

INQUIRY INTO THE RULES FOR QUESTIONS

Organisation: Legislative Assembly Victoria
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President of the Legislative Council
Parliament of New South Wales
Parliament House, Macquarie Street
Sydney NSW 2000

Dear President

I am writing to you in response to your letter, dated 24 November 2016, seeking assistance concerning two inquiries currently before the Procedure Committee of the New South Wales Legislative Council.

I have enclosed an outline of the Victorian Legislative Assembly's rules around Question Time and notices of motion as they relate to the terms of reference.

I hope this information is of assistance.

Yours sincerely

Hon. Telmo Languiller MP
Speaker of the Legislative Assembly



Rules for questions

The Legislative Assembly does not have any rules to automatically facilitate a take note debate on answers. Nor has it changed the commencement of question time in order to avoid overlapping with question time in the Legislative Council. However, it is our understanding that the Legislative Council has changed its question time for such reasons.

The current sessional orders state that all answers to questions must be direct, factual, succinct and relevant. The relevance of an answer is commonly subject to points of order during question time. Speakers' Rulings indicate that in answering a question, ministers should confine themselves to the points contained in the question and should not debate the matter. Successive Speakers have taken a broad approach as to what constitutes debate and the general expectation is that the answer should not engage in debate of the subject matter of the question. When assessing relevance, Speakers look at the whole of the question including any preamble.

Sessional orders also state that the Speaker may determine that an answer to a question is not responsive and require a written response to be submitted the next sitting day. This is a new sessional order this Parliament and the Speaker has ruled that it empowers a Speaker to determine the responsiveness of an answer, but not whether the question has actually been answered. The sessional order does not prevent a minister from directly refusing to provide an answer. A direct refusal to provide an answer can be seen as responsive. As of 1 February 2017, nine questions without notice, including one supplementary question, have been ruled as not responsive in the current 58th Parliament.

In relation to the adequacy of written responses, sessional orders state that the Speaker may determine that a written response does not appropriately answer the question and direct the minister to provide another written response by the next sitting day. The Speaker will assess each case on its merits and will take into account the details of both the substantive and supplementary questions.

Sessional Order 9 Content of answers

- (1) Standing Order 58(1)(a) be suspended and all answers to questions must be direct, factual, succinct and relevant.
- (2) The Speaker may determine that an answer to an oral question without notice or supplementary oral question is not responsive to the question, and may accordingly direct the minister to provide a written response to the question and lodge it with the Speaker by 2.00 pm on the next sitting day. The Speaker will forward the written response to the member who asked the question and the Clerk must electronically publish the response.
- (3) The Speaker will determine the adequacy of a written response to a question provided under this sessional order. The Speaker may determine that a written response does not appropriately answer the question and may direct that the minister provide another written response by 2.00 pm the next sitting day. The Speaker will forward the written response to the member who asked the question and the Clerk must electronically publish the response.

Rules for notices of motion

The way notices of motion are given in the Legislative Assembly has changed in recent Parliaments. Prior to the 57th Parliament, notices of motion were given verbally in the House and there was no limit to how many could be given each day. However, the number of notices of motion was increasing to the point of becoming untenable. An example of this was in July 2007 when 62 notices of motion were given in one sitting day.

In the 57th Parliament, sessional orders were introduced that limited the total number of verbal general business notices of motion in the House to 10 per sitting day allocated between sides of the House. Any additional general business notices of motion would then have to be submitted in writing. Even with this limitation, the full 10 were given nearly every sitting day. There is no time scheduled during a standard sitting week for general business to be transacted in the Legislative Assembly. Therefore, as there is little prospect of notices of motion ever being debated, they became pseudo 'statements by members'.

In the current 58th Parliament, the Legislative Assembly has adopted a new sessional order providing that members can only give notices of motion in writing. The only notices of motion to be given verbally in the House are those by ministers, and motions of no confidence in the government as there are particular requirements for those set out in the Constitution. A copy of notices of motion must be provided to the clerks at the table before the Speaker calls for notices each sitting day.

Sessional Order 11 Notices of motion

Standing Orders 140(1) and 141 be suspended and the following to apply:

- (1) A member may only move a motion to discuss a subject if he or she has given notice of that motion on a previous sitting day.
- (2) Copies of all notices, whether to be given verbally or in writing, must be provided to the Clerks at the table before notices are called on by the Speaker.
- (3) All notices given by ministers must be verbal.
- (4) Verbal notices must be read to the House. They can only be given before the House proceeds to the business of the day as set out in the notice paper.
- (5) All notices, except notices given under paragraph (6) given by members who are not ministers, must be given in writing. Members may give notice by lodging a copy with the Clerks in accordance with paragraph (2).
- (6) A motion by a member expressing no confidence in the Premier and ministers, in the terms set out in s 8A of the *Constitution Act 1975*, may only be given verbally.
- (7) The Clerk must notify the Speaker of a notice of a motion by a member to disallow a statutory rule to which Standing Order 151 applies, and the Speaker will report details to the House at the first convenient opportunity.

Rulings from the Chair states that a notice of motion should be no longer than 50 words unless it:

- establishes, appoints members to, or refers matters to, parliamentary committees; or
- is of a procedural nature in the opinion of the Chair.

The Legislative Assembly also has a number of other allotted times during a sitting week which provide members with the opportunity to place issues on the parliamentary record.

Statements by members was a procedure first introduced in 1999 and was described as a new vehicle to allow individual members to make short, sharp statements on matters of interest. It occurs each sitting day after formal business for a maximum of 30 minutes. Each member who makes a statement has a time limit of 90 seconds.

Constituency questions were also introduced in the current Parliament at the same time as verbal notices of motion and Dorothy Dix questions ceased. At the conclusion of questions without notice and ministers' statements, five government members and five non-government members ask one oral question each to ministers relating to constituency matters. There is a time limit of one minute to ask the question and answers are to be given in writing to the Clerk within 30 days. The intention of constituency questions was to give members greater opportunity to bring constituency matters to the House and to a minister's attention.

The adjournment debate also gives members the chance to request action from a Minister on a specific issue. It goes for 30 minutes, or until 10 members have spoken, whichever is shorter. Each member may speak for a maximum of three minutes.

The current rules relating to statements by members, constituency questions and the adjournment debate are set out below.

Standing Order 40 Statements by members

- (1) After formal business each sitting day members may make statements on any topic of concern during a maximum period of 30 minutes -- provided that precedence is given to a disallowance motion moved under SO 151.
- (2) Subject to paragraph (1), the time limit for each member making a statement is 90 seconds, the call being allocated between members according to party/individual representation in the House.

Sessional Order 7 — Constituency questions

- (1) At the conclusion of oral questions without notice and ministers' statements, five government members and five non-government members may ask one oral question each to ministers relating to constituency matters.
- (2) Replies to constituency questions must be given in writing within 30 days by delivering a reply to the Clerk. The Clerk must give the response to the member who asked the question and electronically publish the response.

Standing Order 33 — Adjournment debate

Following an adjournment motion proposed by a minister under SO31(4)(a) or by the Speaker under SO 32:

- (1) The question 'That the House now adjourns' may be debated and any debate will last for a maximum of 30 minutes or until 10 members have spoken, whichever is the shorter. Subject to such overall time period, the time limit for each member speaking in the debate is three minutes. Immediately afterwards a period of 30 minutes in total will be provided for ministers to respond.
- (2) At the end of any debate, the Speaker will adjourn the House, without putting any question, until the next sitting day.
- (3) If the minister responsible is not present in the House to respond to issues raised by members, the minister must provide a written response within 30 days by delivering it to the Clerk. The Clerk must give the response to the member who raised the issue and electronically publish the response.