



# PROCEDURAL DIGEST

Legislative Assembly

FIFTY-SIXTH PARLIAMENT, FIRST SESSION

NO. 6/2015: 8 – 17 SEPTEMBER 2015

| September 2015 |    |    |    |    |
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*This document provides a summary of significant procedural events and precedents in the Legislative Assembly. It is produced at the end of each sitting period. Where applicable the relevant Standing Orders are noted.*

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## BILLS

### ***Independent Commission Against Corruption Amendment Bill 2015***

On 8 September 2015, by leave, the Premier introduced the *Independent Commission Against Corruption Amendment Bill 2015*. The objects of the bill are to amend the *Independent Commission Against Corruption Act 1988* to:

- (a) extend the Independent Commission Against Corruption's (ICAC) jurisdiction in respect of "corrupt conduct", to include certain specified acts of non-public officials that could impair public confidence in public administration
- (b) provide that the ICAC's education, advisory and prevention functions be used generally for the purpose of promoting the integrity and good repute of public administration
- (c) limit the ICAC's power to make findings of "corrupt conduct" against an individual to cases where the corrupt conduct is serious.

The bill also empowers the ICAC to investigate possible criminal offences under electoral and lobbying laws (without extending the meaning of "corrupt conduct") should Parliament consider that breaches of those laws should be made the subject of ICAC's jurisdiction.

Debate on the bill was adjourned by the Leader of the Opposition, with the resumption of debate being made an Order of the Day for a future day.

Debate resumed on the bill on 14 September 2015 and it was passed by the House on the same day. The Legislative Council passed the bill on 16 September 2015 and it was assented to on 28 September 2015.

*Votes and Proceedings: 8/9/2015, p. 294; 14/9/2015, p. 329; 16/9/2015, p. 339.*

*Hansard: 8/9/2015, pp. 3190-2.*

**Standing Orders 97 and 188.**

## **Motion that a Member “be not further heard” agreed to by the House**

On 16 September 2015 the House resumed the second reading debate on the *Transport Administration Amendment (Closure of Railway Line at Newcastle) Bill 2015*. During the speech of Mr Clayton Barr MP, a number of Government Members took points of order about the relevance of his remarks and whether he was reflecting adversely on a Minister.

Temporary Speaker Marshall ruled that Mr Barr’s comments were relevant to the bill and that he had not made any reflections on any particular Ministers. However, he gave Mr Barr the opportunity to withdraw any remarks he had made, should he choose to do so, which Mr Barr declined.

The Minister for Transport and Infrastructure then moved a motion that the Member “be not further heard”. The House divided and the motion was agreed to, with the effect being that Mr Barr could not speak again in the debate.

*Votes and Proceedings: 16/9/2015, p. 332.*

*Hansard: 16/9/2015, pp. 3796-8.*

**Standing Orders 58, 73, 74 and 76.**

(Procedural note: The motion that a Member “be not further heard” may be moved at any time and is not restricted to a specific business type (though it may not be moved on a Member who is speaking on a point of order). The question is then put, without debate or amendment, and if passed the Member who has been interrupted loses the call.

If the question is negatived, then the Member resumes their speech in what time remains and no second motion may be moved.)

## **BUSINESS**

### ***Statements on the death of Bart Cummings***

On 8 September 2015 the Parliamentary Secretary to the Premier for Western Sydney obtained the leave of the House to make a statement about James “Bart” Cummings, who died on 30 August 2015. This statement was followed by the Leader of the Opposition, who also addressed the House, by leave.

*Votes and Proceedings: 8/9/2015, p. 290.*

*Hansard: 8/9/2015, pp. 3175-7.*

**Standing Orders 96 and 97.**

(Procedural note: The leave of the House was required because the Members’ statements were given outside of the Routine of Business. Standing Order 97 sets out the times at which the House will consider certain matters, the principle being that Parliament works best when Members are given prior notice of business items.

Changes to the “routine” can either be made by suspending Standing Orders or seeking the leave of the House, pursuant to Standing Order 96. Leave cannot be granted if any Member objects.

### ***Minister provides supplementary answer***

On 8 September 2015 the Minister for Planning provided a supplementary answer to a question which was asked of him during Question Time. The additional information was in relation to the M4 East Tunnel planning application and environmental impact statement.

*Votes and Proceedings: 8/9/2015, p. 296.*

*Hansard: 8/9/2015, p. 3195.*

#### **Standing Order 131.**

(Procedural note: At the end of Question Time, Ministers may provide additional information (i.e. a supplementary answer) to an answer already given that day or at a previous sitting (Standing Order 131(8).)

### ***Re-ordering of General Business***

On 9 September 2015 the House agreed to the motion of Mr Alex Greenwich MP, that his General Business Notice of Motion on asylum seekers and refugees should have precedence the following sitting day.

On 16 September 2015 a re-ordering motion moved by Mr David Mehan MP, was negatived on division.

*Votes and Proceedings: 9/9/2015, p. 303; 16/9/2015, pp. 336-7.*

*Hansard: 9/9/2015, p. 3360; 16/9/2015, pp. 3837-9.*

#### **Standing Order 106.**

(Procedural note: Time is provided on Thursday mornings for debate on those bills or motions where the person in charge is not a Member of the Government. This is known as “General Business” or is sometimes referred to as “Private Members’ Business”.

Each sitting day Members may give notice in the House of their intention to move an item of General Business. Those notices are then listed in the Business Paper and are considered in the order in which they have been given (Standing Order 136).

If the House commences but does not conclude consideration of any of those motions or bills by the time of interruption, then they are listed as an Order of the Day for consideration before the House moves on to any new items of General Business.

The re-ordering provision, however, allows Members to seek to re-order a General Business Notice of Motion, or an Order of the Day for a Bill, so that it then has precedence over the other General Business scheduled for consideration (including any Orders of the Day).

The procedure is as follows: on a Wednesday after Question Time, any two Private Members may move to re-order a General Business Notice of Motion, or an Order of the Day for a Bill, standing in their name. They are permitted to speak for up to three minutes as to why their notice should have priority and the House then determines whether the item will be re-ordered.

It is important to note, that while any two Members can seek to re-order a General Business Notice of Motion, only one Notice of Motion may be re-ordered. Therefore, if the first Member succeeds, this prevents the second Member moving a subsequent motion. The same applies to the re-ordering of an Order of the Day for a Bill.

If re-ordering is agreed to on the Wednesday, then the following day during General Business the Members' item of business has priority over the other items.

If the House does not agree to an item of business being re-ordered then it retains its original place on the Business Paper.)

### ***Address to Her Majesty the Queen***

On 9 September 2015 the Premier moved that the House agree to an Address to Her Majesty the Queen, conveying congratulations to Her Majesty on becoming the longest serving monarch of the United Kingdom and Australia.

The Premier was followed by the Leader of the Opposition who seconded the motion.

Debate was then adjourned, resuming later that day. On 10 September 2015, there was further debate on the motion before the Address to Her Majesty was adopted by the House.

*Votes and Proceedings: 9/9/2015, p. 303, p. 306; 10/9/2015, p. 314.*

*Hansard: 9/9/2015, pp. 3360-2, pp. 3382-8; 10/9/2015, pp. 3501-7.*

### **Standing Order 356.**

(Procedural note: This type of motion is open to amendment and as a "debate not otherwise provided for" Members may speak for up to 20 minutes with a possible 10 minute extension (Standing Order 85). On this occasion though, the House agreed, by suspending Standing and Sessional Orders, to limit Members' speaking time to 10 minutes without extension.

When the House adopts an Address to the Sovereign, the Speaker forwards it to the Governor for presentation. In this case, the House authorised the Speaker to sign the Address on behalf of the Legislative Assembly and jointly present it with the President of the Legislative Council, (the Council passed an Address in similar terms).)

### ***Speakers and speaking times during a discussion of a petition signed by 10,000 or more persons***

On 10 September 2015 the House discussed the 10,000 plus signature petition which was presented by Ms Trish Doyle MP on registered nurses in nursing homes. During the discussion, leave was sought on a number of occasions, either to extend speaking times or to provide for additional speakers.

First, Ms Doyle sought the leave of the House for an extension of her speaking time but this was not granted. One Member then obtained leave to contribute to the debate, but a request from another Member was declined. The Manager of Opposition Business then sought the leave of the House to suspend Standing and Sessional Orders to provide for an additional four speakers but this was not granted.

*Votes and Proceedings: 10/9/2015, pp. 314-5.*

*Hansard: 10/9/2015, pp. 3512-5.*

#### **Standing Orders 96 and 125A.**

(Procedural note: Petitions signed by 10,000 or more persons are scheduled for discussion in the House on Thursday afternoons. The rules provide that four Members may speak in the 16 minute discussion, but unlike the speaking times on bills (for example), there is no provision for a question to be put on extending Members' speaking times.

If additional Members wish to contribute to the discussion, they must first seek leave to do so. The granting of leave, pursuant to Standing Order 96, means that the House gives its permission for something to occur which would not otherwise be permissible. A request for leave cannot be debated, nor can leave be granted if any one Member dissents.

While Ministers and Parliamentary Secretaries only may move to suspend Standing and Sessional Orders at any time, any other Member must seek leave to do so.)

#### ***Amendments to certain Standing and Sessional Orders, and the adoption of a Citizens' Right of Reply***

On 14 September 2015, on the motion of the Leader of the House, the Legislative Assembly adopted a number of minor changes to its Standing and Sessional Orders. The House also agreed to a resolution providing for a Citizens' Right of Reply for the 56<sup>th</sup> Parliament.

As noted in the previous issue of the *Digest*, changes to certain procedures were recommended by the Standing Orders and Procedure Committee in its [report](#) of August 2015. These changes were agreed to by the House with the exception of the recommendations to remove the restrictions on divisions and quorums being called prior to 10.30 am.

*Votes and Proceedings: 15/9/2015, pp. 318-27.*

*Hansard: 15/9/2015, pp. 3644-50.*

#### **Standing Order 96.**

(Procedural note: While the House can adopt Standing Orders regulating its procedures, they are only "binding and of force" if they receive the approval of the Governor, pursuant to s15 of the *Constitution Act 1902*. The requirement for Executive approval does not extend to the making of Sessional Orders as these are only temporary rules which expire at the end of the session they are adopted.)

#### ***Motions Accorded Priority on the NDIS***

On 16 September 2015 the House agreed to suspend Standing and Sessional Orders to consider two motions sought to be accorded priority. Both motions concerned the National Disability Insurance Scheme and were couched in not dissimilar terms.

Ms Melanie Gibbons MP moved her motion, followed by that of the Leader of the Opposition, Mr Luke Foley MP. Debate ensued, after which Ms Gibbons spoke in reply, “with the agreement of both sides of the House and on behalf of both sides of the House “. The House then agreed to both motions.

*Votes and Proceedings: 16/9/2015, pp. 337-8.*

*Hansard: 16/9/2015, pp. 3839-43.*

**Standing Orders 109 and 365.**

(Procedural note: The Motion Accorded Priority process enables two motions to compete to be the subject of a 19 minute debate. While it is not uncommon for Standing and Sessional Orders to be suspended so that both motions can be debated one after the other (see Digest No.3 2015), this is the first time both motions have been considered together in the one debate.)

### ***Government Business taking precedence of General Business***

Pursuant to the suspension of Standing and Sessional Orders agreed to the previous day, Government Business took precedence of General Business on 17 September 2015. Accordingly, the House considered Government bills on child protection and on public housing tenancies, rather than the usual routine of General Business on Thursdays.

*Votes and Proceedings: 16/9/2015, p. 333; 17/9/2015, pp. 341-8.*

*Hansard: 16/9/2015, p. 3809; 17/9/2015, pp. 3923-59.*

**Standing Orders 97 and 365.**

## **MEMBERS**

### ***Appointment of Parliamentary Secretaries***

On 8 September 2015 the Leader of the House, on behalf of the Premier, informed the House that on 26 August 2015 the following Members had been appointed as Parliamentary Secretaries:

- Dr Geoff Lee MP (Parliamentary Secretary for Multiculturalism)
- Mr Daryl Maguire MP (Parliamentary Secretary for Corrections, Emergency Services, Veterans and the Centenary of ANZAC)
- Mr John Sidoti MP (Parliamentary Secretary for Transport, Roads, Industry, Resources and Energy).

*Votes and Proceedings: 8/9/2015, p. 290.*

*Hansard: 8/9/2015, p. 3175.*

**Standing Order 366.**

(Procedural note: Part 4A of the *Constitution Act 1902* provides for the appointment by the Premier of Parliamentary Secretaries to perform such functions as the Premier, from time to time, determines.

Standing Order 366 permits Parliamentary Secretaries to act on behalf of Ministers and provides that references to Ministers in the Standing and Sessional Orders are taken to include references to Parliamentary Secretaries, except in relation to certain Standing Orders.

A full list of the tasks that Parliamentary Secretaries, acting on behalf of Ministers, are able to perform and those that they are not permitted to perform are described in Chapter 5 of [NSW Legislative Assembly Practice, Procedure and Privilege.](#))

### **Official photograph**

On 16 September 2015 an official photograph was taken of the House in session.

*Votes and Proceedings: 16/9/2015, p. 335.*

## COMMITTEES

### ***Inquiry into the management of sharks in NSW waters***

On 8 September 2015 the Chair of the Legislative Assembly Committee on Investment, Industry and Regional Development, Mr Kevin Anderson MP, informed the House that the Committee had resolved to conduct an inquiry into the management of sharks and the economic impact of shark attacks on communities in NSW. The full details of the inquiry are available on the Committee's [webpage](#).

*Votes and Proceedings: 8/9/2015, p. 291.*

*Hansard: 8/9/2015, p. 3189.*

**Standing Order 299 (1).**

### ***Inquiry into the adequacy of the regulation of short-term holiday letting in NSW***

On 9 September 2015 the Chair of the Legislative Assembly Committee on Environment and Planning, Mr Glenn Brookes MP, informed the House that the Committee had resolved to conduct an inquiry into the adequacy of the regulation of short-term holiday letting in NSW. The full details of the inquiry are available on the Committee's [webpage](#).

*Votes and Proceedings: 9/9/2015, p. 302.*

*Hansard: 9/9/2015, pp. 3358-9.*

**Standing Order 299 (1).**

### ***Inquiry into the Final Report of the Expert Panel – Political donations and the Government's response***

On 17 September 2015 the Chair of the Joint Standing Committee on Electoral Matters, Mr Jai Rowell MP, informed the House that the Committee had received a referral from the Premier to conduct an inquiry into the *Final Report of the Expert Panel – Political donations and the Government's response*. The full details of the inquiry are available on the Committee's [webpage](#).

*Votes and Proceedings: 17/9/2015, p. 349.*

*Hansard: 17/9/2015, p. 3973.*

**Standing Order 299 (1).**