



LEGISLATIVE ASSEMBLY

Procedural Digest

Fifty-seventh Parliament, First Session

No. 7/2022: 11 – 20 October 2022

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.

October 2022

M	T	W	T	F
3	4	5	6	7
10	11	12	13	14
17	18	19	20	21

Business

New Sessional Orders

On Tuesday 11 October 2022, the House resolved to adopt three new sessional orders recommended by the Standing Orders and Procedures Committee. Two of the sessional orders (180 and 187) modify the procedure for divisions and the third (188A) introduces a new requirement on Members with carriage of a bill to address matters raised by the Legislation Review Committee.

SOs 180 (Procedure for divisions) and 187 (Restriction on divisions)

The sessional orders amending 180 and 187 amend the standing orders in the following ways:

- Reducing the total amount of time for Members to present themselves to the Chamber to vote during a division from 10 minutes to six minutes.
- Inserting a new clause which provides that the divisions bells are to be rung immediately upon the order of the Speaker, but the timing clock shall not commence until the tellers receive the division tablets from the Clerks.
- Deferring any divisions until 10.30am (previously, SO 187 provided for divisions to be deferred until 10am).

The new division times were put into practice for the first time on 11 October when Ms Prue Car moved an amendment during the Public Interest Debate on the Warragamba Dam Wall. The full text of the new SOs 180 and 187 can be located on [Parliament's website](#).

SO 188A (Responding to matters raised by the Legislation Review Committee)

Sessional Order 188A introduces a new requirement on Members with carriage of a bill to address, where practicable, matters raised by the Legislation Review Committee (the Committee) in its report on the Bill during the second reading debate, or through correspondence to the Committee.

Sessional Order 188A reads in full:

188A.

- (1) The Member with carriage of a bill shall, if reasonably practicable, address any matters raised by the Legislation Review Committee in its report on the bill during the bill's second reading debate.



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- (2) If not reasonably practicable for a response to be made during the debate, and a response has not been given in the House, the Member with carriage is to provide a response to the matters raised by the Legislation Review Committee by correspondence to the Committee.

Sessional Order 188A was recommended to the House by the Standing Orders and Procedure Committee, after it had considered Recommendation 1 by the Legislation Review Committee in its [report](#) on the *Operation of the Legislation Review Act 1987*, which recommended that the Houses require Members with carriage of a bill to respond to matters identified by the LRC during debate on the bill. The new sessional order was discussed by both the Chair, Mr Dave Layzell MP and Deputy Chair, Mr David Mehan MP of the LRC on Wednesday 12 October during the take-note debate on Committee reports.

Votes and Proceedings (Proof): 11/10/2022, pp. 1881 – 1882.

Hansard (Proof): 11/10/2022, p. 1; 12/10/2022, pp. 28 - 29.

Standing Orders 180 (procedure for divisions); 187 (restriction on divisions) 188A (responding to matters raised by the Legislation Review Committee).

Suspensions of Standing and Sessional Orders – Consideration of General Business

As reported in the [March 2022 Digest](#), on 24 March the House resolved to amend SO 365 by sessional order to allow any Member to move a motion, without leave, to suspend Standing and Sessional Orders at any time between 10.00 am and 1.15pm. Prior to this change, only Ministers could move suspensions without leave.

Since the implementation of this sessional order, there have been seven suspension motions moved by private Members without leave, six of which passed on the voices and one which was negatived on division. Three of those successful suspension motions were moved by the Member for Sydney, Mr Alex Greenwich MP during the October sitting weeks.

Consideration of Private Members' Bills

On Wednesday 12 October Mr Greenwich moved, and the House agreed to, suspend Standing Orders relating to the following items of General Business:

- A General Business Notice of Motion entitled 'The Honourable Robert Borsak MLC' (Mrs Helen Dalton MP)
- Port of Newcastle (Extinguishment of Liability) Bill 2022 (Mr Greg Piper MP)
- Residential Tenancies Amendment (Prohibiting No Grounds Evictions) Bill 2022 (Ms Jenny Leong MP)

Mrs Dalton's motion is discussed separately in this Digest. In respect of the two private members' bills, the House resolved to permit their introduction and second reading speeches during the lunch break on Thursday 13 October. Given their respective places on the Business Paper and limited number of sitting days remaining, this ensured that they were introduced in the House and that a copy of each bill was made available.

The next day, on Thursday 13 October Mr Greenwich again moved a suspension motion, this time to give precedence to the Animal Research Amendment (Right to Release) Bill 2022, which was a private members bill introduced in the Legislative Council, and of which Mr Greenwich had carriage in the Assembly. The House agreed to this motion on the voices and debate on the bill proceeded forthwith.



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During his speech in reply on the bill, Mr Greenwich commented on the unusually high number of private members' bills passed in the current session, as well as the collaboration between members to facilitate the process:

I acknowledge the Government and its approach to working with the crossbench. It is significant that this Parliament has passed five private members' bills ... That shows the goodwill that the Government shows to all members of this Parliament and the way parties can collaborate and work together to achieve important reforms for our community. I hope that continues.

Mr Greenwich moved a series of amendments during Consideration in Detail which were agreed to and the bill was returned to the Council.

During the second week of the sitting period, on Thursday 20 October, the House once again agreed on the voices to suspend Standing Orders to permit the expedited consideration of an item of General Business. This time, the House resolved to consider all stages of Port of Newcastle (Extinguishment of Liability) Bill 2022 (in the name of Mr Greg Piper MP) during Government Business time on Tuesday 8 November. The House's resolution provides for any remaining questions on the bill to be put forthwith without debate at 5pm on 8 November, and provides for shorter speaking times during debate than usually provided for in the Standing Orders.

Votes and Proceedings: 12/10/2022, pp 1893-1894; 13/10/2022, p. 1902; 20/10/2022, pp 1937-1938.

Hansard (Proof): 13/10/2022, p. 15

Standing Orders 365 (Suspension of Standing Orders)

Consideration of a General Business Notice of Motion

On Tuesday 11 October, the Member for Murray, Mrs Helen Dalton MP, gave notice of a General Business Motion in relation to a member of the Legislative Council, the Honourable Robert Borsak MLC. The motion stated:

That this House:

1. Considers the statement, "He should have got up and clocked her", is a threat of violence directed by the Honourable Robert Borsak towards the Member for Murray.
2. Condemns the Honourable Robert Borsak for making the threat, which constitutes dangerous workplace behaviour.
3. Notes the importance of the Legislative Council ensuring its Members adhere to the standards set in the Council's Code of Conduct.
4. Calls on the Honourable Robert Borsak to apologise publicly to the Member for Murray.
5. Sends a message to the Legislative Council informing it of the Assembly's resolution.

The notice was due to lapse on 12 January 2023. Given its position on the Business Paper and only one or two General Business Motions are debated each sitting Thursday, it would not have been expected that the motion would have been debated before the House rose at the end of November.

However, as noted earlier in this Digest, on Wednesday 12 October the Member for Sydney, Mr Alex Greenwich MP, moved that Standing and Sessional Orders be suspended to permit Ms Dalton's motion to be debated at the end of Question Time that day, prior to the commencement of Government Business. Mr Greenwich's suspension also provided speaking time limits for the debate. The suspension was agreed to on the voices.



Later that day, following Question Time, Mrs Dalton's motion was called on for debate. Members from both sides of the House contributed to the debate and the motion was passed unanimously. A message was subsequently sent to the Legislative Council informing it of the Assembly's resolution.

Votes and Proceedings (Proof): 12/10/2022, pp. 1893-4 and pp. 1897-8.

Standing Orders 105 (General Business), 336 (Message conveying resolution) and 365 (Suspension of Standing Orders)

Bills

Property Tax (First Home Buyer Choice) Bill 2022 – Part of amendment ruled out of order

The [Property Tax \(First Home Buyer Choice\) Bill 2022](#) was introduced by the Treasurer, the Hon. Matt Kean MP, on 12 October 2022. The Bill's object 'is to give first home buyer's the option between paying stamp duty upfront or opting into an annual property tax'.

After the bill's second reading on Tuesday 18 October, the Member for Barwon, Mr Roy Butler MP, requested that the House consider the Bill in detail and moved the following amendment:

No. 1 Option of paying duty in instalments

Page 8. Insert after line 38—

15A Option of paying duty in instalments

- (1) The Chief Commissioner must establish a scheme that provides for a person who would be eligible to make an application to subject transferred land to property tax to instead pay the duty chargeable on the transfer in instalments.
- (2) The scheme must allow the duty to be paid—
 - (a) over a period of 30 years, or
 - (b) a lesser period chosen by the person.
- (3) The scheme may provide for interest to be charged on the unpaid duty.
- (4) The maximum interest chargeable in a year is the lesser of—
 - (a) an amount equal to the increase in the year of the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics, or
 - (b) 2%.
- (5) If the transferred land is subsequently sold, the scheme may provide for unpaid duty to be recovered from the proceeds of sale.
- (6) This section has effect despite anything in the *Duties Act 1997*.

Before debate commenced on the amendment, the Speaker ruled that subclause (4) of the amendment was out of order. Mr Speaker noted:

The proposed measure in clause 15A (4) falls outside of Standing Order 190, which is based on section 46 of the Constitution Act 1902. It is a financial measure, which should be proposed by a Minister of the Crown or be recommended via a message from the Governor. Therefore, to prevent any inappropriate precedent, I rule that subclause (4) is out of order.

While the remainder of the amendment was considered in order, the amendment was ultimately negatived by the House, with only three Members (Mr Roy Butler MP, Mr Philip Donato MP and Dr Joe McGirr MP) voting in the affirmative.



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The third reading of the bill was agreed to on division, and the bill was transmitted to the Legislative Council for its concurrence on 18 October.

Votes and Proceedings: 18/10/2022, p. 1917.

Hansard (Proof): 18/10/2022, p. 91.

Constitution Act 1903, Section 46.

Standing Order 190.

Procedural note

The requirements in [Standing Order 190](#) echo that of the Section 46(2) of the [Constitution Act 1902](#), which both stipulate that the Legislative Assembly may not consider any bill, resolution or vote that concerns appropriation, tax or impost unless it has been recommended by the Governor, or introduced by a Government Minister, during the session in which the financial issue is to be considered.

