



Legislative Council

**Sessional Orders, Temporary Orders,  
Resolutions of Continuing Effect  
and Office Holders**

First Session of the fifty-seventh Parliament

Current as at 24 June 2021



## Introduction

This document includes the sessional orders adopted by the House during the 57th Parliament, temporary orders adopted by the House, including those in response to the COVID-19 pandemic, resolutions of continuing effect, and details of Legislative Council office holders.

Under the NSW Constitution, the Legislative Council has the power to make standing rules and orders to regulate its proceedings. From time to time the House adopts rules that override, vary or supplement the standing orders. These are known as sessional or temporary orders. Sessional orders lapse at the end of a session (or at an earlier time if the House so decides) and may or may not be re-adopted in the following session. Where there is a conflict between a sessional order and a standing order, the sessional order takes precedence. Temporary orders lapse at a time as determined by that order, such as the end of a calendar year.

Several of the sessional orders agreed to at the beginning of the current parliament are the same as, or similar to, those adopted in the previous parliament (the 56th Parliament). Additionally, several sessional orders were introduced at the beginning of this parliament some of which established brand new procedures or made significant changes to existing procedures.

The sessional orders relating specifically to the House are included in Part 1 of this document and those concerning the operation of committees can be found in Part 2. Temporary orders primarily relating to the operation of the House during the Covid-19 Pandemic can be found in Part 3.

Where there is a conflict between a sessional order and a standing order, the sessional order takes precedence. If a sessional order includes the phrase: 'notwithstanding anything to the contrary in the standing orders,' it means that the sessional order has an effect across more than one standing order.

If a sessional order includes the phrase: 'unless otherwise ordered' it indicates that while the sessional order is the default practice, the House acknowledges that it will need to vary the practice fairly routinely. For example, Standing order 40 requires the House to appoint the days or times on which government and private members' business will take precedence. While the relevant sessional order sets out this default order of business, there is an expectation that there may be times when the Government is willing to allow for private members' business to be debated at the time normally set aside for government business, or conversely, for the Government to use the time allocated for private members' business, such as towards the end of a session.

In addition to sessional orders, the House may also make orders that do not expire at the end of a session, unless amended or rescinded by the House. These are known as 'resolutions of continuing effect'. These resolutions can be found in Part 4. This document also contains details of Legislative Council office holders which is at Part 5.

For information about resolutions appointing committees and their membership please refer to ['Committees – Sessional Orders, Rules, Resolutions and Membership'](#).

David Blunt  
Clerk of the Parliaments  
August 2020

## Table of Contents

Part 1 – Sessional Orders relating to the House.....	6
OFFICE OF THE PRESIDENT.....	6
1. Election of President – SO 12.....	6
SCHEDULING OF BUSINESS.....	6
2. Sitting days.....	6
3. Postponement of a scheduled meeting.....	7
4. Recall of House – SO 36.....	7
5. Scheduling of government and general business.....	7
6. Time for questions without notice – SO 47.....	8
7. Motion for the adjournment – SO 32.....	8
8. Scheduling and duration of debate on committee reports and government responses – SO 41, SO 232.....	9
9. Debate on Committee reports and Government responses – SO 232.....	9
10. Conduct of business – SO 37.....	10
BILLS.....	11
11. Time limits to debate on government bills.....	11
12. Passing of bill through all stages – SO 154.....	11
13. Cut-off dates for Government bills in the Budget and Spring sitting periods.....	12
GOVERNMENT RESPONSES TO COMMITTEE REPORTS.....	12
14. Government responses – SO 233.....	12
TABLING/DOCUMENTS.....	13
15. Tabling of reports and other documents by a Minister when House not sitting – SO 55.....	13
16. Consideration of a document – SO 57.....	14
17. Government response to petitions.....	14
18. Varying the scope of an order for papers – SO52.....	15
19. Communication of orders for papers – SO52.....	16
INSTRUCTIONS.....	16
20. Instruction to committee of the whole – SO 180, SO 141, SO 172.....	16
QUORUMS.....	17
21. Adjourning the House in the absence of a Quorum – SO 29 and SO 30.....	17
22. Lapsed questions, resumption of debate following loss of quorum – SO 106.....	18
INTERRUPTION OF BUSINESS.....	18
23. Interruption of business – SO 32 and SO 46.....	18
PRIVATE MEMBERS' BUSINESS.....	20
24. Expiry of private members' business notices of motions.....	20
25. <del>Substituting an item in the order of precedence – SO 185</del> .....	20
26. Postponement of items in the order of precedence.....	20
27. Debate on private members' motions – SO 186.....	21
28. Short form motions.....	21
29. Suspension of SO 184 and SO 185.....	22
PRIVATE MEMBERS' STATEMENTS.....	22
30. Private Members' statements.....	22
QUESTIONS.....	22
31. Rules for Questions, answers to be directly relevant – SO 65.....	22
32. Questions to Ministers and other members.....	22
33. Supplementary questions and written answers, next sitting day.....	23
34. Timeframe for providing answers to questions and lodgment of written questions – SO 66 and SO 67.....	24

35. Take note of answers to questions.....	25
PARLIAMENTARY SECRETARIES .....	26
36. Parliamentary secretary – SO 25.....	26
OTHER.....	27
37. Formal motions – SO 44.....	27
38. Suspension of standing and sessional orders – SO 198.....	27
39. Votes of members with the care of a child – SO 113 .....	28
40. Conduct of visitors – SO 196 .....	28
Part 2 – Sessional Orders relating to Committees.....	30
41. Powers of committees – visits of inspection – SO 208 .....	30
42. Pecuniary interests and participation in committee inquiries – SO 210.....	30
43. Chairs and Deputy Chairs – SO 211.....	30
44. Participation by members of the House and others in committee inquiries – SO 218	31
45. Substitute members .....	31
46. Electronic participation.....	32
47. Orders for the production of documents by committees.....	32
48. Consideration of Chair's draft report.....	34
49. Privileges Committee and Independent Legal Arbiter Reports .....	35
50. Committee Evidence – SO 222.....	35
Part 3 – Temporary Orders .....	36
1. Sitting Calendar 2020 .....	36
2. Sitting Calendar 2021 .....	36
3. Privileges Committee and Independent Legal Arbiter Reports—COVID-19 Pandemic .....	37
4. Administrative Procedures in the Chamber—COVID-19 Pandemic .....	38
5. Conduct of divisions—COVID-19 Pandemic .....	38
6. Returns to Orders Roundtable .....	39
Part 4 – Resolutions of continuing effect.....	41
1. Assistant President.....	41
2. Broadcast of Proceedings .....	41
3. Code of Conduct .....	44
4. Parliamentary Contributory Superannuation Fund .....	48
5. Parliamentary Ethics Advisor .....	49
6. Presidents Gallery and Visitors' Galleries Rules.....	52
7. Records of the House .....	53
8. Smoke-Free Parliament.....	53
9. Message Stick.....	54
10. Procedural Fairness for Inquiry Participants .....	54
Part 5 – Officeholders and ministerial representation .....	58
Office holders.....	58
Assembly Ministers represented in the Council .....	59
Council Ministers represented in the Assembly .....	60

## **Part 1 – Sessional Orders relating to the House**

### **OFFICE OF THE PRESIDENT**

#### **1. Election of President – SO 12**

That during the current session standing order 12 be varied to read:

##### **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.
- (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. Each member so proposed 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.

[Resolved 17 March 2021]

### **SCHEDULING OF BUSINESS**

#### **2. 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.

[Resolved 8 May 2019, amended 26 February 2020]

### **3. 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.

[Resolved 24 March 2020]

### **4. Recall of House – SO 36**

That, during the current session and unless otherwise ordered, standing order 36 be varied to read:

#### **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, deputy leader or designated representative 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.

[Resolved 24 March 2020]

### **5. Scheduling of government and general business**

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.

[Resolved 8 May 2019, amended 26 February 2020]

## **6. Time for questions without notice – SO 47**

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

- (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 that is later than the time appointed in paragraph 1, questions are to commence 30 minutes after the time appointed for the meeting of the House.

[Resolved 8 May 2019]

## **7. Motion for the adjournment – SO 32**

- (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 question 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.

[Resolved 8 May 2019]



## **8. Scheduling and duration of debate on committee reports and government responses – SO 41, SO 232**

- (1) 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.
- (2) That during the current session, standing order 232 be varied to read:

### **232. Debate on committee reports and government responses**

- (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) 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 note of the government response". The debate must then be immediately adjourned to a later hour or the next sitting day.
- (3) 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 responses, and when moved, the debate must be immediately adjourned to a later hour or the next sitting day.
- (4) 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 responses 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.
- (6) Each speaker in the debate on committee reports and government responses is to be limited to 10 minutes, except the mover who is allowed 15 minutes and a further 10 minutes in reply.

[Resolved 8 May 2019]

## **9. Debate on Committee reports and Government responses – SO 232**

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,
  - (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.

[Resolved 18 March 2021]

## **10. Conduct of business – SO 37**

That, during the current session, standing order 37 be varied to read:

### **37. Conduct of business**

- (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 business of the House.

[Resolved 8 May 2019]

## **BILLS**

### **11. Time limits to debate on government bills**

That, during the current session and unless otherwise ordered, the following time limits 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.

[Resolved 8 May 2019]

### **12. Passing of bill through all stages – SO 154**

That, during the current session, standing order 154 be varied to read:

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

- (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.
- (3) 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, and fixing the day for the second reading to be dealt with on one motion without formalities.

[Resolved 8 May 2019]

### **13. 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 negatived 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 sitting period, 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 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 sitting period.

[Resolved 8 May 2019]

## **GOVERNMENT RESPONSES TO COMMITTEE REPORTS**

### **14. Government responses – SO 233**

That, during the current session, standing order 233 be varied to read:

#### **233. Government response**

- (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.

[Resolved 8 May 2019]

## **TABLING/DOCUMENTS**

### **15. Tabling of reports and other documents by a Minister when House not sitting – SO 55**

That, during the current session, standing order 55 be varied to read:

#### **55. Tabling of reports and other documents by a Minister when House not sitting**

- (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) 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.

[Resolved 8 May 2019]

## **16. Consideration of a document – SO 57**

That, during the current session, standing order 57 be varied to read:

### **57. Consideration of a document**

- (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
  - (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.

[Resolved 8 May 2019]

## **17. Government response to petitions**

That, during the current session:

- (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.

[Resolved 8 May 2019]

## **18. Varying the scope of an order for papers – SO52**

- (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.
- (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.

[Resolved 10 November 2020]

## **19. Communication of orders for papers – SO52**

That, during the current session and unless otherwise ordered, when an order for papers is directed to an entity which is not subject to ministerial direction or control, the Clerk is to communicate the order to the Department of Premier and Cabinet and the named entity.

[Resolved 9 June 2021]

## **INSTRUCTIONS**

### **20. Instruction to committee of the whole – SO 180, SO 141, SO 172**

- (1) That, during the current session, standing order 180 be varied to read:



**180. Motion for an instruction**

- (1) A motion for an instruction is to be moved:
  - (a) before the House resolves itself into committee of the whole House, or
  - (b) on the order of the day 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.
- (2) That, during the current session, standing order 141(2) be varied to read:
  141. (2) After a bill has been read a second time a motion may be moved without notice:
    - (a) to refer the bill to a committee,
    - (b) for an instruction to the committee of the whole.
- (3) That, during the current session, standing order 172(2) be varied to read:
  172. (2) When an order of the day is read for the House to resolve into a committee of the whole the President will leave the Chair without putting any question, and the House will then resolve itself into committee, unless a motion for an instruction to the committee is moved.

[Resolved 8 May 2019]

## **QUORUMS**

### **21. Adjourning the House in the absence of a Quorum – SO 29 and SO 30**

- (1) That, during the current session, standing order 29 be varied to read:

**29. Quorum at commencement of sitting**

- (1) If there is no quorum present when the Chair is taken at the time appointed for the 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 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.
- (2) That, during the current session, standing order 30 be varied to read:

**30. Quorum during sitting**

- (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 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.
- (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 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.

[Resolved 8 May 2019]

**22. Lapsed questions, resumption of debate following loss of quorum – SO 106**

That, during the current session, standing order 106 be varied to read:

**106. Lapsed questions**

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 sitting day and when the order is called on the proceedings will be resumed at the point where they were interrupted.

[Resolved 8 May 2019]

**INTERRUPTION OF BUSINESS**

**23. Interruption of business – SO 32 and SO 46**

- (1) That, during the current session standing order 32 be varied to read:

**32. Interruption for adjournment**

- (1) The House may appoint the time that proceedings will be interrupted 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 division is in progress, the vote 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 allow the motion for the adjournment to be moved.
  - (3) When any business under discussion, if not disposed of, is interrupted by the operation of this standing order, the business will be set down as an order of the day for a later hour of the sitting without any question being put.
  - (4) A member speaking when proceedings are interrupted may continue speaking when proceedings are resumed.
- (2) That, during the current session standing order 46 be varied to read:

**46. Interruption of business**

- (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.
- (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,
  - (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,
  - (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.
- (3) A member speaking when proceedings are interrupted may continue speaking when proceedings are resumed.

[Resolved 8 May 2019]

## **PRIVATE MEMBERS' BUSINESS**

### **24. 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.

[Resolved 8 May 2019]

### **25. ~~Substituting an item in the order of precedence~~ — SO 185**

~~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.~~

[Resolved 8 May 2019, suspended 3 June 2020]

### **26. Postponement of items in the order of precedence**

That, during the current session, standing order 188 be varied to read:

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

- (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.

[Resolved 8 May 2019]

## **27. Debate on private members' motions – SO 186**

That, during the current session, standing order 186 be varied to read:

### **186. Debate on private members' motions**

- (1) The debate on 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 20 minutes,
  - (b) any other member may speak for not more than 15 minutes,
  - (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.
- (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).

[Resolved 8 May 2019]

## **28. Short form motions**

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.

[Resolved 8 May 2019]

## **29. Suspension of SO 184 and SO 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 the precedence, be suspended.

[Resolved 3 June 2020]

## **PRIVATE MEMBERS' STATEMENTS**

### **30. Private Members' statements**

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

[Resolved 8 May 2019, amended 26 February 2020]

## **QUESTIONS**

### **31. Rules for Questions, answers to be directly relevant – SO 65**

That, during the current session, standing order 65 (5) be varied to read:

65. (5) An answer must be directly relevant to a question.

[Resolved 8 May 2019]

### **32. Questions to Ministers and other members**

That, during the current session, standing order 64 be varied to read:

- 64. 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 in the House, or to any matter of administration for which the Parliamentary Secretary is responsible.
- (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.
- (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.
- (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.
- (6) The asking of each question must not exceed one minute and the answering of each question must not exceed three minutes. A Minister may seek leave to extend the time for an answer by one minute.
- (7) The asking of a supplementary question must not exceed one minute and the answering of each supplementary question must not exceed two minutes.

[Resolved 8 May 2019]

### **33. 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.

- (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.

[Resolved 8 May 2019]

### **34. Timeframe for providing answers to questions and lodgment of written questions – SO 66 and SO 67**

- (1) That, during the current session, standing order 66 be varied to read:

#### **66. Answers to questions without notice**

- (1) When a Minister refers a question to a Minister in the other place, the Minister must provide the answer to the House within 21 calendar days after the question was first asked.
- (2) If an answer to a question without notice is not provided within 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.
- (3) Unless an answer to a question without notice not provided within 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 (2).
- (4) 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.
- (5) The reply to a question without notice may be delivered to the Clerk when the House is not sitting.
- (6) 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.



- (7) 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.
- (2) That, during the current session, standing order 67 be varied to read:

**67. Written questions**

- (1) Notices of questions, signed by a member, must be lodged with the Clerk.
- (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.
- (5) 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.
- (6) 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.
- (7) Ministers must lodge answers to questions on notice within 21 calendar days after the question is first published.
- (8) If an answer to a question on notice is not received within 21 calendar days, 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.
- (10) A Questions and Answers Paper is to be printed and circulated on any prorogation of the House.

[Resolved 8 May 2019]

**35. Take note of answers to questions**

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.

[Resolved 8 May 2019, amended 19 June 2019, amended 7 August 2019, amended 22 August 2019]

## **PARLIAMENTARY SECRETARIES**

### **36. Parliamentary secretary – SO 25**

That, during the current session, standing order 25 be varied to read:

#### **25. Parliamentary secretary**

- (1) A parliamentary secretary may act as a Minister in the House in all respects.
- (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.

[Resolved 8 May 2019]

## **OTHER**

### **37. Formal motions – SO 44**

That, during the current session, standing order 44 be varied to read:

#### **44. Formal motions**

- (1) Before the House proceeds to business on the Notice Paper, the House will consider formal motions.
- (2) 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 before 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.
- (4) The question on a formal motion must be put and determined without amendment or debate.
- (5) An order of the day for the third reading of bills may be dealt with as a formal motion.

[Resolved 8 May 2019]

### **38. Suspension of standing and sessional orders – SO 198**

That, during the current session, standing order 198 be varied to read:

#### **198. Suspension of standing orders**

- (1) Except as provided in paragraph (2), 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 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.
- (3) 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 five minutes each.

[Resolved 8 May 2019]

### **39. Votes of members with the care of a child – SO 113**

That, during the current session, standing order 113 be varied to read:

#### **113. Voting in division**

- (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 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.
- (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.

[Resolved 8 May 2019]

### **40. Conduct of visitors – SO 196**

That, during the current session, standing order 196 be varied to read:

#### **196. Conduct of visitors**

- (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.

- (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.

[Resolved 8 May 2019]

## **Part 2 – Sessional Orders relating to Committees**

### **41. Powers of committees – visits of inspection – SO 208**

That, during the current session, standing order 208 be varied to read:

#### **208. Powers**

A committee has the power:

- (a) to adjourn from time to time,
- (b) to adjourn from place to place,
- (c) to send for and examine persons, papers, and things,
- (d) to make visits of inspection:
  - (i) within New South Wales,
  - (ii) with approval of the President, elsewhere in Australia,
  - (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.

[Resolved 8 May 2019]

### **42. Pecuniary interests and participation in committee inquiries – SO 210**

That, during the current session, standing order 210 (10) be varied to read:

210. (10) 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.

[Resolved 8 May 2019]

### **43. Chairs and Deputy Chairs – SO 211**

That, during the current session, standing order 211 be varied to read:

#### **211. Chair and Deputy Chair**

- (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.
- (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.
- (6) 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.

[Resolved 8 May 2019, amended—18 November 2020 p 1675.]

#### **44. Participation by members of the House and others in committee inquiries – SO 218**

That, during the current session, standing order 218 be varied to read:

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

- (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 only attend a private meeting by resolution of the committee, and will always be excluded when the committee is deliberating.

[Resolved 8 May 2019]

#### **45. 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.

[Resolved 8 May 2019]

## **46. Electronic participation**

That, during the current session, a committee is authorised to conduct proceedings by electronic communication without members of the committee or witnesses being present in one place, provide 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.

[Resolved 8 May 2019, amended 24 March 2020]

## **47. 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.
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.

[Resolved 8 May 2019]

## **48. Consideration of Chair's draft report**

That, during the current session, standing order 227 (1) be varied to read:

227. (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.

[Resolved 20 November 2019]

## **49. Privileges Committee and Independent Legal Arbiter Reports**

- (1) 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.

[Resolved 6 August 2020]

## **50. Committee Evidence – SO 222**

That, during the current session, standing order 222 regarding evidence in committees be varied to read:

### **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.
- (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.

[Resolved 17 March 2021]

## **Part 3 – Temporary Orders**

### **1. Sitting Calendar 2020**

- (1) That, unless otherwise ordered, the days of meeting of the House in 2020 be as follows:

Budget sittings:

February 25, 26, 27

March 24, 25, 26, 31

April 1, 2

May 5, 6, 7, 12, 13, 14

June 2, 3, 4, 16, 17, 18

Spring sittings:

August 4, 5, 6

September 15, 16, 17, 22, 23, 24

October 13, 14, 15, 20, 21, 22

November 10, 11, 12, 17, 18, 19, 20 (reserve day) (reserve days 24, 25, 26).

- (2) That, unless otherwise ordered, for the purposes of the Budget Estimates inquiry 2020-2021:

- (a) initial hearings be scheduled over 12 days from 20 to 21 August, 24 to 28 August and 31 August to 4 September 2020, and
- (b) supplementary hearings be scheduled over five days from 26 to 30 October 2020.

- (3) That, unless otherwise ordered, or a committee resolves that a committee activity is urgent, no committee activity may be undertaken on the following dates:

- (a) 6 January to 31 January 2020,
- (b) 13 April to 17 April 2020,
- (c) 6 July to 10 July 2020,
- (d) 28 September to 2 October 2020, and
- (e) 21 December to 24 December 2020.

[Resolved—23 October 2019 pp 585-586. Amended—19 November 2019 pp 714-715. Amended—13 May 2020 p 952. Amended—23 September 2020 p 1357.]

### **2. Sitting Calendar 2021**

- (1) That, unless otherwise ordered, the days of meeting of the House in 2021 be as follows:

Budget sittings:

February 16, 17, 18, 19 (general business day)

March 16, 17, 18, 23, 24, 25

May 4, 5, 6, 11, 12, 13

June 8, 9, 10, 22, 23, 24, 25 (reserve day)

Spring sittings:

August 10, 11, 12

September 7, 8, 9, 14, 15, 16

October 12, 13, 14, 19, 20, 21

November 9, 10, 11, 16, 17, 18 (reserve days 23, 24, 25).

- (2) That, unless otherwise ordered, for the purposes of the Budget Estimates inquiry 2020-2021 initial hearings be scheduled over 12 days from 25 February to 26 February 2021, 1 March to 5 March 2021, and 8 March to 12 March 2021.
- (3) That, unless otherwise ordered, for the purposes of the Budget Estimates inquiry 2021-2022:
  - (a) initial hearings be scheduled over 12 days from 16 August to 20 August 2021, 23 August to 27 August 2021, and 30 to 31 August 2021, and
  - (b) supplementary hearings be scheduled over five days from 25 October to 29 October 2021.
- (4) That, unless otherwise ordered, or a committee resolves that a committee activity is urgent, no committee activity may be undertaken on the following dates:
  - (a) 11 January to 22 January 2021,
  - (b) 5 April to 9 April 2021,
  - (c) 28 June to 2 July 2021,
  - (d) 20 September to 24 September 2021, and
  - (e) 20 December to 24 December 2021.

[Resolved—11 November 2020, pp 1563-1564, amended—18 November 2020 p 1675.]

### **3. 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.

[Resolved—24 March 2020 p 873]

#### **4. Administrative Procedures in the Chamber—COVID-19 Pandemic**

That, notwithstanding anything to the contrary in the standing or sessional orders, and until ordered otherwise, the following protective health measures be Resolved:

- (a) logs and notices prepared for members by the Clerk and the Procedure Office will be forwarded to members by email and no printed copies will be provided in the House,
- (b) after giving notice of a motion, members must forward by email to the LC Procedure mailbox a copy of the notice given dated and signed electronically, for publication in the Notice Paper in the order given,
- (c) formal business requests, dated and signed electronically, must be lodged with the Clerk by email to the LC Procedure mailbox by the deadline set by sessional order, and
- (d) members must lodge amendments to bills to the LC Procedure mailbox for processing by the Procedure Office, which will make copies for the Chamber.

[Resolved—12 May 2020 p.886]

#### **5. 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.

[Resolved—2 June 2020 p. 963]

## **6. Returns to Orders Roundtable**

- (1) That this House notes:
  - (a) the concerns and frustration expressed by the Hon Keith Mason AC QC in successive reports to the House on the validity of claims of privilege over documents returned to orders of the House,
  - (b) that despite his recommendations and findings that such claims are invalid, the following types of claims of privilege are repeatedly made:
    - (i) blanket claims of privilege over volumes of document,
    - (ii) formulaic claims of legal professional privilege without specific or contextual information to support such claims,
    - (iii) claims for confidentiality of personal information when no legitimate grounds of privilege exist or are contended,
    - (iv) claims of "commercial-in-confidence" privilege without supporting detail,
    - (v) claims of parliamentary privilege over ministerial notes and briefing papers,
  - (c) the time and cost spent on unnecessary evaluation of disputed claims of privilege due to poorly supported and formulaic claims of privilege, and
  - (d) the report of the independent legal arbiter, Hon Keith Mason AC QC, dated 1 September 2020, on a disputed claim of privilege on papers relating to "Rules Based Environmental Water" which raises the idea of a round-table meeting, focussed on the substance of privilege claims.
- (2) That the President convene a roundtable meeting, before the end of the parliamentary sitting calendar, focussed on the substance of privilege claims:
  - (a) that the attendees at the roundtable are to be:
    - (i) the President, the Deputy President and the Assistant President,
    - (ii) the Leader of the Government, Deputy Leader of the Government and the Leader of the House,
    - (iii) the Leader of the Opposition and Deputy Leader of the Opposition,
    - (iv) one member from each crossbench party, and any independent member,
    - (v) the independent legal Arbiter the Hon. Keith Mason AC QC,
    - (vi) representatives from the Department of Premier and Cabinet,
    - (vii) the Clerk of the Parliaments and officers of the Legislative Council, and

(b) that the President Chair the roundtable

[Resolved—16 September 2020 p. 1295]

The Roundtable meeting discussing returns to orders was convened on Tuesday 3 November 2020.

[LC Minutes 10 November 2020 p. 1543]

The President tabled the report of the Roundtable meeting to consider aspects of the operation of standing order 52, dated February 2021.

[LC Minutes 16 February 2021 p. 1875]



## **Part 4 – Resolutions of continuing effect**

### **1. Assistant President**

That, during the present session and unless otherwise ordered:

1. At the commencement of the sittings following a periodic election, or when a vacancy occurs, the House is to elect a member to be Assistant Deputy President.
2. The Assistant Deputy President will be elected in a similar manner as the President.
3. The Assistant Deputy President will hold office for the life of the Parliament in which elected.
4. In the absence of both the President and Deputy President on a day when the House is sitting the Assistant Deputy President will perform the duties of the President.
5. This resolution has continuing effect until amended or rescinded.

[Resolved—LC Minutes 28 June 2007 p. 197]

That the sessional order Resolved 28 June 2007 relating to the Office of Assistant Deputy President be amended by omitting “Assistant Deputy President” wherever occurring and inserting instead “Assistant President”.

[Resolved—28 November 2007 p. 376]

### **2. Broadcast of Proceedings**

#### **Sound and audio-visual broadcast of proceedings of the House**

1. That this House authorises the sound and audio-visual broadcast of the proceedings of the House:
  - (a) on the broadcast system within the precincts of Parliament House,
  - (b) by direct signal to the media gallery in Parliament House,
  - (c) to persons and organisations outside Parliament House approved by the President, on terms and conditions determined by the President from time to time, and
  - (d) by webcast on the Internet.

#### **Broadcasting**

2. The live broadcast or rebroadcast of proceedings of the Legislative Council is authorised on the following conditions, and any 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) recordings and broadcasts must only be made from the sound or audio-visual signal provided by the Legislative Council,
- (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,
- (g) where audio excerpts of proceedings are used on radio and television, commentators must identify Members by name,
- (h) where audio excerpts of proceedings are used on television, their use may be that of audio over still frames, or overlay material,
- (i) where excerpts are used on commercial stations, the station must ensure that advertising before and after excerpts is of an appropriate nature,
- (j) events in the Galleries are not part of the proceedings and excerpts of those events must not be used,
- (k) 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,
- (l) the instructions of the President or delegated representatives, on the use of recorded excerpts, must be observed at all times, and
- (m) the President may approve filming, on request, by persons or organisations, according to the terms and conditions set out in this resolution.

### **Still photography**

3. That this House authorises access to the proceedings of the Legislative Council by still photographers on the following terms and conditions:
  - (b) photographers from the print media who are accredited members of the Parliamentary Press Gallery may, with the approval of the President, take photographs during Question Time and at other times,

- (c) photographers who are accredited members of the Parliamentary Press Gallery require the approval of the President and a signed undertaking to comply with the terms and conditions set out in this resolution,
- (c) accreditation passes are to be worn and clearly visible at all times whilst a photographer is on the Parliamentary premises,
- (d) photographs must be used only for the purposes of fair and accurate reports of proceedings and must provide a balanced presentation of differing views,
- (e) photographs 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,
- (f) photographs must be placed in context,
- (g) photographs of individual Members, not speaking in debate, are not permitted,
- (h) photographs taken with telephoto lenses or zoom lenses must not show any Member closer than at “head and shoulders” distance,
- (i) telephoto lenses or zoom lenses must not be used to inspect Members’ documents or computer screens, and close up photographs of Members’ documents or computer screens must not be taken,
- (j) photographs of persons in the galleries must not be taken, with the only exception being photographs of distinguished visitors at the time they are welcomed to the House by the Chair,
- (k) photographs of disturbances by visitors or any other persons is not permitted,
- (l) the use of flash or other sources of additional lighting and motor driven cameras is not permitted,
- (m) photographs are not to be digitally enhanced, touched up or altered in any form,
- (n) cropping from single or group photographs is not permitted,
- (o) as a general rule, photographers should be as unobtrusive as possible and not disturb the view of visitors in the galleries,
- (p) photographers shall observe the instructions of the President, or the President’s delegate, at all times, and
- (q) non-compliance with these conditions by a photographer or media organisation may result in the suspension or withdrawal of accreditation.

**Sound and audio-visual broadcast of proceedings and still photography of committee proceedings**

4. That this House authorises a committee, by a vote of the committee, to:

- (a) authorise the filming and broadcasting and still photography of its public proceedings by accredited members of the Parliamentary Press Gallery,
  - (b) authorise the filming and broadcasting and still photography of its public proceedings by a person or organisation not an accredited member of the Parliamentary Press Gallery on an undertaking by the person or organisation, in writing, to comply with the terms and conditions set out in this resolution and any other terms and conditions determined by the committee,
  - (c) authorise the broadcast and rebroadcast of its public proceedings in the Legislative Council chamber on the terms and conditions set out in paragraph 2,
  - (d) give instructions for the observance of terms and conditions determined not inconsistent with this resolution, and
  - (e) order that part of its proceedings not be recorded or broadcast.
5. That if a committee authorises the filming or broadcast or still photography 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 broadcast or rebroadcast of proceedings despite an objection of a witness, the witness must be informed before appearing in the proceedings of the Committee.

#### **Details of organisations and terms and conditions**

6. That the President is to report to the House:
- (a) details of the persons and organisations authorised from time to time to receive the sound and audio-visual broadcast, and
  - (b) details of additional terms and conditions determined under this resolution.

[Resolved—LC Minutes 18 October 2007 p. 279-281]

### **3. Code of Conduct**

1. That this House adopt, for the purposes of section 9 of the Independent Commission Against Corruption Act 1988, the following Code of Conduct:

#### **PREAMBLE**

Members of Parliament acknowledge their responsibility to maintain the public trust placed in them by performing their duties with honesty and integrity, respecting the law and the institution and conventions of Parliament, and using their influence to advance the common good of the people of New South Wales.

## **THE CODE**

### **1 Purpose of the Code**

The purpose of this Code of Conduct is to assist all Members in the discharge of their parliamentary duties and obligations to the House, their electorates and the people of NSW.

The Code applies to Members in all aspects of their public life.

In complying with this Code, Members shall base their conduct on a consideration of the public interest, avoiding conflict between personal interest and their duties as a Member of Parliament. It does not apply to Members in their purely private and personal lives.

Members will not act dishonestly for their own personal gain, or that of another person.

It is recognised that some members are non-aligned and others belong to political parties. Organised political parties are a fundamental part of the democratic process. Participation in the activities of organised political parties is within the legitimate activities of Members of Parliament.

## **PROPER EXERCISE OF POWER**

### **2 Improper influence**

- (a) No member shall act as a paid advocate in any proceeding of the House or its committees.
- (b) A Member must not knowingly and improperly promote any matter, vote on any bill or resolution or ask any question in the Parliament or its Committees in return for any remuneration, fee, payment, reward or benefit in kind, of a private nature, which any of the following persons has received, is receiving or expects to receive as a consequence:
  - (i) The Member;
  - (ii) A member of the Member's family;
  - (iii) A business associate of the Member; or
  - (iv) Any other person or entity from whom the Member expects to receive a financial benefit.
- (c) A Member must not knowingly and improperly use his or her influence as a Member to seek to affect a decision by a public official including a Minister, public sector employee, statutory officer or officer of a public body, to further, directly or indirectly, the private interests of the Member, a member of the Member's family, or a business associate of the Member.

### **3 Use of public resources**

The use of public resources should not knowingly confer any undue private benefit on the Member or, on any other person, or entity.

Members must take reasonable steps to apply the public resources to which they are granted access according to any guidelines or rules about the use of those resources.

*Commentary*

*There is a range of information available to Members to assist them in determining the accurate and appropriate use of resources including:*

- *The Legislative Assembly Members' Guide;*
- *The Legislative Council Members' Guide;*
- *The Department of Parliamentary Services Members' Entitlements Handbook; and*
- *The Parliamentary Remuneration Tribunal's Annual Report and Determination of Additional Entitlements for Members of the Parliament of New South Wales.*

*In addition it is open to any Member to seek advice on these matters from the Clerks of the House, Senior Parliamentary Officers, or the Parliamentary Ethics Adviser.*

#### **4 Use of confidential information**

Information which Members receive in confidence in the course of their parliamentary duties should be used only in connection with those duties. It must never be knowingly and improperly used for the private benefit of themselves or any other person or persons.

#### **5 Limitation on breach of Code**

This code is not breached by reason of a benefit or interest that could be or was advanced or received by the persons set out in 2(b)(i)-(iv) by reason of them being a member of the public or a member of a broad class.

### **OPENESS AND ACCOUNTABILITY**

#### **6 Disclosure of interests**

Members shall fulfil conscientiously the requirements of the House in respect of the Register of Disclosures by Members.

##### *Commentary*

*The Constitution (Disclosures by Members) Regulation 1983 (the Regulation) requires that Members lodge regular returns, disclosing certain interests such as real property, interests and positions in corporations, income, debts and gifts.*

*The Regulation also requires that each Clerk compile and maintain a Register of Disclosures for their respective Houses. The purpose of the Register of Disclosures is to promote greater transparency, openness, and accountability in the parliamentary process.*

*Members' attention is drawn to the following sources of information and advice on compliance with the requirements of the Regulation:*

- *Schedule 1 of the Regulation outlines the requirements for each type of interest to be disclosed, and gives examples as to how to make entries on the return;*
- *The respective guides for Members of the Legislative Assembly and the Legislative Council explain the requirements of the pecuniary interest disclosure regime in plain language, with examples where possible; and*
- *It is also open to any Member to seek advice on these matters from the Clerks of the House or the Parliamentary Ethics Adviser.*

*In conjunction with the Regulation and this code, the following Standing Orders apply in relation to personal or pecuniary interests:*

- *Legislative Assembly Standing Orders 176-7 and Legislative Council Standing Order 113(2) on voting in divisions; and*
- *Legislative Assembly Standing Order 276 and Legislative Council Standing Order 210(10) on participating in committee inquiries.*

## **7 Conflicts of interest**

Members must take reasonable steps to avoid, resolve or disclose any conflict between their private interests and the public interest. The public interest is always to be favoured over any private interest of the Member.

Members shall take reasonable steps to draw attention to any conflicts between their private interests and the public interest in any proceeding of the House or its committees, and in any communications with Ministers, members, public officials or public office holders.

A conflict of interest does not exist where the Member is only affected as a member of the public or a member of a broad class.

### *Commentary*

*Members should be aware of the important distinction between disclosing an interest and having a conflict of interest.*

*There are certain pecuniary interests that must be disclosed on the Register of Disclosures although these may never come into conflict with a Members' duties. There are also interests that are not required to be disclosed on the Register of Disclosures but which could give rise to a conflict of interest if they are not managed appropriately.*

*It is open to any Member to seek advice on these matters from the Clerks of the House or the Parliamentary Ethics Adviser.*

## **8 Gifts**

- (a) Members must take reasonable steps to disclose all gifts and benefits received in connection with their official duties, in accordance with the requirements for the disclosure of pecuniary interests.
- (b) Members must not knowingly accept gifts that could reasonably be expected to give rise to a conflict of interest or could reasonably be perceived as an attempt to improperly influence the Member in the exercise of his or her duties.
- (c) Nothing in this Code precludes the giving or accepting of political donations in accordance with the *Electoral Funding Act 2018*.

### *Commentary*

*The Constitution (Disclosures by Members) Regulation 1983 (the Regulation) requires that Members lodge regular returns, disclosing certain interests such as real property, interests and positions in corporations, income, debts and gifts.*

*The Regulation also requires that each Clerk compile and maintain a Register of Disclosures for their respective Houses. The purpose of the Register of Disclosures is to promote greater transparency, openness, and accountability in the parliamentary process.*

*Members' attention is drawn to the following sources of information and advice on compliance with the requirements of the Regulation:*

- *Schedule 1 of the Regulation outlines the requirements for each type of interest to be disclosed, and gives examples as to how to make entries on the return;*
- *The respective guides for Members of the Legislative Assembly and the Legislative Council explain the requirements of the pecuniary interest disclosure regime in plain language, with examples where possible; and*
- *It is also open to any Member to seek advice on these matters from the Clerks of the House or the Parliamentary Ethics Adviser.*
- 

## **UPHOLDING THE CODE**

### **9 Upholding the Code**

Members have a duty to cooperate fully with any processes established under the authority of the House concerning compliance with this Code.

Breaches of this Code may result in actions being taken by the House in relation to the Member. A substantial breach of the Code may constitute corrupt conduct for the purposes of the *Independent Commission Against Corruption Act 1988*.

2. That this resolution has continuing effect unless and until amended or rescinded by resolution of the House.

[Resolved LC Minutes 24 March 2020, pp883-886]

### **4. Parliamentary Contributory Superannuation Fund**

Under section 14 of the Parliamentary Contributory Superannuation Act 1971, the Honourable Don Harwin be appointed as Trustee of the Parliamentary Contributory Superannuation Fund.

[Resolved as Formal Business—LC Minutes 31 May 2007 p. 90]

Under section 14 of the Parliamentary Contributory Superannuation Act 1971, the Honourable Greg Donnelly be appointed as Trustee of the Parliamentary Contributory Superannuation Fund.

[Resolved—23 June 2011 p. 277]



## **5. Parliamentary Ethics Advisor**

### **Reports tabled**

1. The President, according to the terms of the agreement made with the Clerk of the Parliaments and the Clerk of the Legislative Assembly, tabled the annual report of the Parliamentary Ethics Adviser for year ended 30 June 2011—2 August 2011 p. 285.
2. The President, according to clause 6 of the resolution of the House relating to the Parliamentary Ethics Adviser, tabled correspondence from the Parliamentary Ethics Adviser enclosing advice provided to a former Minister, the Honourable John Hatzistergos, dated 30 August 2011—6 September 2011 p. 390.
3. The President, according to the terms of the agreement made with the Clerk of the Parliaments and the Clerk of the Legislative Assembly, tabled the annual report of the Parliamentary Ethics Adviser for year ended 30 June 2012—14 August 2012 p. 1118.
4. The President, according to the terms of the agreement made with the Clerk of the Parliaments and the Clerk of the Legislative Assembly, tabled the annual report of the Parliamentary Ethics Adviser for year ended 30 June 2013—17 September 2013 p. 1990.
5. The President, according to the terms of the agreement made with the Clerk of the Parliaments and the Clerk of the Legislative Assembly, tabled an interim report of the Parliamentary Ethics Adviser for the period 1 July 2013 to 31 December 2013—30 January 2014 p. 2292.

[Resolved and message sent to Assembly—LC Minutes 28 June 2007 p. 208-210]

### **Alcohol and Drug Free Policy for the Parliament**

- (1) That the President request the Parliamentary Ethics Adviser to consider and advise on the desirability and practicability of implementing an Alcohol and Drug Policy for the Parliament.
- (2) That the Parliamentary Ethics Adviser consider the terms of the Notice of Motion given by Ms Rhiannon relating to an amendment of standing order 190 and the Notice of Motion given by the Revd Mr Nile relating to an alcohol-free and drug-free Parliament workplace.

[Resolved—17 March 2004 p. 616-617]

### **Resignation of Parliamentary Ethics Advisor**

The President informed the House that Mr Ian Dickson had given notice of his resignation from the position of Parliamentary Ethics Advisor effective 31 December 2013—26 November 2013 p. 2260.

Message received from the Assembly 17 June 2014 p. 2576-2579. Resolved and message sent to Assembly—18 June 2014 p. 2597-2600

That this House directs the President to join with the Speaker to make arrangements for the appointment of Mr John Evans PSM as Parliamentary Ethics Adviser, on a part-time basis, on such terms and conditions as may be agreed from the period beginning 1 July 2014.

The Parliamentary Ethics Adviser shall have the following functions.

Advice to Members of Parliament

- (1) (a) The Parliamentary Ethics Adviser is to advise any member of Parliament, when asked to do so by that member, on ethical issues concerning the exercise of his or her role as a member of Parliament (including the use of entitlements and potential conflicts of interest).
- (b) The Parliamentary Ethics Adviser is to be guided in giving this advice by any Code of Conduct or other guidelines Resolved by the House (whether pursuant to the Independent Commission Against Corruption Act or otherwise).
- (c) The Parliamentary Ethics Adviser's role does not include the giving of legal advice.

Advice to Ministers on post-separation employment

- (2) The Parliamentary Ethics Adviser must on request by a Minister provide written advice to the Minister as to whether or not the Adviser is of the opinion that the Minister's:
  - (a) acceptance of an offer of post-separation employment or engagement which relates to the Minister's portfolio responsibilities (including portfolio responsibilities held during the previous two years of ministerial office); or
  - (b) decision to proceed, after the Minister leaves office, with a proposal to provide services to third parties (including a proposal to establish a business to provide such services) which relates to the Minister's portfolio responsibilities (including portfolio responsibilities held during the previous two years of ministerial office),would give rise to a reasonable concern that:
  - (c) the Minister's conduct while in office was influenced by the prospect of the employment or engagement or the proposal to provide services; or
  - (d) the Minister might make improper use of confidential information to which he or she has access while in office.
- (3) The Adviser must on request by a person who has ceased to hold ministerial office within the previous 18 months ("the former Minister") provide written advice to the former Minister as to whether or not the Adviser is of the opinion that the former Minister's:
  - (a) acceptance of an offer of employment or engagement which relates to the former Minister's former portfolio responsibilities during the last two years in which the Minister held ministerial office; or
  - (b) decision to proceed with a proposal to provide services to third parties (including a proposal to establish a business to provide such services) which relate to the former

Minister's former portfolio responsibilities during the last two years in which the Minister held ministerial office,

would give rise to a reasonable concern that:

- (c) the former Minister's conduct while in office was influenced by the prospect of the employment or engagement or the proposal to provide services; or
  - (d) the former Minister might make improper use of confidential information to which he or she had access while in office.
- (4) If the Adviser is of the opinion that accepting the proposed employment or engagement or proceeding with the proposal to provide services might give rise to such a reasonable concern, but the concern would not arise if the employment or engagement or the provision of services were subject to certain conditions, then he or she must so advise and specify the necessary conditions.
- (5) The Adviser's advice must include:
- (a) a general description of the position offered, including a description of the duties to be undertaken, or the services to be provided, based on material provided by the Minister or former Minister but excluding any information that the Minister or former Minister indicates is confidential; and
  - (b) the Adviser's opinion as to whether or not the position may be accepted, or the services may be provided, either with or without conditions.
- (6) Where the Adviser becomes aware that a Minister or former Minister has accepted a position, or has commenced to provide services, in respect of which the Adviser has provided advice, the Adviser must provide a copy of that advice to the Presiding Officer of the House to which the Minister belongs or to which the former Minister belonged.

#### Keeping of records

- (7) The Parliamentary Ethics Adviser shall be required to keep records of advice given and the factual information upon which it is based.
- (8) Subject to clause 6, the Parliamentary Ethics Adviser shall be under a duty to maintain the confidentiality of information provided to him in exercising his function and any advice given, but the Parliamentary Ethics Adviser may make advice public if the person who requested the advice gives permission for it to be made public.
- (9) This House shall only call for the production of records of the Parliamentary Ethics Adviser if the person to which the records relate has:
- (a) in the case of advice given under clause 1(a), sought to rely on the advice of the Parliamentary Ethics Adviser; or
  - (b) given permission for the records to be produced to the House.

#### Annual meeting with committees

- (10) The Parliamentary Ethics Adviser is to meet annually with the Standing Committee of each House designated for the purposes of Part 7A of the Independent Commission Against Corruption Act.

Report to Parliament

- (11) (a) The Parliamentary Ethics Adviser shall be required to report to the Parliament annually on the number of ethical matters raised with him, the number of members who sought his advice, the amount of time spent in the course of his duties and the number of times advice was given.
- (b) The Parliamentary Ethics Adviser may report to the Parliament from time to time on any problems arising from the determinations of the Parliamentary Remuneration Tribunal that have given rise to requests for ethics advice and proposals to address these problems.

## **6. Presidents Gallery and Visitors' Galleries Rules**

1. That the following rules apply to visitors in the President's Gallery and visitors' galleries:
1. No audible conversations must take place.
  2. Applause, jeering or any other gestures responding to the proceedings are not permitted.
  3. Visitors to the galleries are not to converse with members in the chamber.
  4. Visitors are not to trespass on the chamber floor or to impede the access of members entering or leaving the chamber.
  5. The use of mobile telephones, radios, iPods and other electronic equipment that creates sound in the chamber is not permitted in the galleries.
  6. Food and drink are not permitted in the chamber at any time.
  7. Protests or other actions that interrupt the proceedings of the House are not permitted and banners, posters and clothing with messages that may be used to protest are not to be worn or taken into the galleries.
  8. Photographs may not be taken unless permission has been granted by the President.
  9. Visitors in the President's Gallery when the House is sitting are subject to the same dress code as applies to members.

10. Visitors must comply with instructions given by chamber and support staff or other parliamentary staff.
2. That this resolution have continuing effect until amended or rescinded.

[Resolved—LC Minutes 10 November 2009 p. 1487-1488]

## **7. Records of the House**

1. That this House notes that the State Records Act 1998 provides for exempt public offices, including the Houses of Parliament, to enter into agreements with the State Records Authority for the application, with or without specified modifications, of any of the provisions of the Act to their records.
2. That this House accordingly authorises the Clerk to enter into a memorandum of agreement with the State Records Authority for the transfer of records of the Legislative Council to the care of, but not control of, the State Records Authority.
3. That, under standing order 50, this House authorises the Clerk to transfer, from time to time as occasion may require, to the care of, but not control of, the State Records Authority the records of the Legislative Council not currently in use.
4. That any documents transferred to the care of the State Records Authority be subject to access orders in terms of the spirit of Part 6 of the State Records Act 1998, as follows:
  - (a) documents tabled in the House and authorised to be made public are to be open to public access,
  - (b) documents tabled in the House and not made public are to remain closed to public access for 30 years from the date of tabling, after which the Clerk may make a direction that the documents be open to public access, and
  - (c) documents which have not been published by authority of the House or a committee, such as in camera evidence and confidential submissions, are to remain closed to public access unless authorised by resolution of the House.
5. That this resolution have continuing effect until amended or rescinded.

[Resolved—LC Minutes 23 November 2006 p. 432]

## **8. Smoke-Free Parliament**

That from 1 January 1994 the enclosed areas of the precincts of the Parliament shall be a smoke-free environment, other than areas designated by the Presiding Officers, having regard to the provisions of the Occupational Health and Safety Act 1983 and any relevant regulations and codes of practice made under that Act.

[Resolved and message sent to Assembly—LC Minutes 9 November 1993 p. 363-364]

## 9. Message Stick

That, during the present session and unless otherwise ordered:

- (a) the message stick presented to the New South Wales Parliament on 11 October 2017, during the ceremony to mark the introduction of the Aboriginal Languages Bill 2017 in the Legislative Council, be placed on permanent display in the President's Gallery,
- (b) the House authorise the placement of the message stick on the Table during proceedings on opening of Parliament, or during other special occasions at the discretion of the President, and
- (c) on those occasions set out in paragraph (b), an Aboriginal Language group, selected on a rotational basis from a list of Aboriginal Language groups maintained by the President and the Aboriginal Languages Establishment Advisory Group and, once established, the Aboriginal Languages Trust, nominate an elder who will be invited to:
  - (i) remove the message stick from the display cabinet,
  - (ii) briefly address members from the Bar of the House in their language,
  - (iii) hand the message stick to the Usher of the Black Rod for placement on the Table.

[Resolved—LC Minutes 21 June 2018 p. 2804-2805]

## 10. Procedural Fairness for Inquiry Participants

1. That the House adopts the following procedures to provide procedural fairness for inquiry participants:
  1. **Inviting and summoning witnesses**  
A witness will be invited to give evidence at a hearing unless the committee decides that a summons is warranted.
  2. **Information for witnesses**  
A witness will normally be given reasonable notice of their hearing and will be provided with the inquiry terms of reference, a list of committee members and a copy of these procedures.
  3. **Opportunity to make a submission before a hearing**  
A witness will normally be given the opportunity to make a submission before their hearing.
  4. **Opportunity to request a private (in camera) hearing**  
A witness may request, before or during their hearing, that some or all of their evidence be heard in private (in camera). The committee will consider this request and if it declines, will advise the witness of the reasons why.
  5. **Publication of evidence taken in private (in camera)**  
Prior to their private (in camera) hearing, a witness will be informed that the committee and the Legislative Council have the power to publish some or all of the evidence given. If the committee intends to publish, it will normally consult the

witness, advise them of the outcome, and give reasonable notice of when the evidence will be published.

6. **Attendance with a legal adviser**

With the prior agreement of the committee, a witness may be accompanied by and have reasonable opportunity to consult a legal adviser during their hearing. The legal adviser cannot participate in the hearing and will not be sworn in or give evidence, unless the committee decides otherwise.

7. **Attendance with a support person**

With the prior agreement of the committee, a witness may be accompanied at their hearing by a support person. The support person will not be sworn in or give evidence, unless the committee decides otherwise.

8. **Witnesses to be sworn**

At the start of their hearing a witness will, unless the committee decides otherwise, take an oath or affirmation to tell the truth, and the provisions of the Parliamentary Evidence Act 1901 will then apply.

9. **Chair to ensure relevance of questions**

A committee chair will ensure that all questions put to witnesses are relevant to the inquiry.

10. **Questions to public officials**

Public officials will not be asked to give opinions on matters of policy, and will be given reasonable opportunity to refer questions to more senior officials or to a minister.

11. **Questions on notice**

A witness may request to take a question on notice and provide the answer in writing at a later date to be determined by the committee.

12. **Objections to answering questions**

Where a witness objects to answering a question, they will be invited to state the grounds for their objection. If a member seeks to press the question, the committee will consider whether to insist on an answer, having regard to the grounds for the objection, the relevance of the question to the inquiry terms of reference, and the necessity to the inquiry of the information sought. If the committee decides that it requires an answer, it will inform the witness of the reasons why and may consider allowing the witness to answer the question on notice or in private (in camera).

**Witness appearing by invitation**

- (a) If a witness who appears by invitation continues to refuse to answer the question, the committee may consider summoning the witness to reappear later, and will advise the witness that as they will be under oath and so subject to section 11 of the Parliamentary Evidence Act 1901, they may be compelled to answer the question.

**Witness appearing under summons**

- (b) The continued refusal by a witness, having been summoned, to answer the question while under oath, may constitute a contempt of parliament under the

Parliamentary Evidence Act 1901, and the committee may report the matter to the Legislative Council.

**13. Evidence that may seriously damage the reputation of a third party**

**Evidence about to be given**

- (a) Where a committee anticipates that evidence about to be given may seriously damage the reputation of a person or body, the committee may consider hearing the evidence in private (in camera).

**Evidence that has been given**

- (b) Where a witness gives evidence in public that may seriously damage the reputation of a person or body, the committee may consider keeping some or all of the evidence confidential.

**Opportunity to respond**

- (c) Where a witness gives evidence that may seriously damage the reputation of a person or body, the committee may give the person or body reasonable access to the evidence, and the opportunity to respond in writing or at a hearing.

**14. Evidence that places a person at risk of serious harm**

Where a witness gives evidence that places a person at risk of serious harm, the committee will immediately consider expunging the information from the transcript of evidence.

**15. Tendering documents**

A witness may tender documents during their hearing. The committee will decide whether to accept and to publish such documents.

**16. Inviting and ordering the production of documents**

A witness will be invited to produce documents unless the committee decides that an order to produce the documents is warranted.

**17. Requests for confidentiality**

A person or body may request that documents provided to a committee be kept confidential in part or in full. The committee will consider the request and if it declines, will advise the person or body of the reasons why, and give reasonable notice of when the documents will be published.

**18. Transcripts**

A witness will be given the opportunity to correct transcription errors in their transcript of evidence. Amendments to or clarifications of evidence may be requested in writing.

**19. Treatment of witnesses**

Witnesses will be treated with courtesy at all times.

**20. Improper treatment of inquiry participants**

Where a committee has reason to believe that a person has been improperly influenced in respect of the evidence they may give to a committee, or has been penalised, injured or threatened in respect of evidence given, the committee will take all reasonable steps



to ascertain the facts of the matter. If the committee is satisfied that such action may have occurred, the committee may report the matter to the Legislative Council.

21. **Inquiry participants before the Privileges Committee**

Where the Privileges Committee inquiries into a matter which may involve an allegation of contempt, the committee may adopt additional procedures as it sees fit in order to ensure procedural fairness and the protection of inquiry participants.

2. That this resolution have continuing effect until amended or rescinded.

[Resolved—LC Minutes 25 October 2018 p. 3138-3140]

## Part 5 – Officeholders and ministerial representation

### Office holders

President	The Honourable Matthew Mason-Cox—4 May 2021 (sitting day 24 March 2021), p. 2073
Deputy President and Chair of Committees	The Honourable Trevor Khan—7 May 2019, p. 8
Assistant President	The Honourable Rod Roberts—17 June 2020, p. 1053
Leader of the Government	The Honourable Don Harwin—4 August 2020, p. 1110
Deputy Leader of the Government	The Honourable Sarah Mitchell—7 May 2019, p. 12
Leader of the House	The Honourable Damien Tudehope—4 August 2020, p. 1110
Parliamentary Secretaries	The Honourable Scott Farlow—7 May 2019, p. 11 The Honourable Catherine Cusack—7 May 2019, p. 11 The Honourable Ben Franklin—28 May 2019, p. 126 The Honourable Taylor Martin—16 February 2021, p. 1904 The Honourable Natasha Maclaren-Jones—8 June 2021, p. 2256 The Honourable Shayne Mallard—10 June 2021, p. 2310 The Honourable Sam Farraway—23 June 2021, p. 2350
Government Whip	The Honourable Shayne Mallard—8 June 2021, p. 2257
Deputy Government Whip	The Honourable Sam Farraway—22 October 2019, p. 568
Leader of the Opposition	The Honourable Penny Sharpe—8 June 2021, p. 2258
Deputy Leader of the Opposition	The Honourable John Graham—8 June 2021, p. 2258
Opposition Whip	The Honourable Mark Buttigieg—6 August 2019, p. 304
Deputy Opposition Whip	The Honourable Anthony D'Adam—6 August 2019, p. 304
Temporary Chairs of Committees	The Honourable Courtney Houssos—28 May 2019, p. 126 Ms Abigail Boyd—8 June 2021, p. 2255 The Honourable Catherine Cusack—22 June 2021, p. 2328
Parliamentary Contributory Superannuation Fund Trustees	The Honourable Don Harwin—31 May 2007, p. 90 The Honourable Greg Donnelly—23 June 2011, p. 277

## **Assembly Ministers represented in the Council**

**The Hon Don Harwin MLC**  
**Special Minister of State, Minister for the Public Service and Employee Relations,  
Aboriginal Affairs and the Arts, Vice President of the Executive Council**

The Hon Gladys Berejiklian MP	Premier
The Hon Andrew James Constance MP	Minister for Transport and Roads
The Hon Matthew John Kean MP	Minister for Energy and Environment
The Hon Shelley Elizabeth Hancock MP	Minister for Local Government

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**The Hon Sarah Mitchell MLC,**  
**Minister for Education and Early Childhood Learning**

The Hon (John) Giovanni Domenic Barilaro MP	Deputy Premier, Minister for Regional New South Wales, Industry and Trade
The Hon Paul Lawrence Toole MP	Minister for Regional Transport and Roads
The Hon Dr Geoffrey Lee MP	Minister for Skills and Tertiary Education

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**The Hon Damien Tudehope MLC**  
**Minister for Finance and Small Business**

The Hon Dominic Francis Perrottet MP	Treasurer
The Hon Stuart Laurence Ayres MP	Minister for Jobs, Investment, Tourism and Western Sydney
The Hon Victor Michael Dominello MP	Minister for Customer Service, and Minister for Digital
The Hon Kevin John Anderson MP	Minister for Better Regulation and Innovation

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**The Hon Bronnie Taylor MLC**  
**Minister for Mental Health, Regional Youth and Women**

The Hon Bradley Ronald Hazzard MP	Minister for Health and Medical Research
The Hon Robert Gordon Stokes MP	Minister for Planning and Public Spaces
The Hon Melinda Jane Pavey MP	Minister for Water, Property and Housing
The Hon Adam John Marshall MP	Minister for Agriculture and Western New South Wales

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**The Hon Natalie Ward MLC**  
**Minister for Sport, Multiculturalism, Seniors and Veterans**

The Hon Mark Speakman SC MP	Attorney General, and Minister for the Prevention of Domestic and Sexual Violence
The Hon Anthony John Roberts MP	Minister for Counter Terrorism and Corrections
The Hon David Andrew Elliott MP	Minister for Police and Emergency Services
The Hon Alister Henskens SC MP	Minister for Families, Communities and Disability Services

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Premier

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**The Hon Sarah Mitchell MLC,**  
**Minister for Education and Early Childhood Learning**

The Hon Dr Geoffrey Lee MP

Minister for Skills and Tertiary Education

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**The Hon Damien Tudehope MLC**  
**Minister for Finance and Small Business and Vice-President of the Executive Council**

The Hon Dominic Francis Perrottet MP

Treasurer

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**The Hon Bronnie Taylor MLC**  
**Minister for Mental Health, Regional Youth and Women**

The Hon Bradley Ronald Hazzard MP

Minister for Health and Medical Research

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**The Hon Natalie Ward MLC**  
**Minister for Sport, Multiculturalism, Seniors and Veterans**

The Hon Anthony Roberts MP

Minister for Counter Terrorism and  
Corrections

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