<sup>6</sup> *Erskine May*, pp 616, 648; *Odger's Senate Practice*, p 416; *House of Representatives Practice*, p 652.

<sup>7</sup> *Erskine May*, p 648.

**2. Can a Committee hold additional hearings in relation to the portfolios of a Minister already examined during the initial round of Budget Estimates hearings, prior to the Committee reporting on the initial round of hearings?**

The *Manual for Budget Estimates Hearings* notes that the “the Government has provided a proposed timetable for the initial round of Budget Estimates hearings”.<sup>8</sup> The proposed timetable was published as an Appendix to the manual.

The resolutions referring the Budget Estimates prescribe a detailed procedure and sequence for the General Purpose Standing Committees to follow at the end of the initial round of hearings, including the procedures to be followed in relation to supplementary hearings. These procedures are set out on page 11 of the manual.

The relevant provision in the resolution referring the Budget Estimates in relation to the initial round of hearings is:

2. That the Committees consider the Budget Estimates in accordance with the allocation of portfolios to the Committees.

There is nothing in the resolution referring the Budget Estimates which requires the initial round of hearings to be limited to a single hearing for each Ministerial portfolio. There is nothing in the resolutions referring the Budget Estimates which requires the initial round of hearings to be limited to the hearings listed in the Government’s proposed timetable published in the manual.

The General Purpose Standing Committees have the power to hold any number of hearings in relation to a portfolio area until such time as they have exhausted all questions in relation to that portfolio. At that time, the Committee must report to the House and the procedures set out on page 11 of the manual will then come into effect. Even if a Committee were to resolve to restrict questions to a particular period of time, the Committee could later resolve to change its view on this matter, and extend the time or have additional hearings.

A General Purpose Standing Committee resolving to conduct further hearings in relation to a portfolio area as part of the initial round of hearings, may invite a Minister from the Legislative Assembly to attend and give evidence at such further hearings.<sup>9</sup> However, as noted above, a Minister from the Legislative Assembly cannot be compelled to attend any hearing of a General Purpose Standing Committee.

A General Purpose Standing Committee may invite officers of departments, statutory bodies or corporations to attend and give evidence at a Budget Estimates hearing, including at any further

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<sup>8</sup> *Manual for Budget Estimates Hearings*, p 3.

<sup>9</sup> The Minister for Environment, Emergency Services and Corrective Services has agreed to attend and give evidence at a further hearing of Committee No 5 on Thursday 23 September, in relation to Emergency Services and Corrective Services.

hearing in relation to a portfolio area.<sup>10</sup> Under the provisions of the *Parliamentary Evidence Act 1901* the General Purpose Standing Committees may compel such officers to attend and give evidence through the issue of a summons, although the use of these coercive powers is not normally considered necessary.

### **3. Can the Committees meet prior to the starting time set out in the Government's proposed timetable for the Budget Estimates to deliberate?**

As noted above, the Government's proposed timetable for the initial round of Budget Estimates hearings was published as an appendix to the *Manual for Budget Estimates Hearings*. This timetable has been the subject of a number of changes. Clearly, the timetable was published by way of guidance and was always subject to possible change.

There is nothing in the resolution referring the Budget Estimates to prevent the General Purpose Standing Committees from resolving to hold additional deliberative meetings during the period when the initial round of Budget Estimates hearings are being held. There is nothing in the resolution referring the Budget Estimates to prevent Committees from resolving to meet prior to the scheduled starting time for a particular hearing in order to deliberate.

### **4. Can Chairs of the General Purpose Standing Committees ask questions?**

The provisions of the resolution establishing the General Purpose Standing Committees and the resolution referring the Budget Estimates relating to the examination of witnesses are set out above. There is nothing in the resolution establishing the General Purpose Standing Committees or the resolution referring the Budget Estimates to prevent Committee Chairs from asking questions at hearings.

The General Purpose Standing Committees are established to operate in generally the same way as the other Standing Committees of the Legislative Council, in which there has never been any doubt about the capacity of Chairs to ask questions.

### **5. Procedures for the publication of tabled documents, including answers to questions on notice forwarded to Ministers prior to the initial round of hearings.**

Standing Order 252 of the House provides that:

Evidence taken by any Select Committee of the House, and documents presented to such Committee which have not been reported to the House, may not, except with the permission of the Committee, be disclosed or published by any Member of such Committee or by any other person.

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<sup>10</sup> Arrangements are being made for the Directors-General of the Departments of Community Services, Women and Ageing to attend and give evidence at such a further hearing of Committee No 2 during the next few weeks.

Section 4 (2) of the *Parliamentary Papers (Supplementary Provisions) Act 1975* provides that “a Committee may authorise the publication of documents received or evidence given before it”.

As set out on page 8 of the *Manual for Budget Estimates Hearings*, General Purpose Standing Committees need to move a resolution to accept and authorise the publication of any evidence or submissions or documents that are tabled during the Budget Estimates hearings. The manual suggests that “this *can* be done in globo at the end of the hearing” [emphasis added]. However, there is nothing to prevent a Committee from resolving to publish tabled documents or other papers received by the Committee as they are tabled, or in some other way.

There is nothing to prevent a Committee from resolving prospectively to publish documents to be received at or before a certain date. However, in pursuit of consistency, and in order to ensure that Committees have an opportunity to review documents which are to be published on their authority, it is recommended that each Committee authorise publication of tabled documents either at the time they are tabled or, at the conclusion of each hearing. (While this practice is recommended, it is not incumbent on Committees to follow this practice in all instances.)

## 6. Procedures for a General Purpose Standing Committee to “self refer” a matter for inquiry

Paragraphs 3 and 4 of the resolutions establishing the General Purpose Standing Committees provide the Committees with a power to “self refer” matters for inquiry, and also set out the procedure to be followed in order for a Committee to commence such an inquiry.

3. The Committees may inquire into and report on: (a) any matters referred to them by the House; (b) the expenditure, performance or effectiveness of any department of government, statutory body or corporation; (c) any matter in any annual report of a department of government, statutory body or corporation.
4. A meeting of a Committee may be convened at the request of any three members of the Committee in writing to the Clerk of a Committee.<sup>11</sup>

During the 51<sup>st</sup> Parliament two inquiries were “self referred” to General Purpose Standing Committee in this way.<sup>12</sup> In each case, a meeting was convened following the receipt of a letter signed by three members of the relevant Committee requesting the convening of the Committee to conduct a particular inquiry.

Prior to the first of the Budget Estimates hearings on 7 September 1999, the Chair of Committee No 2 sought advice on the procedures for “self referring” a matter for inquiry by that

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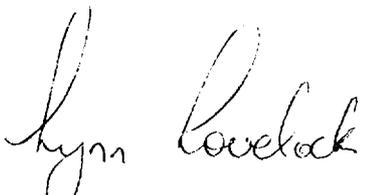
<sup>11</sup> Minutes of Proceedings, No 3, 13 May 1999, p 62.

<sup>12</sup> See General Purpose Standing Committee No 2, *Interim Report – Inquiry into Rural and Regional New South Wales Health Services*, July 1998; General Purpose Standing Committee No 1, *Interim Report on the Inquiry into the Impact of the National Electricity Market on the Finances of the New South Wales Government*, November 1998.

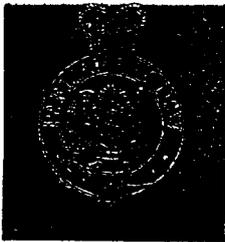
Committee. Advice was provided that, as the Committee was scheduled to meet on 7 September, the provisions of paragraph 4 of the resolutions establishing the Committees were redundant in this case and there was no need for a letter to be signed by three members of the Committee to request that the Committee convene. The Chair was advised that, once the Committee went into deliberative session, the Chair could table proposed terms of reference to "self refer" a matter for inquiry.

Where a General Purpose Standing Committee is scheduled to meet, paragraph 4 of the resolution establishing the General Purpose Standing Committees, is redundant, and a proposed "self reference" can be discussed by a Committee during a deliberative session at any scheduled meeting. However, where a General Purpose Standing Committee is not scheduled to meet, or where three or more members wish to initiate an inquiry prior to a scheduled meeting, the provisions of paragraph 4 of the resolutions establishing the Committees apply and a letter signed by three members must be provided to the Clerk of the Committee requesting the convening of the Committee.

I trust this information clarifies the situation for Members serving on General Purpose Standing Committees.

  
John Evans  
Clerk of the Parliaments

**Appendix F – Advice from Clerk of the Parliaments to members of the Legislative Council concerning procedural issues for General Purpose Standing Committees, dated 23 November 1999**



## MEMORANDUM

To Honourable Members of the Legislative Council

From Clerk of the Parliaments

Subject General Purpose Standing Committee powers and procedures under Budget Estimates and other references – advice sought by Committee Members

Date 23 November 1999

Reference

Members of General Purpose Standing Committee No 1 have recently sought advice in relation to the differences which exist in the powers and procedures of the Committee when it is considering a matter under the Budget Estimates reference or other references. As this issue is of relevance to Members of all General Purpose Standing Committees (GPSC's) I have decided to provide the advice requested to all Members of the Legislative Council.

The General Purpose Standing Committees are similar to the other Legislative Council Standing Committees. They were established by resolution of the House on 13 May 1999 and they may inquire into and report upon:

- a) any matters referred to them by the House;
- b) the expenditure, performance or effectiveness of any department of government, statutory body or corporation;
- c) any matter in annual report of a department of government, statutory body or corporation.<sup>1</sup>

Paragraph 4 of the resolution establishing the GPSC's provides that "a meeting of the Committee may be convened at the request of any three Members of the Committee in writing to the Clerk to the Committee."

### Budget Estimates reference

The inquiry into the 1999 Budget Estimates was referred to the General Purpose Standing Committees by resolution of the House, dated 29 June 1999.<sup>2</sup> This inquiry was concluded with the tabling of the reports of the Committees on the Budget Estimates on Tuesday 9 November 1999.

<sup>1</sup> Minutes of Proceedings, No 3, 13 May 1999, p 62 (hereafter referred to as Resolution establishing GPSC's), paragraph 3.

<sup>2</sup> Minutes of Proceedings, No 14, 29 June 1999, pp 163-164 (hereafter Resolution referring Budget Estimates).

The resolution of the House referring the Budget Estimates to the General Purpose Standing Committees for inquiry, contained references to some “unusual” Committee procedures, which the Committees were required to follow during the Budget Estimates inquiry. These included:

- a requirement that all evidence on the Budget Estimates be heard in public;<sup>3</sup> and
- provision for members of the House who are not members of the Committee or substitute members to participate in the deliberations of the Committees and make a dissenting statement relating to the Budget Estimates.<sup>4</sup>

### Other References from the House

General Purpose Standing Committee No 1 is currently conducting two inquiries which have been referred to the Committee by resolution of the House. The inquiry into Seaforth TAFE was referred to the Committee by resolution of the House on 20 October 1999.<sup>5</sup> The inquiry into Olympic Ticketing was referred to the Committee by resolution of the House on 26 October 1999.<sup>6</sup>

The references from the House on Olympic Ticketing and Seaforth TAFE, have not included any reference to Committee procedures. The specific “unusual” procedures prescribed in the resolution concerning the Budget Estimates referred to above do not apply during these inquiries. Therefore, during these inquiries there are three sources for the powers and procedures of the Committees: the resolution establishing the Committees; the Standing Orders of the House; and established Committee practice. Consequently, for example, during these inquiries:

- the Committees may take evidence in private or in camera;<sup>7</sup>
- any member of the House may be present while the Committee is examining witnesses but must withdraw when the Committee is deliberating, if so requested;<sup>8</sup> and
- only a member of the Committee may append a dissenting report to a report of the Committee.<sup>9</sup>

### “Self references”

During the last Parliament, General Purpose Standing Committee No 1 conducted two inquiries which were “self referred” by the Committee in accordance with the procedure set out in paragraph 4 of the resolution establishing the Committees, set out above. These were the inquiries into Land Tax, and the Impact of the National Electricity Market. General Purpose Standing Committee No 5 has

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<sup>3</sup> Resolution referring Budget Estimates, paragraph 3.

<sup>4</sup> Ibid, paragraph 4.

<sup>5</sup> Minutes of Proceedings, No 14, 20 October 1999, p 128.

<sup>6</sup> Minutes of Proceedings, No 16, 26 October 1999, p 163.

<sup>7</sup> Standing Order 250.

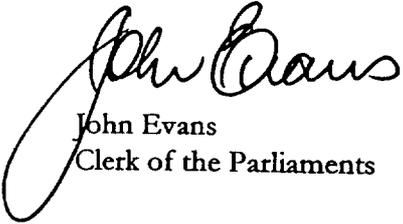
<sup>8</sup> Standing Order 251.

<sup>9</sup> Resolution establishing the GPSC's, paragraph 9.

recently resolved to “self refer” the matters of the M5 East ventilation stack and the Rural Fire Service for inquiry. General Purpose Standing Committee No 3 has recently resolved to “self refer” the matter of the contract of employment of the Police Commissioner for inquiry.

When a GPSC is conducting an inquiry into a matter “self referred” in this manner, the Committee’s powers and procedures are found in the same three sources set out above in relation to other references from the House: Once again, the specific “unusual” procedures prescribed in the resolution referring the Budget Estimates do not apply during these inquiries.

I trust this information clarifies the situation for all Honourable Members serving on General Purpose Standing Committees.



John Evans  
Clerk of the Parliaments

## **Appendix G – Questions on notice pro-forma**

### **LEGISLATIVE COUNCIL GENERAL PURPOSE STANDING COMMITTEES**

#### **QUESTION ON NOTICE**

**Member Name:**

**Date:**

**General Purpose Standing Committee No:**      1      2      3      4      5  
(please circle)

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**Question to Minister for:**

**Relevant area in the budget papers:**

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**Question:**

**Signature:**

## Appendix H – Sound and Broadcasting Resolution

1. That this House authorises:
  - (1) the sound broadcasting of the proceedings of the House:
    - (a) on the broadcasting system within the precincts of Parliament House; and
    - (b) to persons and organisations outside Parliament House approved by the President, on terms and conditions determined by the President from time to time.
  - (2) the video broadcasting of the proceedings of the House:
    - (a) on the television system within the precincts of Parliament House; and
    - (b) to persons and organisations outside Parliament House approved by the President, on terms and conditions determined by the President from time to time.
  - (3) the broadcasting and rebroadcasting on radio and television stations of sound recordings of excerpts of proceedings of the House on the following conditions, and other terms and conditions, not inconsistent with this paragraph, determined by the President from time to time:
    - (a) excerpts may be taken from the proceedings of the House from the time of the meeting of the House until the adjournment of the House;
    - (b) excerpts must be recorded from the audio signal of proceedings transmitted by the House monitoring system in Parliament House;
    - (c) broadcasts of excerpts must be used only for the purposes of fair and accurate reports of proceedings and must provide a balanced presentation of differing views;
    - (d) excerpts must not be used for:
      - (i) political party advertising or election campaigns;
      - (ii) the purpose of satire or ridicule;
      - (iii) commercial sponsorship or commercial advertising;
    - (e) excerpts of proceedings which are subsequently withdrawn may be broadcast if the withdrawal is also broadcast;
    - (f) excerpts must be placed in context. Commentators must identify Members by name;
    - (g) where audio excerpts of proceedings are used on television, their use may be that of audio over still frames, or overlay material;
    - (h) where the excerpts are used on commercial stations, the station must ensure that advertising before and after excerpts is of an appropriate nature;
    - (i) events in the Galleries are not part of the proceedings and excerpts of those events must not be used;
    - (j) access to proceedings for the purpose of recording is on the basis of an undertaking to observe these conditions. A breach of these conditions by a

- station may result in the suspension or withdrawal of permission by the President for the station to broadcast excerpts of the proceedings of the House;
- (k) the instructions of the President or delegated representatives, on the use of recorded excerpts, must be observed at all times.
- (4) the broadcasting and rebroadcasting by television stations of proceedings and excerpts of proceedings in the House, on the following conditions and other terms and conditions, not inconsistent with this paragraph, determined by the President from time to time:
- (a) the President may approve filming, on request, from the commencement of proceedings to the adjournment of the House;
- (b) broadcasts of excerpts must be used only for the purposes of fair and accurate reports of proceedings and must provide a balanced presentation of differing views;
- (c) excerpts must not be used for:
- (i) political party advertising or election campaigns;
- (ii) the purpose of satire or ridicule;
- (iii) commercial sponsorship or commercial advertising;
- (d) excerpts of proceedings which are subsequently withdrawn may be broadcast if the withdrawal is also broadcast;
- (e) excerpts must be placed in context;
- (f) where the excerpts are used on commercial stations, the station must ensure that advertising before and after excerpts is of an appropriate nature;
- (g) events in the Galleries are not part of the proceedings and must not be televised;
- (h) access to proceedings for the purpose of televising is on the basis of an undertaking to observe these conditions. A breach of these conditions may result in the suspension or withdrawal of permission by the President to televise or broadcast the proceedings of the House;
- (i) the instructions of the President or delegated representatives must be observed at all times.
- 2.
- (1) A Committee may, by a vote of the Committee, authorise the sound broadcasting and television broadcasting of its public proceedings.
- (2) A Committee may:
- (a) determine terms and conditions, not inconsistent with paragraphs 1 (3) and (4), for the sound recording and television broadcasting of its proceedings;
- (b) give instructions for the observance of terms and conditions determined under paragraph (a);
- (c) order that part of its proceedings not be recorded or broadcast.
- (3) If a Committee decides to permit the broadcasting or televising of proceedings, a witness who is to appear before the Committee in those proceedings must be given a reasonable opportunity, before appearing in the proceedings, to object to the broadcasting or televising of proceedings. The witness may state the grounds of the objection. The

Committee must consider an objection having regard to the protection of the witness and the public interest in the proceedings. If the Committee decides to permit the broadcasting or televising of proceedings despite an objection of a witness, the witness must be informed before appearing in the proceedings of the Committee.

3. The President is to report to the House from time to time:
  - (a) details of the persons and organisations authorised to receive the sound and video broadcasting and terms and conditions determined under paragraph 1 (1) and (2); and
  - (b) details of additional terms and conditions determined under paragraphs 1 (3) and (4).

*(Minutes of Proceedings, 11 October 1994, pp 279-281.)*