



LEGISLATIVE COUNCIL

PROCEDURE COMMITTEE

# Review of the Standing and Sessional Orders



Report 14

March 2022

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# **Procedure Committee**

## **Review of the Standing and Sessional Orders**

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Review of the Standing and Sessional Orders

“March 2022”.

Chair: The Honourable Matthew Mason-Cox MLC



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## Terms of reference

- (1) That the Procedure Committee inquire into and report on:
  - (a) whether the current sessional orders should be adopted as standing orders,
  - (b) whether any current standing orders require amendment, and
  - (c) whether any additional standing orders should be adopted.
- (2) That the committee propose a draft revised set of standing orders for consideration by the House.
- (3) That the committee report by the first day of the second sitting week of 2022.

On Wednesday 23 February 2022 the House agreed to extend the reporting date to 31 March 2022.

## Committee details

### Sub-Committee membership

<b>Hon Matthew Mason-Cox MLC</b>	Liberal Party	(Chair)
Hon Robert Borsak MLC	Shooters, Fishers and Farmers	
Hon Scott Farlow MLC	Liberal Party	(from 15/2/22)
Hon Emma Hurst MLC	Animal Justice Party	
Hon Trevor Khan MLC	The Nationals	(until 6/1/22)
Hon Shayne Mallard MLC	Liberal Party	
Hon Rod Roberts MLC	Pauline Hanson's One Nation Party	
Hon Adam Searle MLC*	Australian Labor Party	
Hon Damien Tudehope MLC	Liberal Party	

### Full Committee membership

<b>Hon Matthew Mason-Cox MLC</b>	Liberal Party	(Chair)
Hon Robert Borsak MLC	Shooters, Fishers and Farmers	
Hon Mark Buttigieg MLC	Australian Labor Party	
Ms Cate Faehrmann MLC	The Greens	
Hon Wes Fang MLC	The Nationals	(from 22/3/22)
Hon Scott Farlow MLC	Liberal Party	(from 15/2/22)
Hon John Graham MLC	Australian Labor Party	
Hon Don Harwin MLC	Liberal Party	(until 23/3/22)
Hon Emma Hurst MLC	Animal Justice Party	
Hon Trevor Khan MLC	The Nationals	(until 6/1/22)
Hon Shayne Mallard MLC	Liberal Party	
Hon Sarah Mitchell MLC	The Nationals	
Revd the Hon Fred Nile MLC	Christian Democratic Party	
Hon Rod Roberts MLC	Pauline Hanson's One Nation Party	
Hon Adam Searle MLC*	Australian Labor Party	
Hon Damien Tudehope MLC	Liberal Party	

\* The Hon Adam Searle MLC substituted for Hon Penny Sharpe MLC from 23 June 2021 for the duration of the inquiry.

## Chair's foreword

I am very pleased to present this report to the House.

It has been nearly 20 years since the standing rules and orders of this House have been subject of a thorough review. Numerous sessional orders have been adopted during that period to trial new procedures and to adapt existing procedures to suit the needs of the House, and committees, as it inevitably evolves. Whether these new provisions have achieved their objective has not, until now, been considered, nor has the interaction between standing and sessional orders been reviewed.

A sub-committee of the Procedure Committee undertook a thorough and methodical examination of the existing standing and sessional orders and proposals to resolve inconsistencies and identified flaws in drafting or application. Consensus was reached on all but a very few issues and these were then considered by the Procedure Committee. This report, and the proposed new suite of standing orders, represents this consensus view.

Attached to this report are new, varied and modernised provisions that the committee believes will enhance the ability of the House to undertake its core functions as a House of review in our bicameral parliament. Consistent with the last review of the standing orders in 2003, it is this committee's view that the new provisions should be trialled as sessional orders before being adopted by the House as standing orders and forwarded to the Governor for assent.

I would particularly like to thank the members of the sub-committee for their collaborative approach to this review and for their dedication and commitment to reviewing the significant volume of options, briefings papers and draft new rules provided to them. I note the input of the Hon. Trevor Khan who resigned from the Legislative Council during this review. I also thank all members of the Procedure Committee for their consideration of the sub-committee's report and their input during this review.

I would also like to thank David Blunt, the Clerk of the Parliaments, Steven Reynolds, Deputy Clerk, and Susan Want, Director Procedure, for their forensic knowledge and understanding of the standing orders and their creative options, clear explanations and, as always, clerkly diplomacy.

I commend the report and the proposed new standing orders to the House.

Matthew Mason-Cox (Chair)

**President**



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## Recommendations

### Recommendation 1

That the proposed new standing rules and orders, attached at Appendix 2, be adopted as sessional orders for a trial period.

### Recommendation 2

That the House refer to the Procedure Committee a review of the operation of the new procedures during the trial period and recommend any modifications required before being adopted as standing orders and forwarded to the Governor for approval by 17 November 2022.

### Recommendation 3

- (1) That the House refer to the Procedure Committee an inquiry into outstanding issues relating to orders for papers, including those outstanding issues identified in the 2021 Roundtable.
- (2) That the procedures be considered in the context of the development of a system for electronic returns to orders.
- (3) That consideration be given to whether a practice note issued by the President could assist the House in managing outstanding issues relating to orders for papers.



## Chapter 1      **Conduct of the review of standing and sessional orders**

On Wednesday 9 June 2021, on the motion of the Hon. Adam Searle, the House referred to the Procedure Committee an inquiry to review the standing and sessional orders.

On 23 June 2021, the House resolved that the resolution appointing the Procedure Committee be amended to authorise the committee to appoint sub-committees and, for the purposes of the review of the standing orders, that Mr Searle be appointed as a member of the Procedure Committee in place of Ms Sharpe.

At a meeting on 23 June 2021 the Committee resolved to appoint a sub-committee to consider the standing orders in detail and report back to the Procedure Committee. The President, the Deputy President, the Assistant President, Mr Borsak, Mr Searle, two additional Government members and one additional cross bench member were to be members of the sub-committee. Ms Hurst, Mr Mallard and Mr Tudehope were subsequently appointed to the sub-committee.

Changes in the ministry and other office holders and the resignation of the Honourable Trevor Khan during the committee's inquiry saw the Hon Scott Farlow also joining the sub-committee as a participating member. The Committee also resolved that the secretariat be authorised to prepare an issues paper for consideration by the sub-committee.

In order to facilitate the review by the sub-committee, all existing standing and sessional orders, with the exception of the sessional orders for ePetitions and orders for papers by committees and temporary orders responding to the COVID-19 pandemic, were separated into four categories.

### **Category 1 – Long standing procedures established by sessional order**

**1.1**      Category 1 consisted of sessional orders that varied standing orders and procedures established by sessional order that had been in place for many years and had become well established in the practices and procedures of the House:

- A variation to standing order 29 to enable the President to adjourn the House to later hour in absence of a quorum at the commencement of the sitting
- A variation to standing order 30 to enable the President to adjourn to later hour in absence of a quorum during the sitting
- A variation to standing order 55 to allow statutory reports to be tabled when House is not sitting
- A variation to standing order 106 to make consistent the provisions for a lapsed question in the House and committee of the whole
- A variation to standing order 141 to allow an instruction to committee of the whole to be moved without notice
- A variation to standing order 172 to allow an instruction to committee of the whole be moved without notice
- A variation to standing order 180 to allow an instruction to a committee to be moved without notice

- A variation to standing order 210 to clarify a member's ability to participate in an inquiry in which has a pecuniary interest
- A provision for government responses to petitions
- A provision for time limits on debate on government bills
- A provision for the expiry of private members' business notices of motions

## **Category 2 – Procedures recently established by sessional order**

1.2 Category 2 consisted of sessional orders and resolutions of continuing effect adopted in recent years, mostly since the beginning of the current Parliament in 2019. Most of these provisions were designed to provide additional mechanisms for scrutinising government actions and decisions and had been used extensively throughout the following three years..

- A variation to standing order 12 relating to the requirement of a nominee for the office of President to address the House
- A variation to standing order 25 concerning parliamentary secretaries
- A variation to standing order 36 to provide for a designated representative of a party to request the recall of the House
- A variation to standing order 37 to allow a motion for the suspension of standing orders relating to the conduct of business to be moved without notice
- A variation to standing order 44 to require written notice of business to be called over as formal motions
- A variation to standing order 64 to reduce the time for answer to questions from four minutes to three minutes and to provide for a second supplementary question
- A variation to standing order 113 to allow a member to vote in a division from the President's gallery when caring for a child
- A- variation to standing order 196 to allow a child being cared for by a member to enter the floor of the chamber
- A variation to standing order 222 to require answers to questions at a committee hearing to be directly relevant
- A variation to standing order 227 to require draft committee reports to be circulated to members seven days prior to a deliberative meeting
- A variation to standing order 232 concerning debate on committee reports and government responses
- A provision in the resolution expanding the membership of the Procedure Committee
- A provision for the President to postpone a scheduled meeting
- A provision establishing the office of Assistant President
- A provision for Members' Statements
- A provision for orders for papers by committees

- A provision for a motion to take note of answers to questions
- A provision for substitute members on committees
- A provision for electronic participation in committee proceedings

### **Category 3 – Standing and sessional orders subject to review by the committee**

- 1.3 The standing and sessional orders in category 3 were identified by either members or clerks as requiring review on the basis that:
- they were outdated and needed modernising,
  - they had been subject of discussion in the House or raised by members as requiring review,
  - they overlapped or contradicted other standing and sessional orders thereby creating unnecessary confusion or complexity.
- 1.4 The standing and sessional orders in this category were the subject of a discussion paper designed to assist the sub-committee in identifying those standing and sessional orders which required redrafting, repeal or significant change (attached at Appendix 3). The standing orders in category 3 are listed in Appendix 4.

### **Category 4 – Standing orders not subject to amendment**

- 1.5 Category 4 contained all the remaining standing orders. These standing orders had not been varied by sessional order and were not considered to require review.
- 1.6 The standing orders in category 4 are listed in Appendix 5.

### **Consideration of standing orders**

- 1.7 At its first meeting to consider the standing and sessional orders, on 22 October 2021, the sub-committee agreed to recommend to the Procedure committee that all the variations and new provisions in category 1 be adopted as standing orders.
- 1.8 The sub-committee also agreed at that meeting that the variations and new provisions in category 2 be adopted as standing orders with the exception of the variation to standing order 25 concerning parliamentary secretaries, the resolution concerning the membership of the Procedure Committee and the sessional order for debate on committee reports and government responses, which would be subject of review along with standing and sessional orders in the discussion paper.
- 1.9 The sub-committee agreed that all the standing orders in category 4 remain unchanged.
- 1.10 With the majority of provisions in category 1 and 2 agreed to, the sub-committee turned to the review of the standing and sessional orders in the discussion paper and those remaining provisions from category 2.

- 1.11** Over a number of meetings, the sub-committee methodically considered the standing and sessional orders. Briefing papers, explanatory material and draft provisions were prepared at the sub-committee's request to facilitate discussions. These documents are attached to the minutes of proceedings for each meeting.
- 1.12** At its final meeting of 21 March 2022, the sub-committee concluded its consideration of the standing and sessional orders and resolved to report its decisions to the Procedure Committee.
- 1.13** The committee met on 28 March 2022 to consider the Chair's draft report and the sub-committee's report which is attached as Appendix 1.
- 1.14** The sub-committee's report proposed that the majority of the existing sessional orders be adopted as standing orders, some with minor amendment. The report also proposed new procedures, including a Business Committee for scheduling private members' business and the repeal of other outdated and unused standing orders.
- 1.15** The sub-committee left a small number of matters to be determined by the full Procedure Committee.
- 1.16** The committee considered the sub-committee's report and agreed to adopt all the proposed changes to the standing and sessional orders recommended by the sub-committee.
- 1.17** In regard to the small number of outstanding matters, the committee agreed that if consensus was not reached, that no changes would be recommended to the existing provision in the sessional order or the standing order as varied by a sessional order. Any further consideration of these matters would be for the House to decide.
- 1.18** The committee resolved the outstanding issues as follows:
- That the current provision in the sessional order that prohibits parliamentary secretaries from making Members' Statements and asking questions not be adopted in the new standing orders but that the prohibition on a parliamentary secretary from chairing any select, standing or portfolio committee remain a provision in standing order 25.
  - That the provision in the current sessional order that provides for the variation of scope of an order for papers be adopted as a standing order but with an amendment to the timeframe within which a request to vary the scope of an order for papers must be resolved from seven days to 14 days.
  - That the provision in the current sessional order for questions without notice to be put to parliamentary secretaries be adopted in the standing order.
  - That the provision in the current sessional order for a second supplementary question be adopted in the standing order but with an amendment that it may only be asked by a member of a different party.
  - That standing order 138 be amended to clarify that a motion to declare a bill urgent under the standing order can only be moved by a minister in relation to a government bill introduced in the Council.
  - That standing order 205 be amended to ensure representation of all parties and independent members on the Procedure Committee.
- 1.19** Consensus was not reached on the following matters:

- Whether the provision for a role of the Privileges Committee in disputed claims of privilege should include a delay between the tabling of an arbiters report and the publication of documents not considered privileged is not.
- A provision for claiming that documents should not be made public because they contain personal or private information.
- A definition of privilege for the purposes of standing order 52.
- Whether to amend the requirement in standing order 117 for a member to "be covered" when taking a point of order in a division.
- Whether to adopt a requirement for the Selection of Bills Committee to report on bills which are not accompanied by a Statement of Public Interest.
- Whether to shorten the time frame within which the government must respond to a committee report.

**1.20** A draft new suite of standing orders, including all decisions of the committee is attached at Appendix 3.

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### **Recommendation 1**

That the proposed new standing rules and orders, attached at Appendix 2, be adopted as sessional orders for a trial period.

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### **Recommendation 2**

That the House refer to the Procedure Committee a review of the operation of the new procedures during the trial period and recommend any modifications required before being adopted as standing orders and forwarded to the Governor for approval by 17 November 2022.

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### **Recommendation 3**

- (1) That the House refer to the Procedure Committee an inquiry into outstanding issues relating to orders for papers, including those outstanding issues identified in the 2021 Roundtable.
  - (2) That the procedures be considered in the context of the development of a system for electronic returns to orders.
  - (3) That consideration be given to whether a practice note issued by the President could assist the House in managing outstanding issues relating to orders for papers.
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## Appendix 1: Report of the Procedure Committee's sub-committee

- 1.1 This report of the sub-committee records the decisions made in regard to each standing order.
- 1.2 The sub-committee recommends its report to the Procedure Committee for consideration.

### Chapter 1: Repeal and operation of standing orders

1. **Repeal of previous rules and orders.**
2. **Where cases not provided for**
3. **Practice notes**

No amendments are proposed to standing orders 1, 2 or 3.

4. **Rights of House not restricted**

Standing order 4 was first adopted in 2004 in terms similar to Senate standing order 208 which states:

Except so far as is expressly provided, these standing orders do not restrict the mode in which the Senate may exercise and uphold its powers, privileges and immunities.

The committee considers that standing order 4 could more clearly express this principle.

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#### Recommendation 1

That standing order 4 be amended to provide a clearer expression of the principle that the standing orders do not restrict the rights, privileges and powers of the House, by adopting the wording of the Senate standing order.

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### Chapter 2: Opening of Parliament

5. **Proceedings on opening of Parliament by Governor**
6. **Proceedings on opening of Parliament by commission**

No amendments are proposed to standing orders 5 or 6.

- 6A. **Proceedings on opening of Parliament by commission with attendance of Governor**

Standing order 5 sets out the proceedings for an opening of Parliament by the Governor and standing order 6 sets out the proceedings for an opening by commissioners.

Since 2011 the openings have combined aspects of both types of openings, with commissioners officially opening Parliament and swearing in new members and the Governor attending Parliament House for the presentation of the newly elected President (and Speaker of the Legislative Assembly) and to give an opening speech.

**Recommendation 4**

That a new standing order be adopted to codify the provisions for an opening of Parliament that combines aspects of a commission opening with the attendance of the Governor.

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**7. Governor's speech**

**8 Address-in-Reply**

No amendments are proposed to standing orders 7 or 8.

**9. Opening of Parliament by the Queen**

Standing orders 9, 91, 120, 121 and 160 refer to Her Majesty the Queen.

The Committee considers the terms of the standing orders could be more general.

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**Recommendation 5**

That the standing orders be amended to refer to the "Sovereign" rather than "Her Majesty the Queen".

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**10. Swearing of new members**

No amendments are proposed to standing orders 10.

**Chapter 3: Office of the President**

**11. Term of office**

No amendments are proposed to standing order 11.

**12. Election of President**

In March 2021, the House adopted a sessional order to make it clear that a member proposed as President "may address the House" but is not required to, and only once elected does the member need to express a sense of honour proposed to be conferred.

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**Recommendation 6**

That standing order 12 be amended clarify the need for a nominee for President to address the House.

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**13. Ballot**

During proceedings for the election of the President in 2021 the terms of standing order 13 were the subject of debate and legal advice as to whether, if two members are proposed, a member needs an absolute majority of the votes of members present to be elected.<sup>1</sup> Advice from Bret Walker SC argued that informal votes were not a "vote" for the purposes of

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<sup>1</sup> Hansard 4 May 2021

determining an absolute majority, though ultimately this interpretation of “vote” was not accepted by the majority of the House.<sup>2</sup>

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#### **Recommendation 7**

That standing order 13 be amended to clarify:

- (1) that a candidate must receive votes of an absolute majority of members present to be elected, and
  - (2) the procedures to be followed when no candidate receives the votes of an absolute majority of members present.
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#### **14. Presentation to Governor**

No amendments are proposed to standing order 14.

### **Chapter 4: Deputy President and Chair of Committees**

#### **15. Election of Deputy President**

Paragraph (1) of standing order 15 states that the House is to elect a Deputy President “by motion without notice” and paragraph (2) states that “The Deputy President and Chair of Committees will be elected in a similar manner as the President...”. However the rules for election of the President do not stipulate a "motion without notice" but instead require a motion “that the member take the Chair of the House as President”.

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#### **Recommendation 8**

To remove any doubt as to the procedures for electing the Deputy President, that standing order 15 be amended to omit the words “by motion without notice”.

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#### **16. Term of Office – Deputy President**

#### **17. Duty of Chair**

No amendments are proposed to standing orders 16 or 17.

#### **17A. Assistant President**

The office of Assistant President was first adopted by resolution of continuing effect in June 2007. Initially the title was adopted as " Assistant Deputy President" but was changed to Assistant President in November 2007.

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#### **Recommendation 9**

That the office of Assistant President be adopted as a standing order.

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<sup>2</sup> Hansard 4 May 2021

**18. Temporary Chairs****19. Title**

No amendments are proposed to standing orders 18 or 19.

**Chapter 5: Absence of President, Deputy President and Officers****20. Absence of President****21. Absence of President and Deputy President****22. Relief of President****23. Leaving the Chair****24. Absence of the Clerk**

No amendments are proposed to standing orders 20 to 24.

**25. Parliamentary secretary**

In May 2019 a sessional order was adopted to make parliamentary secretaries answerable to the House for government actions and decisions by subjecting them to questions with and without notice and giving evidence at budget estimates hearings. The sessional order also prohibits parliamentary secretaries from asking questions with or without notice, from making Members' Statements and from being appointed as Chair or Deputy Chair of a standing or portfolio committee.

The provisions in the sessional order that prohibit a parliamentary secretary from asking questions and from making a Members' Statement are not recommended for adoption as an amendment to the standing order.

**For determination by the Procedure Committee**

The sub-committee agreed to limit the prohibition in the sessional order on a parliamentary secretary chairing a portfolio committee or a standing committee to a prohibition on a parliamentary secretary chairing a portfolio committee or a standing committee with a remit that relates to the parliamentary secretary's portfolio responsibilities. However the decision as to whether the provision should be adopted in the standing orders is referred to the Procedure Committee.

**26. Leadership of parties and groups**

No amendments are proposed to standing order 26.

**Chapter 6: Sitting, Quorum and Adjournment of House****27. Meeting of Council**

No amendments are proposed to standing order 27.

**28. Prayers**

Since 2007, as a matter of convention, immediately following the prayers the President acknowledges the traditional owners of the land on which the Parliament meets. The Acknowledgement of Country is recorded in the minutes of proceedings. The

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Acknowledgement was originally made only on the first sitting day of each week but recently has been made every sitting day.

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**Recommendation 10**

That standing order 28 be amended to codify the practice of making an Acknowledgement of Country each day and to include:

- (1) the terms of the acknowledgement
  - (2) an ability to nominate another member or the Clerk to read the acknowledgement.
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**29. Quorum at commencement of sitting**

Standing order 29 has been varied by sessional order since October 2007 to provide for the House to be adjourned until a later hour of the sitting if there is no quorum when the Chair is taken.

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**Recommendation 11**

That standing order 29 be amended to include the provision for the House to be adjourned until a later hour of the sitting in the absence of a quorum when the Chair is taken.

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**30. Quorum during sitting**

Standing order 30 has been varied by sessional order since October 2007 to provide for the House to be adjourned until a later hour if there is no quorum during a sitting.

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**Recommendation 12**

That standing order 30 be amended to include the provision for the House to be adjourned until a later hour of the sitting in the absence of a quorum during a sitting.

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**31. Adjournment of the House**

No amendments are proposed to standing order 31.

**32. Interruption for adjournment**

Standing order 32 provides that the House may set the time for the interruption of business to allow a motion for the adjournment of the House to be moved by a Minister if the Government so wishes. From 2004 to 2010, standing order 32 allowed for the time for interruption to be made on Thursdays and Fridays. Since 2011 a sessional order has allowed the time for interruption to be set for each sitting day.

Standing order 32 has also been varied by sessional order since November 2011 to allow the Chair, at the time appointed by sessional order, to interrupt proceedings in Committee of the Whole to ask if the Minister wants to move the adjournment of the House. The provision removes the requirement for the Chair to report progress to the House in order for the President to ask if the Minister wishes to move the adjournment.

**Recommendation 13**

That standing order 32 be amended to:

- (a) incorporate the provision for the interruption for adjournment each sitting day,
  - (b) remove the requirement for the Chair in committee of the whole to report progress and seek leave to sit again at the time for interruption for adjournment.
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**32A. Hard adjournment**

In May 2019 a sessional order was adopted to provide for the interruption of proceedings at midnight to allow the President to propose the question “That this House do now adjourn”. Debate on the question followed the provisions for the adjournment of the House under standing order 31 (30 minutes of debate with each member speaking for up to five minutes).

The sessional order was intended to address the very late sitting nights experienced during the previous session.

However while the midnight "hard" adjournment has prevented sittings continuing beyond 12:30 am on most occasions it has also become standard practice to extend sittings on private members' business days on Wednesdays, and sometimes on Government business days, right up until the hard adjournment, with consequent impacts on fatigue for members and staff. The committee therefore considers a hard adjournment at 10.00 pm, with negotiation among parties to make up the time lost, would address the concerns expressed by members at Estimates hearings and in other forums.<sup>3</sup>

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**Recommendation 14**

That the provisions for a hard adjournment be adopted as a standing order with the following changes to the sessional order adopted in May 2019:

- (1) that business be interrupted at 10.00 pm for the hard adjournment,
  - (2) for the debate to occur without a question before the House
  - (3) that at the conclusion of the 30 minute debate, the President adjourn the House without putting a question.
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**33. Ministerial reply to adjournment matters**

No amendments are proposed to standing order 33.

**34. Minister to be present in the House**

The provision that a Minister be present in order for the House to meet has been a matter of controversy with the House rising on a long bell in 2009 due to the absence of a Minister and again on 14 September 2021.

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<sup>3</sup> Evidence, Portfolio Committee 1, 2 March 2022, pp 28-30; Evidence Portfolio Committee 1, 27 October 2021, pp 9-11

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In October 2021 a sessional order was adopted to provide for the House to sit in the absence of a Minister but prohibited Government business being conducted, and required the adjournment to be proposed by the President at 10.00 pm.

#### **Recommendation 15**

That standing order 34 be amended to include the provisions for the House to sit in the absence of a Minister but that Government business may not be considered, and that business be interrupted at 10.00 pm for a hard adjournment.

### **Chapter 7: Times of sitting and routine of business**

#### **35. Times of meeting**

No amendments are proposed to standing order 35.

#### **35A. Postponement of a scheduled meeting**

In March 2020, a sessional order was adopted to allow the President, following consultation with the leader or designated representative of each party and independent crossbench members, to postpone a sitting of the House and fix an alternative day or hour of the next meeting. Without the provision there was no mechanism for cancelling or postponing a sitting of the House scheduled by resolution or by the adjournment.

The sessional order was adopted during the COVID-19 pandemic in anticipation of the need for a sitting of the House to be postponed due to public health concerns. The President postponed the sitting of 24 June 2021 under the sessional order.

#### **Recommendation 16**

That the provision that allows the President, following consultation with the leader or designated representative of each party and independent crossbench members, to postpone a sitting of the House and to fix an alternative day or hour of the next meeting, be adopted as a standing order.

#### **36. Recall of the House**

A sessional order was adopted in March 2020 to include a designated representative of the party amongst the members who can request the recall of the House on behalf of the party.

#### **Recommendation 17**

That standing order 36 be amended to include a designated representative of the party amongst the members who can request the recall of the House on behalf of their party.

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

Under standing order 37, a Minister may move a motion connected with the conduct of government business at any time without notice. A motion relating to the conduct of other business requires notice. To circumvent the need for notice, it became common practice for members to give a contingent notice that, on the conclusion of an item of business, a motion would be moved for the suspension of standing orders to allow a subsequent motion

to be moved relating to the conduct of the business of the House. This contingent notice was amongst a number routinely given by members at the commencement of each session.

In May 2015, the House adopted a number of sessional orders to remove the need for the majority of the contingent notices by allowing a motion for the suspension of standing orders, in specific circumstances, to be moved without notice to allow a subsequent motion to be moved concerning the conduct of business.

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### **Recommendation 18**

That standing order 37 be amended to include the provision that allows a motion for suspension of standing orders to be moved without notice to allow a subsequent motion to be moved concerning the conduct of business.

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## **38. Routine of Business**

Standing order 38 sets out the order in which categories of business are to be proceeded with each sitting day prior to the motions and orders of the day on the Notice Paper, referred to in general terms as “formalities”. However SO 38 does not cover all items of business that arise in the House, leading to some ambiguities.

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### **Recommendation 19**

That in order to provide clarity as to the order in which items of business will be taken, standing order 38 be amended, based on relevant standing orders and precedent, to provide a comprehensive list of the routine of business at the commencement of each sitting day.

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## **39. Business of the House**

Standing order 39 provides that certain matters be placed on the Notice Paper as business of the House but does not include other items referred to as “business of the House” in the standing orders. Under standing order 78, motions for the disallowance of statutory rules are set down as business of the House but only proceeds as business of the House if the House agrees and under standing order 203 motions for the adoption of a report on a citizen's rights of reply are also set down as business of the House but only for six sitting days after which they become private members' business.

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### **Recommendation 20**

That standing order 39 be amended:

- (1) to include motions for disallowance of statutory rules and motions for the adoption of a report on a citizen's right of reply as items of business of the House,
  - (2) to provide that items given precedence under the standing order remain as business of the House for six sitting days and if not moved within that time are to be set down as private members' or government business as applicable.
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## **40. Government and general business**

The term “general business” is used in standing order 40 and a number of other standing orders to refer to non-government business, whereas Chapter 29 and other standing orders

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refer to "private members' business". The terms are somewhat interchangeable but for clarity it is proposed that the term "private members' business" be used in all circumstances.

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### **Recommendation 21**

That the standing orders be amended to replace "general business" with "private members' business" wherever occurring.

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## **40A. Members' Statements**

A sessional order providing for Members' Statements was adopted on 8 May 2019 as part of a suite of new rules aimed at providing more opportunities for private members to raise issues of concern to them and their constituents.

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### **Recommendation 22**

That the provision for Members' Statements be adopted as a standing order with an amendment to provide that the House set the day and time for Members' Statements by sessional order, as is the case for Questions, debate on committee reports and other categories of business given precedence under the standing orders.

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## **41. Reports of committees – precedence**

## **42. Presentation of documents**

## **43. Government business on Notice Paper**

No amendments are proposed to standing orders 41 to 43.

## **44. Formal business**

Under standing order 44, each day the President is to call on all notices of motions and orders of the day for the third reading of bills on the Notice Paper and ask in regard to each item if any member objects to it being dealt with as formal business.

In June 2007, the House adopted a provision to require that members submit a request that an item on the Notice Paper be called over as formal business on the next sitting day to avoid the need for the President to call over all items of business.

The sessional order included a deadline for submission requests, initially by 2.30 pm, amended to 3.00 pm in February 2012 and then 4.00 pm in May 2019.

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### **Recommendation 23**

That standing order 44 be amended to include the provision requiring members to request that an item on the notice paper be called over as formal business on the next sitting day, and to set a deadline for receipt of requests at 4.00 pm.

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## **45. Postponement of business**

Under the standing order an item on the Notice Paper can be postponed, on motion, during the time for postponements in the routine of business or when the item is called on. The question on the motion is put immediately. An issue that occasionally arises is that if a member has the intention to defer the debate but misses the opportunity to do so before the debate is called on and resumes, the only option is to adjourn the debate, potentially

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causing the member with pre-audience to lose the call. This could be resolved by a number of ways, as suggested in the recommendations that follow.

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#### **Recommendation 24**

That standing order 45 be amended:

- (1) to clarify that an item can be postponed after the Clerk reads the order of the day so long as no member has started speaking,
- (2) that an additional mechanism for postponing an item by delivering written notification of a postponement to the Clerk be adopted and for the Clerk to advise the House of any written notifications received,
- (3) that postponement take effect immediately on it being announced to the House without a question being put unless, at the request of a member, the question that an item be postponed is put by the President without amendment or debate.

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#### **46. Interruption of business**

Standing order 46 has been varied by sessional order since November 2011 to allow the Chair, at the time appointed by sessional order, to interrupt proceedings in Committee of the Whole to ask if the Minister wants to move the adjournment of the House. The provision removes the requirement for the Chair to report progress to the House in order for the President to ask if the Minister wishes to move the adjournment.

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#### **Recommendation 25**

That standing order 46 be amended to remove the requirement for the Chair in committee of the whole to report progress and seek leave to sit again at the time for interruption for adjournment

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#### **47. Questions**

#### **48. Ministerial statements**

No amendments are proposed to standing order 47 or 48.

### **Chapter 8: Journals and records of the House**

#### **49. Journals**

Standing order 49 requires and authorises the Clerk to publish the Minutes of Proceedings of the House, an agenda referred to in the standing orders as either a business paper or the Notice Paper, and a Questions and Answers paper containing written questions and corresponding answers.

Traditionally, the individual papers were bound and together as the “Journals” of the Legislative Council. However since May 2011<sup>4</sup> only the Minutes of Proceedings, along with an index to the minutes and statistical and procedural reports have been collated into a small number of bound journals held by the Council and the Parliamentary Library.

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<sup>4</sup> Annotated Standing Orders of the New South Wales Standing Orders, p 147

In recent years, with the increased reliance on the Internet for access to Chamber documents, the number of printed copies of the minutes and the Notice Paper have been reduced. The Question and Answer paper has not been printed for many years with a questions and answers tracking database available online being the main source of access by members, their staff and the public.

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### **Recommendation 26**

That standing order 49 be modernised as follows:

- (1) the standing order be renamed “Records of the House”,
  - (2) reference to the “business paper” be omitted from the standing orders and “Notice Paper” be used in all instances,
  - (3) the requirement for the Clerk to sign the minutes of proceedings be replaced with a requirement to approve the minutes of proceedings.
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## **50. Custody of records**

Standing order 50 concerns the custody of records of the House by the Clerk.

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### **Recommendation 27**

That, consequent on recommended amendments to standing order 49, standing order 50 be amended to omit "journal, records" and insert instead "records of the House."

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## **51. Hansard**

Standing order 51 requires the Clerk to ensure a Hansard record is kept of all debates in the House and authorised the publication, in written or electronic form, of the Hansard transcript of debates in the House or any committee including publication of Hansard ‘galley proofs’, is authorised under this standing order.

Related to the publication of transcripts of debate is the broadcast of proceedings, including via webcasting and re-broadcast via appropriate media and channels. The Parliament has also developed technology for the live captioning of debates in the House and committees. Before commencing, this should be formally authorised by the House, either through an amended broadcasting resolution of continuing effect or in the Standing Orders

## **Chapter 9: Tabling of documents**

### **52. Order for the production of documents**

Since the High Court confirmed the power of the Legislative Council to order the production of papers from the Executive Government, the number of orders agreed to has exponentially increased.

At the time of writing in the 57th Parliament, 373 orders have been agreed to. The number of orders and the complexity of the types of orders and returns, disputes as to the validity

of claims of privilege and the arbiter's evaluations have led to new sessional orders being adopted.

In June 2021 the House adopted a sessional order authorising the Clerk to communicate an order for papers to an independent agency not subject to Ministerial direction. It is proposed that this provision be incorporated into standing order 52.

In recent years, the independent legal arbiter appointed to evaluate a disputed claim of privilege has adopted a practice of seeking additional submissions from the Department of Premier and Cabinet, government agencies and the member who proposed the order for papers in order to assist in his evaluation. The process for lodging the submissions with the Clerk and tabling them in the House has varied and evolved over time. It is proposed that this process be incorporated in standing order 52.

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### **Recommendation 28**

That standing order 52 be amended:

- (1) to include the provision currently in sessional order for the Clerk to communicate an order for papers to an independent agency not subject to Ministerial direction.
- (2) to provide for an Independent Legal Arbiter appointed under standing order 52 to seek additional submissions from the Department of Premier and Cabinet, government agencies and the member who proposed the order for papers and for the process of lodging the submissions with the Clerk.

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### **For determination by the Procedure Committee**

The sub-committee considered whether to include in standing order 52 the standard provision in orders for the production of documents of any legal or other advice created as a result of the order of the House. As no agreement was reached the matter is referred to the Procedure Committee.

#### **52A. Varying the scope of an order for papers**

Under a sessional order adopted in May 2019, the scope of an order for papers can be changed by agreement between the Department of Premier and Cabinet and the member moving the motion and the subsequent approval of the House. The request to vary the scope of an order for papers must be made within seven days of the passing of the order for papers. The sub-committee considered the time frame in paragraph (4)(b) of the proposed standing order but decided to refer this matter to the full committee.

### **For determination by the Procedure Committee**

The sub-committee considered a proposal to extend the current provision in the sessional order receipt of a request to vary the scope of an order for papers from seven to 14 days but did not reach agreement.

The time frame within which the Department of Premier and Cabinet must request a variation to an order for papers is referred to the Procedure Committee.

#### **52B. Role of the Privileges Committee in disputed claims of privilege**

Under current sessional order the House authorises the Privileges Committee (when the House is not sitting for the next three weeks) to undertake the role usually performed by the House in deciding whether the report of the Independent Legal Arbiter and any documents the subject of the dispute are to be published. A provision for a role of the Privileges Committee was first adopted in November 2014.

### **For determination by the Procedure Committee**

Whether the provision for the role of the Privileges Committee in disputed claims of privilege should be adopted as a standing order and, if so, whether there should be a delay between the tabling of the Arbiter's report and the consideration of whether documents considered not privileged by the Arbiter should be made public, are referred to the Procedure Committee.

## **52C. Returns to orders containing personal information**

One of the major discussions at the 2021 Roundtable concerning orders for papers was the publication of documents containing personal information.

According to the Government, one of the reasons agencies make overly expansive or inappropriate privilege claims is because they are concerned that personal or sensitive information may be revealed when documents returned are automatically published by the House.

Roundtable participants indicated a willingness to find procedural or administrative ways to deal with this issue, given members will invariably agree to the redaction of personal information from documents returned if it is not relevant to the House's review function.

Since his first report, the independent legal arbiter, the Hon Keith Mason AO, QC, has maintained that personal or 'private' information is not a recognised head of privilege at law. However, it does not follow that personal information should immediately be published – instead, Mr Mason draws a distinction between the claim of privilege at law, and separately, any determination by the House as to whether the personal information should be in the public domain.

A number of options for providing procedures in the standing orders for claiming that documents should not be made public because they contain personal or private information were considered by the sub-committee. In light of the discussion by the sub-committee, two options are set out below.

A definition of personal information is also provided.

### **For determination by the Procedure Committee**

#### **1. Definition of personal information**

- (1) For the purposes of SO52, personal information, which should not be made public unless it is in the public interest to do so, includes:
  - (a) mobile telephone numbers,
  - (b) email addresses,
  - (c) home addresses,
  - (d) bank account details,
  - (e) signatures.

**Option1 : Return and original documents returned by due date; no additional time given for redacted documents to be provided**

- (2) Where a document is subject to a claim that it contains personal information that should not be made public but is not otherwise subject to a claim of privilege:
- (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 why the personal information should not be made public
  - (a) the documents in their original form are to be made available only to members of the Legislative Council, and not published or copied without an order of the House, and
  - (b) a redacted version of the document or documents must be provided for publication on the date set for return by order of the House.
  - (c) any member may, by communication in writing to the Clerk, dispute the claim of privilege in respect of personal information in the usual way as provided for under SO52.

**Option 2: Third category of documents containing personal information. Documents available to members only. Member can request redacted documents within seven days.**

- (2) Where a document is subject to a claim that it contains personal information that should not be made public but is not otherwise subject to a claim of privilege:
- (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 why the personal information should not be made public,
  - (b) the documents are to be made available only to members of the Legislative Council and not published or copied without an order of the House,
  - (c) any member may, by communication in writing to the Clerk, request that redacted versions of the documents be produced, and
  - (d) redacted documents requested under paragraph (c) are to be provided within seven days of the request being communicated to the Department of Premier and Cabinet.

**Dispute: if agreed to, this section would replace the dispute provision in standing order 52**

- (8) Any member may, by communication in writing to the Clerk:
- (a) dispute the validity of the claim of privilege in relation to a particular document or documents,
  - (b) dispute the validity of the claim that the personal information in redacted documents should not be made public.

- (9) On receipt of communication under paragraph (8), the Clerk 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.
- (10) 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.
- (11) The independent legal arbiter may request additional submissions through the Department of Premier and Cabinet or directly from an independent agency and the member disputing the claim of privilege. Such submissions are:
  - (a) to be lodged with the Clerk and made available to the independent legal arbiter, and
  - (b) may be provided to the parties to the dispute but may not otherwise published or copied without an order of the House.
- (12) A report from the independent legal arbiter, along with any submissions received by the Arbiter, are to be lodged with the Clerk and:
  - (a) made available only to members of the House,
  - (b) not published or copied without an order of the House.

#### **52D. Definition of privilege for the purposes of orders for papers**

Also discussed at the roundtable was the value in defining the meaning of "privilege" under standing order 52. Participants at the Roundtable generally agreed that it would be helpful and would potentially clarify for government agencies the meaning of the term in the context of the standing order and potentially minimise the propensity of some agencies to include extraneous material in privilege claims or submissions to the arbiter.

#### **For determination by the Procedure Committee**

For the purposes of orders for papers under standing order 52, privilege means that it is not in the public interest for the document or portions of the document so identified to be made available other than to members of the Legislative Council, or to be published or copied without an order of the House.

'Not in the public interest' means that:

- (a) unrestricted access to the document or portions of the document so identified is likely to:
  - (a) injure the public interest<sup>5</sup> in some specific and material way, or
  - (b) do overriding harm to the proper functioning of the executive government and the public service<sup>6</sup>, or
- (b) it is otherwise necessary in the public interest for the document or portions of the document so identified to not be publicly disclosed.<sup>7</sup>

<sup>5</sup> *WestConnex* Arbiter's Report, p10-11, quoting Mason J in *Commonwealth v John Fairfax and Sons Ltd* (1980) 147 CLR 39 at 52

<sup>6</sup> *WestConnex* Arbiter's Report, p8, citing *Sankey v Whitlam* (1978) 142 CLR 1 at 56 per Stephen J

<sup>7</sup> *Egan v Chadwick* (1999) 46 NSWLR 563, per Priestley JA at [139] 593-594

**Further matters relating to orders for the production of document under standing order 52**

The committee notes that there are outstanding matters raised at the 2021 Roundtable which have not been considered during this inquiry.

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**Recommendation 29**

That the Procedure Committee recommend in its report to the House that a further inquiry be established to consider outstanding issues relating to orders for papers as identified in the 2021 Roundtable.

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**53. Documents from the Governor**

No amendments are proposed to standing order 53.

**54. Other methods of tabling documents**

Standing order 54 authorises the publication of any document tabled by the President, a Minister and the Clerk under authority of the House or an Act. Documents tabled by other members are not automatically made public. In the absence of any specific authority, committee reports, unless received by the Clerk out of session, are published on resolution of the House.

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**Recommendation 30**

That standing order 54 be amended to authorise the publication of committee reports on tabling in the House.

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**55. Tabling of reports and documents when House not sitting**

Standing order 55 has been varied by sessional order since June 2009 to clarify that documents that are required by legislation to be tabled in the House may be lodged with the Clerk when the House is prorogued.

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**Recommendation 31**

That standing order 55 be amended to clarify that documents required by legislation to be tabled in the House may be lodged with the Clerk when the House is prorogued.

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**56. Documents quoted in debate**

No amendments are proposed to standing order 56.

**57. Printing of tabled papers and documents**

Standing order 57 provides that on a document being laid before the House, a motion may be moved without notice that a day be appointed for its consideration, and the document be printed.

The motion to print is historically the mechanism for printing and disseminating documents tabled in the House. Only those documents ordered to be printed became part of the

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Parliamentary Papers Series held by the legal deposit libraries - the State Library of NSW, the University of Sydney Library and the NSW Parliamentary Library.

However the need to authorise the printing of documents is considered redundant and the publication of a document by the House on motion, under standing order 54, or according to an Act of Parliament, is considered sufficient to attract the necessary immunities.

Since 6 May 2015 a sessional orders has provided the procedure for debate on a document upon which a day is appointed for its consideration under standing order 57.

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### **Recommendation 32**

That standing order 57 be amended:

- (1) to provide for a motion to be moved without notice for a document to be published, instead of the current provision for a document to be printed, and
  - (2) to include the provision in the sessional order for debate on a document upon which a day is appointed for its consideration.
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### **58. Amendments after tabling**

No amendments are proposed to standing order 58.

### **59. Printing of tabled papers and documents**

Standing order 59 requires a minister to table a list of all papers tabled in the previous month and not ordered to be printed. On tabling a motion may be moved without notice that any papers on the list be printed. The standing order was adopted in 2004 to replace the Printing Committee which had the remit of recommending to the House whether any document tabled ought to be printed in full or in part.

The motion to print a document is considered redundant, the publication of a tabled document under the authority of the House or an Act of Parliament being sufficient to attract the necessary immunities.

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### **Recommendation 33**

That standing order 59 be repealed.

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### **60. Inspection of documents**

No amendments are proposed to standing order 60.

## **Chapter 10: Attendance**

### **61. Record of members**

Under standing order 61, the Clerk is to keep a roll of members which records the name and signature of each member, the date of the member's election, the Parliament in which the member's term is due to expire, the date on which the member was sworn and the signature of the attesting Clerk.

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However, since at least 1856 the Clerk has also maintained a register of members which records the name of each member, the date of each member's election, the Parliament in which each member's term is due to expire, the date on which each member took his or her seat, the date on which each member ceased to be a member, the cause of ceasing to be a member and the member's length of service.

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#### **Recommendation 34**

That standing order 61 be amended to clarify the purpose and requirement for both the roll and register of members.

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#### **62. Attendance of members**

No amendments are proposed to standing order 62.

#### **63. Leave of absence**

No amendments are proposed to standing order 63.

### **Chapter 11: Questions seeking information**

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

Standing order 64 has been varied by sessional order since 2019 to reduce the time for an answer to a question from four minutes to not exceed three minutes, to provide for questions to parliamentary secretaries and to provide for a second supplementary question.

##### **For determination by the Procedure Committee**

- the provision for questions without notice to be put to parliamentary secretaries
  - the proposal that a second supplementary question may only be asked by a member of a different party
- 

#### **Recommendation 35**

That standing order 64 be amended:

- (1) to reduce time for an answer to a question from four minutes to not exceed three minutes
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#### **65. Rules for questions**

Standing order 65(2)(b), which provides that a question must not ask for an announcement of government policy, has been interpreted so as to rule out of order otherwise valid questions on the grounds that they ask for an announcement about government policy. Removing this provision would not impact on a Minister answering a question as they see fit.

A sessional order adopted in May 2019 requires answers to questions to be directly relevant.

**Recommendation 36**

That standing order 65 be amended:

- (1) by omitting paragraph 65(2) and inserting instead: Questions must not ask for an expression of opinion, including a legal opinion, and
  - (2) by adopting the provision requiring answers to be directly relevant.
-

**66. Answers to questions without notice**

The provision in standing order 66 that questions taken on notice must be answered within 35 calendar days (21 calendar days under sessional order) only relates to questions referred to a minister in the other House.

The requirement to provide answers to questions, particularly written questions, within 21 calendar days (35 calendar days under the standing order) has proved problematic for the public service during the Christmas closedown, when seven working days are required to be taken as leave. “Business days” are considered a more useful time frame than “calendar days” as this can take into account public holidays such as Easter and the Christmas closedown.

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**Recommendation 37**

That standing order 66 be amended:

- (1) to provide that answers to all questions taken on notice are required within the timeframe set by the standing order, not only those referred to a Minister in the other House.
  - (2) to require answers to questions to be provided within 15 business days.
- 

**67. Written questions**

Under a sessional order adopted in May 2019 questions on notice can be lodged on both sitting and non-sitting days with a deadline for lodgement of 4.00pm.

The requirement under the sessional order to provide answers to questions, particularly written questions, within 21 calendar days (35 calendar days under the standing order) has proved problematic for the public service during the compulsory Christmas closedown. “Business days” are considered a more useful time frame than “calendar days” as this can take into account public holidays such as Easter and Christmas.

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**Recommendation 38**

That standing order 67 be amended:

- (1) to include the provision in the sessional order that written questions may be submitted on both sitting and non-sitting days,
  - (2) to include the provision in the sessional order that written questions must be submitted by 4.00 pm and to apply the provision to both questions and answers, and
  - (3) to require answers to questions to be provided within 15 business days.
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**67A. Supplementary questions for written answer**

Under sessional order adopted in May 2019 at the conclusion of question time, supplementary questions may be put by members to elucidate answers given earlier during questions. Each party and any independent member is limited to one supplementary question each question time. Ministers are required to lodge answers to by 10.00 am on the next working day.

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**Recommendation 39**

That the provision for supplementary questions for written answer be adopted as a standing order.

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**67B. Take note of answers to questions**

In May 2019 a sessional order was adopted to provide for a debate, on motion, for the House to take note of answers to questions. The sessional order was amended on a number of times to clarify that all answers to questions, including written questions, could be subject of the debate.

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**Recommendation 40**

That the provision in the sessional order for debate on answers to questions be adopted as a standing order.

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**Chapter 12: Petitions****68. Presentation of petitions.****69. Form of petitions****70. Content of petitions**

No amendments are proposed to standing orders 68, 69 or 70.

**70A Government response to petitions.**

The requirement for the Ministerial response to petitions receiving more than 500 signatures was first adopted in May 2015. The requirement was for a "ministerial response". In May 2019 the provision was again adopted with Ministerial response" amended to "Government response" to be consistent with the requirement for Government responses to committee reports.

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**Recommendation 41**

That the provision in the sessional order for a government response to petitions receiving more than 500 signatures be adopted as a standing order.

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**Chapter 13: Notices of motions****71. Giving of notices**

Standing order 71 regulates the form of motions, how and when they are given and the order in which they are given. Recent developments and changes in practice have highlighted the need to modernise the standing order.

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**Recommendation 42**

That standing order 71 be amended:

- (1) to provide for the electronic submission to the Clerk of notices of motions,
  - (2) by omitting paragraph 71 (5) as it is no longer practice,
  - (3) to provide that notices of motions must be in the English language but where not practical must be accompanied by a translation in English, certified as correct by the member giving notice. Such notices are to be published in the Notice Paper in English, and
  - (4) to provide for members to give a notice of a motion co-sponsored by other members whose names are to be listed on the notice and recorded in the Notice Paper.
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**72. Alterations and withdrawals of notice**

No amendments are proposed to standing order 72.

**Chapter 14: Motions**

**73. Notice required.**

No amendments are proposed to standing order 73.

**74. Precedence of motions**

SO 74 provides some guidance on the order of business on the notice paper. Paragraph (3) states that a motion for a special adjournment or which relates to the privileges or business of the House will take precedence of all other motions or orders of the day.

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**Recommendation 43**

That if the recommended changes to SO 38 and 39 are agreed to, SO 74 be amended to remove the reference in paragraph (3) to the precedence of certain motions and refer instead to precedence according to SO 38 and 39.

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**75. Moving of motions**

**76. Leave of the House**

No amendments are proposed to standing order 75 or 76.

**77. Raising of matters of privilege**

No amendments are proposed to standing order 77.

**78. Motions for disallowance of statutory instruments**

Under standing order 78 (2) the House must first decide on a question proposed by the President without amendment or debate 'That the motion proceed as business of the House'. If that question is agreed to the House then decides, on a motion moved under standing order 78 (3), when the matter will proceed.

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As noted above, the committee recommends that standing order 39 be amended to provide that certain matters, including motions for disallowance of statutory instruments, be placed on the Notice Paper as business of the House with precedence for six sitting days after which they are to be set down as private members' business. As a consequence, standing order 78 (2) and (3) should be amended.

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#### **Recommendation 44**

That if the proposed amendment to standing order 39 is agreed to, consequential amendments be made to standing order 78 (2) and (3).

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#### **79. Resolutions of continuing effect.**

No amendments are proposed to standing order 79.

#### **Chapter 15: Orders of the day**

##### **80. Definition**

##### **81. Disposal of orders.**

##### **82. Pre-audience**

No amendments are proposed to standing order 80, 81 or 82.

#### **Chapter 16: Rules of debate**

##### **83. Order maintained by President**

##### **84. Conduct of members**

##### **85. Members to address President standing**

##### **86. President or Deputy President taking part in debate.**

##### **87. Right to speak**

##### **88. Personal explanation.**

##### **89. Explanation of speeches**

No amendments are proposed standing orders 83 to 89.

#### **90. Reply**

The provisions in the standing orders for debate on the first reading of a bill are currently contradictory. Standing order 137 states that the first reading and printing of a bill is to be determined without amendment or debate, yet standing order 90 allows a reply on the first reading of a bill.

Given that the first reading and printing of a bill has virtually become a formality, an amendment to standing order 90 to remove the provision for a reply on the first reading would clarify the issue. This is consistent with both the rules in the Legislative Assembly and the Senate.

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#### **Recommendation 45**

That standing order 90 be amended to remove the provision for a reply on a motion for the first reading of a bill.

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**91. Rules of debate**

As noted above, standing orders 9, 91, 120, 121 and 160 refer to Her Majesty the Queen. The committee recommends that these standing orders be amended to instead refer to the Sovereign.

**92. Relevance and anticipation**

No amendments are proposed to standing orders 91 or 92.

**93. Question may be read**

This standing order has seldom been used.

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**Recommendation 46**

That standing order 93 be repealed.

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**94. Continued irrelevance or tedious repetition**

**95. Interruption of speaker: points of order or privilege**

**96. Dissent from President's ruling**

**97. Motion that member be heard**

**98. Motion that member be no longer heard**

**99. Closure of debate**

**100. Putting of question ends debate**

**101. Adjournment of debate**

No amendments are proposed to standing order 94 to 101.

**Chapter 17: Questions from the Chair**

**102. Putting of question**

**103. Same question**

**104. Rescission of order**

No amendments are proposed to standing orders 102, 103 or 104.

**105. Events superseding a question**

A superseding motion seeks to prevent a decision on a question before the House and to prevent any further discussion on it.

Standing order 105 provides that a question may be superseded by a motion being agreed to "That the debate be now adjourned." If a motion moved under SO 105 is agreed to, the House proceeds to the next item of business and the substantive motions lapses.

The committee notes that there are precedents for two additional superseding motions that are not prescribed by standing orders.



**Recommendation 47**

That standing order 105 be amended to include two additional superseding motions:

- 'That further consideration of the bill/amendments to the bill be now adjourned'
  - 'That the House do now adjourn'.
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**106. Lapsed question**

Standing order 106 has been varied by sessional order since June 2009 to resolve a contradiction between SO 106 and SO 176 concerning the consequences of interruption of proceedings for lack of a quorum in the House and in committee of the whole. The sessional order was adopted in slightly different terms in 2015 for clarity.

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**Recommendation 48**

That standing order 106 be amended to make consistent the provisions in standing order 106 and standing order 176 concerning the consequences of interruption of proceedings for lack of a quorum in the House and in committee of the whole.

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**107. Form of the previous questions**

**108. Determination of previous question.**

No amendments are proposed to standing orders 107 or 108.

**Chapter 18: Amendments**

**109. Moving of amendments**

**110. No amendments to words agreed to**

**111. Procedure for putting of amendments**

No amendments are proposed to standing orders 109, 110 or 111.

**Chapter 19: Divisions**

**112. Calling for divisions**

No amendments are proposed to standing order 112.

**113. Voting in division**

In November 2016 a sessional order was adopted to allow a member to vote from the President's gallery when caring for a child.

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**Recommendation 49**

That standing order 113 be amended to allow a member to vote from the President's gallery when caring for a child.

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**114. Procedure for division**

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**115. Counting of division**

**116. Casting vote**

No amendments are proposed to standing orders 114, 115 or 116.

**117. Points of order in division**

Under standing order 117 a member taking or speaking to a point of order during a division must remain seated and be covered. Placing a sheet of white paper on a member's head, thereby being "covered", is the means for attracting the attention of the Chair.

**For determination by the Procedure Committee**

The sub-committee considered whether to modernise the practice by removing the need to be covered but did not reach agreement. The matter is referred to the Procedure Committee for consideration.

**118. Correction of divisions**

**119. Division in committee**

No amendments are proposed to standing orders 118 or 119.

**Chapter 20: Addresses to the Governor**

**120. Making of address**

**121. Presentation of address**

As noted above, standing orders 9, 91, 120, 121 and 160 refer to Her Majesty the Queen. The committee recommends that these standing orders be amended to instead refer to the Sovereign.

**Chapter 21: Messages from the Governor**

**122. Presentation of message**

No amendments are proposed to standing order 122.

**Chapter 22: Communication between the two Houses**

**123. Methods of communication**

**124. Messages from the Council**

**125. Communicating a resolution**

No amendments are proposed to standing orders 123, 124 or 125.

**126. Messages from the Assembly**

Standing order 126 provides that if proceedings are required on a message from the Assembly not related to bills, the message must be set down for consideration on the next sitting day. In recent times, leave has been granted to allow messages to be considered forthwith, usually based on the foreknowledge of the receipt of the message and that a response is required as soon as possible.

**Recommendation 50**

That standing order 126 be amended to provide for a motion to be moved for consideration of a message forthwith or at a later hour of the sitting. If the motion is not agreed to, consideration of the message is to be set down for next sitting day.

**127. Messages to be recorded.**

No amendments are proposed to standing order 127.

**Chapter 23: Conferences****128. Requests for conference****129. Appointment of managers****130. Sitting suspended****131. Time and place of conference****132. Proceedings at ordinary conference****133. Free conference under the Constitution Act****134. Report of conference**

No amendments proposed are proposed to standing orders 128 to 134.

**Chapter 24: Ballots****135. Conduct of ballot**

No amendments are proposed to standing order 135.

**Chapter 25: Public bills**

Since the adoption of the standing orders in 2004, a number of sessional orders have amended provisions for the passage of bills through the Legislative Council including: cut off dates for Governments bills at the end of a sitting period; the provision for a motion to suspend standing orders to allow bills from the Assembly to proceed through all stages in one sitting; and the appointment of a Selection of Bills committee to consider the referral of bills to standing committees for inquiry and report. Practice in committee of the whole has also developed with almost all bills now taken as a whole providing more flexible yet streamlined consideration of amendments to bills.

A number of amendments to standing orders and the incorporation of provisions in sessional orders are proposed to standing orders for bills.

**136A. Selection of bills committee**

The resolution establishing a Selection of Bills Committee was adopted in May 2019.

The Council's Selection of bills Committee process is loosely based on Senate provisions. One of the major deviations from the Senate practice is that in the Council a bill must be restored to the Notice Paper after the Standing Committee has reported, whereas in the Senate, the further consideration of a bill referred to a committee is set down on the Business

Paper either for the date set for tabling of the report, or if there is no date, on the day after the report is tabled.

The Council's procedure is based on the longstanding practice of the order of the day for the second reading of a bill referred to a committee by amendment to the second reading. Under that procedure, as the second reading has been superseded and is no longer before the House, it is necessary to restore it to the Notice Paper. In contrast, the second reading of a bill referred by the Selection of Bills Committee remains on the notice paper, however bills have, nevertheless, been restored. Removing the requirement for restoration of all bills referred to a committee by whichever means would simplify the process. As a result the only bills that need to be restored are those that lapse on prorogation and which are restored under SO 159.

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### **Recommendation 51**

That the provision for a Selection of Bills Committee be adopted as a standing order with an amendment to the provisions adopted by the House in May 2019 to provide for the further consideration of a bill referred to a committee to be set down on the Notice Paper either for the date set for tabling of the report, or if there is no date, on the day after the report is tabled.

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### **For determination by the Procedure Committee**

A proposal that the Selection of Bills Committee report to the House any bill, other than an appropriation bill for the ordinary annual services of the government, that is not accompanied by a completed Statement of Public Interest (the proposal being promoted by the Evidence-Based Policy Research Project) is referred to the Procedure committee for consideration.

### **136B. Time limits on government bills**

In August 2011 the House first adopted time limits on the various stages of consideration of government bills. The sessional order has been adopted each session since.

The committee notes that the time limits for debate on government bills set by sessional order since 2011 and debate on private members' bills under standing order 187 are different. While the committee makes no recommendation about the differing debate times, it believes it may be beneficial for the House to consider whether the debate times should match or should otherwise be amended.

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### **Recommendation 52**

That the provision for time limits on government bills be adopted as a standing order.

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### **136. Initiation**

No amendments are proposed to standing order 136.

### **137. First reading**

Under sessional order first adopted in May 2015, after a bill received from the Legislative Assembly is read a first time and printed, a motion may be moved without notice that

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standing order be suspended to allow the passing of the bill through all its remaining stages during the present or any one sitting of the House.

The sessional order was adopted to replace the practice in place for many years of members giving contingent notices to allow a bill to proceed through all stages in one sitting. The sessional order was one of a number adopted by the House to remove the need for the majority of the contingent notices regularly given by members.

The sessional order relates both to standing order 137 and standing order 154 as both relate to the receipt of messages on bills from the Legislative Assembly and the first reading of bills. Providing for all standing orders relating to the receipt of messages on bills and the first reading of bills in one standing order would make these provisions clearer.

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### **Recommendation 53**

That standing order 137 be amended:

- (1) to include the provision in the sessional order for a motion to be moved for the suspension of standing orders to allow a bill received from the Legislative Assembly to proceed through all stages in one sitting.
  - (2) to include the provisions in standing order 154 relating to messages on bills from the Legislative Assembly and for standing order 154 to be repealed.
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### **137A. Deadline for introduction and receipt of government bills**

Each session since 2002, with few exceptions, the House has adopted a sessional order imposing a deadline for receipt of bills from the Legislative Assembly and introduction of bills in the Legislative Council. Any bill received after the cut-off date must either be declared urgent on motion, or set down for the first sitting day in the next session.

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### **Recommendation 54**

That a new standing order be adopted to provide for the current provisions for deadlines for the introduction or receipt of bills.

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### **138. Urgent bills**

Under standing order 138, there is no debate on the motion to declare a bill urgent but under the current sessional order for the deadline of receipt of bills, a motion to declare a bill urgent is subject to debate. This contradiction is potentially confusing.

#### **For determination by the Procedure Committee**

The sub-committee considered whether the provision in standing order 138 for a Minister to declare a Council bill urgent should apply only to Government bills or also apply to private members' bills, and whether the motion should be restricted to a Minister.

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### **Recommendation 55**

That standing order 138 be amended to include the provisions currently in sessional order for debate on a motion to declare a bill urgent.

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**139. Cognate bills**

No amendments are proposed to standing order 139.

**140. Second reading**

Under proposed changes to the provisions for the Selection of Bills Committee, a bill referred to a standing committee is set down for further debate on the day the committee's report is due, or if there is no due date, on the date after the committee tables its report. Essentially this means there is no need to restore the bill. The committee proposes that the same provision be applied to bill referred to a committee by amendment to the second reading.

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**Recommendation 56**

That consistent with the recommendation concerning the Selection of Bills Committee, standing order 140 be amended to provide for the further consideration of a bill referred to a committee by amendment to the motion for the second reading to be set down on the Notice Paper either for the date set for tabling of the report, or if there is no date, on the day after the report is tabled.

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**141. Committal**

On 8 May 2019 Standing orders 141, 172 and 180 were all amended to provide for an instruction without notice.

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**Recommendation 57**

That standing order 141 be amended to omit the requirement for notice of a motion for an instruction to committees.

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**142. Consideration in committee**

**143. Order of consideration**

**144. Amendments in committee**

The practice of taking a bill as a whole in committee of the whole is well established and virtually all bills are considered this way. Proposed amendments to standing orders 142, 143 and 144 codifies the current practice and clarifies that if leave is not granted to take a bill as a whole that the bill must be considered clause by clause.

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**Recommendation 58**

- (1) That standing order 142 be amended to provide for the current practice of the Chair seeking leave for a bill to be taken as a whole in committee of the whole.
  - (2) That the provisions currently in standing order 142 for taking a bill clause by clause be incorporated into standing order 143.
  - (3) That standing order 144 be amended to clarify the requirement for a question to be put on an amended clause is only required when a bill is taken clause by clause.
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- 145. Uncompleted proceedings in committee
- 146. Report from committee
- 148. Third reading
- 149. Recommittal on third reading
- 150. Correction
- 151. Transmission to Assembly
- 152. Legislative Assembly amendments to bills originated in the Council
- 153. Bill again returned from the Assembly

No amendments proposed are proposed to standing orders 145 to 153.

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

As noted above in relation to standing order 137, sessional order adopted in May 2019 relate to both standing order 137 and standing order 154 in regard to the receipt of messages on bills from the Legislative Assembly and the first reading of bills. Providing for all standing orders relating to the receipt of messages on bills and the first reading of bills in one standing order would make these provisions clearer.

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#### Recommendation 59

That standing order 154 be repealed.

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- 155. Return of Legislative Assembly bill
- 156. Disagreement with Council amendments
- 157. Assembly amendments to Council amendments
- 158. Amendments after disagreements
- 159. Lapsed bills

No amendments are proposed to standing orders 155 to 159.

#### 160. Presentation for assent

As noted above, standing orders 9, 91, 120, 121 and 160 refer to Her Majesty the Queen. The committee recommends that these standing orders be amended to instead refer to the Sovereign.

#### Standing orders 161 to 163

No amendments are proposed to standing orders 161 to 163.

#### Chapter 26: Private Bills

- 164. Notice of intention
- 165. Initiation
- 166. Payment of private bills
- 167. Form of the bill
- 168. Reference to select committee
- 169. Report of the Select Committee
- 170. Private members bills originating in the Assembly
- 171. Lapsed private members

No amendments are proposed to standing orders 164 to 171.

**Chapter 27: Committee of the whole House****172. Appointment of committee**

Under standing order 172, when an order of the day is read for the House to resolve itself into a committee of the whole the President leaves the Chair without putting any question, and the House then resolves into committee, unless a notice for an instruction to the committee is proposed.

Standing order 180 provides that an instruction to committee of the whole requires notice. To circumvent the need for notice, it became common practice for members to give a contingent notice that, on a bill being read a second time, a motion could be moved for an instruction to the committee of the whole in relation to the bill.

On 6 May 2015, the House adopted a number of sessional orders to remove the need for the majority of the contingent notices, including the contingent notice relating to instructions to committee of the whole. Under the sessional orders, a motion for an instruction does not require notice.

On 8 May 2019 Standing orders 141, 172 and 180 were all amended to provide for an instruction without notice.

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**Recommendation 60**

That standing order 172 be amended to remove the reference to a notice of motion for an instruction to committee of the whole.

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**173 Proceedings in committee****174 Appointment of acting Chair****175 Disorder in committee****176 Quorum****177 Report of the Committee****178 Objection to Chair's ruling**

No amendments are proposed for standing orders 173-178.

**Chapter 28: Instruction by the House to committees****179. Effect of instructions**

No amendments are proposed to standing order 179.

**180. Notice required; when moved**

Under standing order 180, an instruction to committee of the whole requires notice. To circumvent the need for notice, it became common practice for members to give a contingent notice that, on a bill being read a second time, a motion could be moved for an instruction to the committee of the whole in relation to the bill.

On 6 May 2015, the House adopted a number of sessional orders to remove the need for the majority of the contingent notices, including the contingent notice relating to instructions to committee of the whole. Under the sessional orders, a motion for an instruction does not require notice.



**Recommendation 61**

That standing order 180 be amended to omit the requirement for notice of a motion for an instruction to committees.

**181. Debate on instructions****182. Instruction to select or standing committees**

No amendments are proposed to standing order 181 or 182.

**Chapter 29: Private Members' Business****183. Notice given**

No amendments are proposed to standing order 183

**184. Consideration of****185. Conduct of the draw**

Under a system first adopted in 1999 by sessional order, and then as a standing order in 2003, the Clerk is to conduct a draw of 12 members' names from the items of private members' business already on the Notice Paper, to establish the order of precedence of business to be conducted on private members' days. Over time the system proved too inflexible and members regularly sought to suspend standing orders to give precedence to other items of business that were more topical or pressing. A number of changes were adopted to introduce more flexibility in the system but these failed to significantly change the practice of members suspending standing orders.

In 2015, the Government Whip initiated an informal process of members meeting on the day prior to private members' day to agree on the precedence of items of private members' business to be considered. According to practice, on the next day the Government Whip moves a motion setting out the order of private members' business for the consideration of the House. On rare occasion an amendment has been moved to the motion, but largely the House has agreed to the proposed order of business.

In June 2020 standing orders 184 and 185 and the sessional order for substituting items in the order of precedence were suspended to remove the requirement for the Clerk to conduct the draw.

The Government Whip's process has proven successful and providing structure around the process would ensure both flexibility and certainty for the consideration of private members' business.

**Recommendation 62**

- (1) That the current process established by the Government Whip for ordering private members' business on private members' days be formalised as a Business Committee.
- (2) That the order of debates on committee reports and government responses also be determined by the Business Committee.
- (3) That standing orders 184, 185 and 188 be repealed.

**186. Debate on motions**

Standing order 186 has been varied by sessional order since 2011 to reduce the overall time for debate on private members' motions to two hours and to reduce the time for each speaker accordingly.

Under a sessional order introduced in 2019, when a members' notice of motion is called on, they may first move a motion that the matter proceed in a short form, being a 30 minutes debate with the mover speaking for no more than 5 minutes and all other speakers and the mover in reply speaking for no more than three minutes. This has become the default for private members business, and so it is proposed to instead require a motion to be moved only when a member wishes to deal with a matter in the "long form".

On occasion it has been necessary for a speaker in a short form debate to speak for longer than 3 minutes. The Business Committee, in scheduling private members' business and time frames, can take into account the potential, for example members to speak longer than provided in the standing order, for example when the Leader of the Government responds to a motion for an order for papers.

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**Recommendation 63**

- (1) That the short form of debate be adopted as the default
  - (2) That the longer debate under standing order 186 proceed after a motion is agreed to "That the item of private members' business be considered in a "long form".
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**187. Debate on bills**

A consequential amendment is required to standing order 187 on the repeal of standing orders 184 and 185 is required to omit "while retaining its position in the order of precedence."

The committee also notes the different debate times for government bills, currently set by sessional order and private members' bills, set by standing order 187.

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

See commentary under standing order 184 and 185 above.

**189. Time limits to apply**

No amendments are proposed to standing order 189.

**189A. Expiry of private members' notices of motions**

In May 2011 the House first adopted a standing order to provide for private members' business notices of motions, except those concerning bills and the disallowance of statutory instruments, expire after 20 sitting days.

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**Recommendation 64**

That the provision in the sessional order for expiry of private members' motions be adopted as a standing order.

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## Chapter 30 – Conduct of members and strangers

**190. Disorderly conduct by members****191. Suspension of member****192. Member called to order**

Disorderly conduct by members is dealt with in different ways depending on its severity. The more common procedure is for the President or the Chair of Committees to call a member to order under standing order 192. On three calls to order the member may be removed from the chamber up to the end of the sitting. Standing order 190 and 191 provide for a member to be named and reported by the President and suspended by motion without notice. SO 191 deals with the duration of suspension. The order of these does not follow the hierarchy of severity of disorderly conduct.

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### Recommendation 65

That standing orders 190, 191, and 192 be reordered to clarify that the provisions under standing order 192 are for less serious breaches of the standing orders and 190 and 191 are for more serious conduct by members.

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**193. President may suspend sitting or adjourn House****194. Powers of House not affected**

There are no amendments proposed to standing orders 193 or 194.

## Chapter 31: Visitors

**195. Distinguished visitors**

No amendments are proposed to standing order 195.

**196. Conduct of visitors**

Under standing order 196, only 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. An exception is provided in paragraph (4) in respect of an infant being breastfed by a member.

On 8 May 2019, a sessional order was adopted to extend the exception to a child under the age of four in the care of a member.

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### Recommendation 66

That standing order 196 be amended to extend the exception in paragraph (4) of standing order 196 to persons who may enter any part of the chamber reserved for members while the House is sitting to a child under the age of four in the care of a member.

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**197. Removal of strangers for disorderly conduct**

No amendments are proposed to standing order 197.

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**Chapter 32: Effect and suspension of standing orders****198. Suspension of standing orders**

Standing order 198 provides for standing orders to be suspended by a motion moved either on notice or by leave of the House and for debate on the motion for suspension. The committee has considered a number of matters relating to standing order 198.

Firstly, the standing order does not clarify whether standing orders can be suspended by motion moved on notice, or by motion moved by leave. Sessional orders currently vary the terms of standing order 198.

Secondly, since June 2011 a sessional order has limited the debate on a motion for the suspension of standing orders to bring on an item of business on the Notice Paper that relates to an order for papers under standing order 52 or an address to the Governor under standing order 53 to a statement by the mover and a statement by a Minister not exceeding 5 minutes each.

Thirdly, to circumvent the need for notice, or to seek leave of the House, to move a motion for the suspension of standing orders, it became common practice for members to give contingent notices that, on a particular matter occurring, they would move a motion to suspend standing orders to allow a subsequent motion to be moved that would otherwise be prohibited by the standing orders.

On 6 May 2015, the House adopted a number of sessional orders to remove the need for the majority of the contingent notices for the suspension of standing orders. Standing order 198 was varied by sessional order to provide that on the President calling on a notice of motion, or reading the prayers, or on the clerk being called on to read the order of the day, a motion may be moved without notice for the suspension of standing orders, thereby removing the need for contingent notices in certain circumstances.

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**Recommendation 67**

That standing order 198 be amended:

- (1) to limit debate on motions for the suspension of standing orders to bring on an item of business on the notice paper that relates to an order for papers under standing order 52 or an address to the Governor under standing order 53.
  - (2) That the provision in the sessional order for a motion to be moved for the suspension of standing orders without notice on the President calling on a notice of motion, or reading the prayers, or on the clerk being called on to read the order of the day, be adopted and standing order 198 amended.
  - (3) That standing order 198 (1) be amended to make clear that a motion for the suspension of standing orders can be moved on motion or by leave.
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**199. Effect of suspension**

No amendments are proposed to standing order 199.

**Chapter 33: Matters of Public Importance and Motions of Urgency**

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**200. Proposal for debate**

SO 200 (3) states that consideration of a notice of motion under SO 200 is to take precedence of all other business set down on the Notice Paper for that day except for business taking precedence under SO 74(3).

**Recommendation 68**

That if SO 38, 39 and 74 are amended as recommended, that SO 200(3) also be amended to state that a notice of motion under the standing order shall take precedence of all other business on the notice paper for that day except for a matter of privilege under SO 77 and business of the House under SO 39 but with the proviso that a motion under SO 200 may only be moved on a day on which government business has precedence, as is currently the case.

**201. Urgency motions**

No amendments are proposed to standing order 201.

**Chapter 34: Citizen's right of reply****202. Person referred to**

No amendments are proposed to standing order 202

**203. Reference to committee**

Under standing order 203 (7), a notice of motion for adoption of a report of the Privileges Committee on a citizen's right of reply is to be set down as business of the House for six sitting days.

As noted above, the committee recommends that standing order 39, which gives precedence to certain business as business of the House, be amended to include the precedence of notices of motions for the adoption of a report on a citizen's right of reply. If adopted a consequential amendment should be made to standing order 203 to omit paragraph (7).

**Recommendation 69**

That, if standing order 39 is amended to include the precedence of notices of motions for the adoption of a report on a citizen's right of reply for six sitting days that standing order 203(7) be amended accordingly.

**Chapter 35: Committees****204. Sessional committees**

No amendments are proposed to standing order 204.

**205. Procedure committee**

Under standing 205 (3) the President, Deputy President, Leader of the Government and Leader of the Opposition are to be among the members of the committee. Under the resolution establishing the committee in 2019, the ex-officio membership is extended to

include the Assistant President, the Deputy Leader of the Government, the Deputy Leader of the Opposition and the Government and Opposition Whips.

**For determination by the Procedure Committee**

The sub-committee agrees that the standing order should be expanded along the lines of the 2019 resolution establishing the committee which included additional ex-officio members, but refers the matter to the Procedure Committee for consideration as to whether the membership of the committee be adjusted to ensure representation of all parties and independent members.

**206. Standing committees**

**207. Select committees**

No amendments are proposed to standing order 206 or 207.

**208. Powers**

Standing order 208 ostensibly sets out the powers of Legislative Council committees, however the powers and the source of committee powers could be more clearly expressed.

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**Recommendation 70**

That standing order 208 be amended to more clearly express the powers conferred by statute, common law or the House.

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**209. Must not sit while the House is sitting**

Standing order 209 can be interpreted very strictly to provide that committees can only meet when the House stands adjourned meaning that committees cannot meet when the House is on a long bell or during lunch and dinner breaks. This interpretation is no longer realistic or practical given the frequency in which committees are required to meet.

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**Recommendation 71**

That standing order 209 be amended:

- (1) to make it clear that committees can meet during a suspension or adjournment of the House.
  - (2) to provide for electronic conduct of meetings and hearings, which provisions are currently in a separate sessional order.
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**210. Membership**

Under standing order 210 (10) as originally adopted, no member may take part in a committee inquiry where the member has a pecuniary interest in the inquiry of the committee.

On 28 June 2007 the House adopted a sessional order to apply the terms of SO 113(2) which provides that a member may not vote in a division if the member has a direct pecuniary interest in the matter unless it is in common with the general public or it is on a matter of state policy to standing order 210(10).

**Recommendation 72**

That the provision in the sessional order varying standing order 210(10) be adopted and standing order 210 amended

**211. Chair and Deputy Chair**

Standing order 211 provides for the appointment or election of the Chair and Deputy Chair. The standing order is currently varied by sessional order adopted in November 2018 to provide for the absence of the Chair and Deputy Chair and for the circumstances when the Chair is attending a committee hearing remotely via electronic means.

The standing orders do not prescribe the role of the Chairs unlike the provisions in some other jurisdictions including the Western Australian Legislative Council.

**Recommendation 73**

That standing order 211 be amended:

- (1) to set out the powers of the Chair when presiding at meetings.
- (2) to provide for the absence of the Chair and Deputy Chair and when the Chair is attending a committee hearing remotely.

**212. Priority of references****213. First meeting****214. Quorum****215. Loss of a quorum during a meeting**

No amendments are proposed to standing orders 212 to 215.

**216. Member attendance****216A. Substitute members**

Standing order 216 (2) provides that a member must seek leave of the committee to be absent from four or more consecutive meetings, or may be reported to the House for their absence. There have not been any instances of a member being reported under the standing order. The standing order also provides that the requirement for leave does not apply to those committees for which the House has made provision for substitute members.

A sessional order adopted in May 2019 applies the provision for substitute members (see above) to all committees (except the Procedure Committee). Consequently standing order 216 has no current application.

**Recommendation 74**

That the provisions in the sessional order providing for substitute members be adopted as a standing order and standing order 216 repealed.

**217. Sub-committees**

No amendments are proposed to standing order 217.

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

Standing order 218 has been the subject of a long standing sessional order that clarifies that unless a committee decides otherwise, a member not a member of the committee may take part in public or private proceedings and question witnesses but may not vote, move any motion or be counted for the purpose of quorum or division.

A remaining point of uncertainty and interpretation has been the extent to which participating members have access to committee documents.

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### **Recommendation 75**

That standing order 218 be amended:

- (1) to that clarifies that unless a committee decides otherwise, a member not a member of the committee may take part in public or private proceedings and question witnesses but may not vote, move any motion or be counted for the purpose of quorum or division.
  - (2) to include the provision for participating members to have access to all committee documents once they have formally communicated their intention to participate in the inquiry.
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## **219. Meeting or joining with other committees**

No amendments are proposed to standing order 219.

## **220. Joint committees**

Standing order 220 (5) provides that if the House agrees to a proposal from the Legislative Assembly to appoint a joint committee, the Council will determine the time and place of the first meeting of the Committee. The Legislative Assembly has a corresponding standing order which explicitly states that the House originating the message for the appointment of a joint committee shall not nominate the time and place for the first meeting.

The provision ensures that the Houses agree on the appointment of the committee first and then agree on when to meet for the first time and respects comity between the Houses.

The standing order has been interpreted to require that the House propose the time and place of the first meeting in the return message agreeing to the appointment of the joint committee. However this has not always been possible and has resulted in the return message agreeing to the appointment of the committee being delayed or the Council advising the Assembly that the time and place of the first meeting will be advised in due course.

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### **Recommendation 76**

That standing order 220 (5) be amended to make it clear that the Council can agree to the appointment of a joint committee by return message to the Legislative Assembly and advise the time and place for the first meeting by message at a later stage.

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## **221. Submissions**

No amendments are proposed to standing order 221

## **222. Evidence**

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Under standing order 222 witnesses before a committee are to be given the opportunity of correcting their transcript of evidence, but corrections must be confined to “verbal inaccuracies or explanations of answers”. This provision is unclear as to the extent of corrections that may be made by witnesses.

Under sessional order, an answer to a question must be directly relevant.

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**Recommendation 77**

That standing order 222 be amended:

- (1) to clarify that witnesses are restricted to making typographical errors or correcting the duplication or omission of words and that corrections in substance can only be made by giving further evidence.
- (2) to adopt in the standing order the provision in the sessional order that an answer to a question must be directly relevant.

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**223. Publishing submissions and evidence**

Standing order 223, which authorises committees to publish submissions and evidence before presentation to the House, is somewhat outdated.

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**Recommendation 78**

That standing order 223 be modernised by:

- (1) omitting paragraph (3) as the provision is covered by SO 223(1);
- (2) omitting the provision for a committee to charge a reasonable sum for making copies available is outdated
- (3) omitting reference to “tape” recordings in standing order 223(4).

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**224. Unauthorised disclosure of evidence and documents**

Standing order 224, which concerns unauthorised disclosure of committee evidence, is somewhat outdated.

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**Recommendation 79**

That standing order 224 be updated by:

- (1) omitting “news media” and inserting instead “media”,
- (2) omitting “press release” and inserting instead “media release”,
- (3) omitting “select” in paragraph (2)(c) so that the paragraph relates to all committees.

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**225. No representation of witnesses**

Standing order 225 prohibits a person or body from being represented by “counsel or solicitor” at a hearing of the committee, unless the committee decides otherwise. The committee wishes to make this more general in scope.

**Recommendation 80**

That standing order 225 be amended by omitting "counsel or solicitor" and inserting instead "an advisor" inserted instead.

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**226. Reports**

Historically a select committee ceased to exist on the tabling of a report. In recent years select committees have tabled interim reports and discussion papers before making a final report.

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**Recommendation 81**

That standing order 226 be amended to remove any doubt that a select committee has the power and right to table interim reports without ceasing to exist.

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**227. Consideration of reports**

In November 2019 the House adopted a sessional order to require a Chair's draft report to be provided to members seven calendar days prior to a deliberative meeting on the report.

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**Recommendation 82**

That standing order 227 be amended to include the provision in the sessional order that requires a Chair's draft report to be provided to members seven calendar days prior to a deliberative meeting on the report.

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**228. Members' opinions to be reflected**

**229. Chair's Foreword**

**230. Tabling reports**

No amendments are proposed to standing orders 228 to 230.

**231. Tabling out of session**

The terms of standing order 231(1) are not clear as to whether a committee can table a report with the Clerk when the House is suspended, for instance during a lunch break or on a long bell.

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**Recommendation 83**

That standing order 231 (1) be amended to make it clear that a committee can present a report to the Clerk when the House is adjourned or suspended.

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**232. Debate on committee reports**

In May 2019 the House adopted a sessional order to provide for a motion to take note of government responses in addition to the existing provision for debate on committee reports. The provisions in the sessional order are somewhat complicated. While no substantive changes are proposed to the existing provisions, minor amendments are recommended to

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simplify the terms of the sessional order.

As noted above, the committee recommends the establishment of a Business Committee to schedule private members motions and bills. The committee also recommends that the Business Committee have a role in scheduling debate on committee reports and government responses.

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**Recommendation 84**

That the provisions in the sessional order providing for debate on government responses be adopted as a standing order with minor amendment to simplify the provision.

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**233. Government response**

Standing order 233 does not make it clear that the requirement for a government response applies regardless of the prorogation of the House or the expiry of the Legislative Assembly.

A sessional order adopted in May 2019 requires the government address each recommendation of a committee in its response, and the consequence of not doing so.

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**Recommendation 85**

That standing order 233 be amended to clarify that a government response is requirement notwithstanding the prorogation of the House or the expiry of the Legislative Assembly.

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**For determination by the Procedure Committee**

The sub-committee also discussed whether to reduce the time frame within which the government must respond from six months to three months, on the basis that it would better harness the momentum of an inquiry.

The sub-committee refers the matter to the Procedure Committee for consideration.

**234. Resources**

The standing orders relating to committee procedures and administration do not clearly require committees to keep comprehensive records of its deliberations.

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**Recommendation 86**

That standing order 234(5) be amended by make it clear that committee minutes are the official records of the committee and must record members attending, any apologies received and the votes and proceedings of the committee.

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**NEW PROVISIONS**

**Sessional orders**

In the standing orders adopted in 1895, a provision was made for the House to adopt specific sessional orders for the appointment of sessional committees and the days on which the House would meet "for the despatch of business" (SO 281). The explicit authority to adopt

sessional orders was not carried over into the 2004 standing orders. Despite the limited scope of sessional orders under SO 281 and the absence of the provision since 2004, numerous sessional orders have been adopted over time.

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**Recommendation 87**

The committee recommends the adoption of a new standing order to explicitly authorise the adoption of sessional orders and to clarify the scope and purpose of sessional orders.

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### Extension of debate

On 15 May 2014, the House adopted a sessional order to allow the extension of speaker and debate time on private members' motions. On 8 May 2019 the House adopted a variation to remove the ability to debate the motion for the extension.

While these provisions have been successfully used to extend debate on private members' motions, they do not apply to other debates and it is still common for members to seek to extend debate by leave, one objection being sufficient to deny the extension.

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### Recommendation 88

That a new provision be adopted to provide for extension of any timed debate.

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### Interruption of debate

Various standing and sessional orders provide for the President to interrupt debate at a set time to allow another item of business to proceed or to allow the mover to speak in reply and the questions put on any amendments and the original motion. The majority of these provisions provide for interruption at the end of debate time however there is some variation in provision.

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### Recommendation 89

That the provisions for interruption of debate in the following standing and sessional orders be standardised:

- SO 57 - Motion after tabling (Sessional order - Consideration of a document )
  - Sessional order – Take note of answers to questions
  - SO 78 - Motions for disallowance of statutory instruments
  - Selection of bills committee
  - Debate on motions (Sessional order - Debate on private members' motions – SO 186)
  - Sessional order – Short form motions
  - SO 187 - Debate on bills – First reading
  - SO 198 - Suspension of standing orders
  - SO 200 - Proposal for debate
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## Appendix 2: Proposed Standing Orders

### CHAPTER 1 – REPEAL AND OPERATION OF STANDING ORDERS

#### 1. Repeal of previous rules and orders

All existing standing rules and orders of the House are repealed.

#### 2. Where cases not provided for

In any case not provided for in these standing orders, any matter may be decided by the President or Chair of Committees as they think fit. In making any ruling the President or Chair may base their decision on the customs, usages, practices and precedents of the House and parliamentary tradition.

#### 2A. Sessional orders

- (1) The House may from time to time adopt Sessional Orders which shall have effect for the duration of the session, or temporary orders that have affect for a specific duration.
- (2) Sessional and temporary orders must relate to the operations of the House or its committees.

#### 3. Practice notes

- (1) The President may issue practice notes on the procedure and practice to be followed under any standing order.
- (2) A practice note may be disallowed, in whole or in part, by motion on notice.
- (3) A motion for disallowance will have precedence as business of the House.

#### 4. Rights of House not restricted

**Except so far as is expressly provided,** nothing in these standing orders affects the rights, privileges and powers of the House. ~~the powers, rights and immunities of the House.~~





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**CHAPTER 2 – OPENING OF PARLIAMENT****5. Proceedings on opening of Parliament by Governor**

- (1) On the first day of the meeting of a session of Parliament to be opened by the Governor, where there is a President:
  - (a) the President will take the Chair at the time stated in the proclamation and read the prayers,
  - (b) the Clerk will read the proclamation calling Parliament together, and
  - (c) the Governor will be introduced to the chamber by the Usher of the Black Rod.
- (2) On the first day of the meeting of a session of Parliament to be opened by the Governor, where there is no President:
  - (a) at the time specified in the proclamation the Clerk will read the proclamation calling Parliament together,
  - (b) the Governor will be introduced to the chamber by the Usher of the Black Rod.

**6. Proceedings on opening of Parliament by commission**

- On the first day of the meeting of a session of Parliament to be opened by commissioners,
- (a) the Clerk will read the proclamation calling Parliament together,
  - (b) the Clerk will announce the commissioners appointed to open the Parliament,
  - (c) a commissioner will direct the Usher of the Black Rod to request the attendance of the members of the Legislative Assembly to hear the commissioners' message,
  - (d) members of the Assembly will sit in the Council chamber,
  - (e) a commissioner will then inform the members of both Houses of the purpose of the meeting,
  - (f) the Clerk will read the commission appointing the commissioners to open Parliament,
  - (g) a commissioner will read the commissioners' message, and the members of the Assembly will withdraw,
  - (h) the Clerk will announce the names of the members elected at the periodic election.
  - (i) the Clerk will also announce the names of commissioners for swearing members, and read the commission,
  - (j) new members will take and sign the oath or affirmation of allegiance required by law and sign the roll of the House, and
  - (k) the House will then proceed to elect a President.

**6A. Commission opening with attendance of the Governor**

- (1) On the first day of the meeting of a session of Parliament to be opened by commissioners:

- (a) the Clerk will read the proclamation calling Parliament together,
  - (b) the Clerk will announce the commissioners appointed to open the Parliament,
  - (c) a commissioner will direct the Usher of the Black Rod to request the attendance of the members of the Legislative Assembly to hear the commissioners' message,
  - (d) members of the Assembly will sit in the Council chamber,
  - (e) a commissioner will then inform the members of both Houses of the purpose of the meeting,
  - (f) the Clerk will read the commission appointing the commissioners to open Parliament,
  - (g) a commissioner will read the commissioners' message, and the members of the Assembly will withdraw,
  - (h) the Clerk will announce the names of the members elected at the periodic election,
  - (i) the Clerk will also announce the names of commissioners for swearing members, and read the commission,
  - (j) new members will take and sign the oath or affirmation of allegiance required by law and sign the roll of the House, and
  - (k) the House will then proceed to elect a President.
  - (l) the President will take the Chair and read the prayers, and the House proceed to conduct business.
- (2) When the Governor attends Parliament House to give the opening speech, the House may present their President to the Governor.
- (3) When the Governor attends the chamber to give the opening speech:
- (a) the Usher of the Black Rod will announce and conduct the Governor to the dais,
  - (b) the Governor will direct the Usher of the Black Rod to command the immediate attendance of the Assembly in the Council chamber,
  - (c) when the members of the Assembly have come with their Speaker into the Council chamber the Governor will address both Houses of the Parliament,
  - (d) the President and the Speaker will each receive a copy of the Governor's speech and the Governor will withdraw from the Council chamber,
  - (e) the Legislative Assembly will then withdraw.

## **7. Governor's speech**

- (1) When the Governor attends the chamber, the Usher of the Black Rod will announce and conduct the Governor to the dais.
- (2) The Governor will direct the Usher of the Black Rod to command the immediate attendance of the Assembly in the Council chamber.

- (3) When the members of the Assembly have come with their Speaker into the Council chamber the Governor will address both Houses of the Parliament.
- (4) The President and the Speaker will each receive a copy of the Governor's speech and the Governor will withdraw from the Council chamber.

## 8. Address-in-reply

- (1) The President will report to the House the speech of the Governor.
- (2) A motion for an address-in-reply to the speech may be made forthwith or on a future day, and must be seconded.
- (3) Consideration of the Governor's speech will be dealt with as government business.
- (4) When the address has been agreed to, a motion will be made that it be presented to the Governor by the President and members.
- (5) The President will report to the House the presentation of the address and the reply of the Governor.

## 9. Opening of Parliament by the **Sovereign Queen**

When **the Sovereign** ~~Her Majesty the Queen~~ is present in the State and intends to address both Houses of Parliament on opening the session, references in this chapter to the Governor will be read as references to **the Sovereign** ~~Her Majesty the Queen~~.

## 10. Swearing of new members

New members may present themselves and take and sign the oath or affirmation required by law and sign the roll of the House at any time during the sitting of the House when there is no business then under consideration.



## CHAPTER 3 – OFFICE OF THE PRESIDENT

### 11. Term of office

The office of President becomes vacant:

- (a) immediately before the House assembles for the dispatch of business at its first meeting following a periodic Council election,
- (b) if the President ceases to be a member of the House,
- (c) if the President is removed from office by a vote of the House, or
- (d) if the President resigns in writing addressed to the Governor.

### 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. ~~The newly elected President will then express a sense of the honour proposed to be conferred on them, and will be conducted to the Chair.~~
- (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, ~~and~~ ~~Each member so proposed will express a sense of the honour proposed to be conferred on them, and~~ 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.~~

### 13. Ballot

- (1) ~~A candidate must receive votes of an absolute majority of members present to be elected President.~~
- (2) When a ballot is required, the bells will be rung and the doors locked, as in a division.
- (3) ~~When two members have been proposed as President, ballot~~ Ballot papers will be distributed by the Clerks to all members in their places. Members must write on the ballot paper the name of the candidate for whom they wish to vote, and deposit it in the ballot box provided by the Clerk. ~~The candidate who has the greater number of votes is to be declared elected President, and will be conducted to the Chair.~~
- (4) ~~When two or more members have been proposed, the votes will be similarly taken and the member who has the greatest number of votes will be the President, provided that member has also a majority of the votes of the members present.~~
- (4) ~~If more than two members have been proposed and no candidate receives the votes~~

of an absolute majority of members present, the name of the candidate having the smallest number of votes will be withdrawn, and a fresh ballot will take place and this will be done until a candidate is elected as President by such a majority.

- (5) If after fresh ballots have been conducted under paragraph (4) no member receives the votes of an absolute majority of members present, the Clerk will call for fresh nominations and the procedures under paragraph (2) to (4) will be repeated.
- (6) After fresh nominations have been called under paragraph (5) and the procedures under paragraphs (2) to (4) have been repeated and no member receives the votes of an absolute majority of members present:
  - (a) notwithstanding paragraph (1), if there is an equality of votes, the Clerk will determine, by lot, which of the candidates, having the same number of votes will be withdrawn, as if the candidate had obtained the lesser number of votes and the other member is declared elected, notwithstanding the member has not received the votes of an absolute majority of members present, or
  - (b) if there is not an equality of votes the Clerk will again call for fresh nominations and this procedure will be repeated until either the President is elected by the drawing of lots by the Clerk under paragraph (6)(a) or a candidates receives the votes of an absolute majority of members present.
- (7) The member elected will be conducted to the Chair.

#### **14. Presentation to Governor**

- (1) Having been conducted to the Chair, the member so elected will return acknowledgments to the House and assume the Chair.
- (2) Members may congratulate the President, and a Minister will inform the House of the time at which the Governor will receive the House for the purpose of presenting their President.

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**CHAPTER 4 – DEPUTY PRESIDENT AND CHAIR OF COMMITTEES****15. Election of Deputy President**

- (1) At the commencement of the sittings following a periodic Council election, or when any vacancy occurs, the House is, ~~by motion without notice,~~ to elect a member to be Deputy President and Chair of Committees. A member will propose and move that a member then present be the Deputy President.
- (2) The Deputy President and Chair of Committees will be elected in a similar manner as the President. However, the President will conduct the election, and where there is an equality of votes, will exercise a casting vote.

**16. Term of Office – Deputy President**

The Deputy President will hold office for the life of the Parliament in which elected and until a successor is elected.

**17. Duty of Chair**

- (1) The Deputy President, when presiding in the House, will exercise the same authority and have the same duties and powers as the President, but will give place to the President whenever the President arrives in the House.
- (2) The Chair of Committees will take the Chair at the table in all committees of the whole House.

**17A. Assistant President**

- (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 President.
- (2) The Assistant President will be elected in a similar manner as the President.
- (3) The Assistant 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 President will perform the duties of the President.

**18. Temporary Chairs**

The President will nominate at the commencement of each session a panel of not less than three members who may act as Temporary Chairs of Committees when requested, or in the absence of the Chair of Committees.

**19. Title**

The Chair of Committees and Temporary Chair of Committees may be referred to as Chairperson, Chairman or Chairwoman.





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**CHAPTER 5 – ABSENCE OF PRESIDENT, DEPUTY PRESIDENT AND OFFICERS****20. Absence of President**

In the absence of the President, the Deputy President will perform the duties and exercise the authority of President in relation to all proceedings of the House.

**21. Absence of President and Deputy President**

- (1) If both the President and the Deputy President are absent, one of the Temporary Chairs of Committees will act as President.
- (2) If no Temporary Chairs are available in the absence of the President and Deputy President, the members present, if a quorum, will elect a member present to act as President for that day only, the question being put to the House by the Clerk.

**22. Relief of President**

- (1) The Deputy President will take the Chair when requested by the President, without any announcement to the House.
- (2) In the absence of the Deputy President, one of the Temporary Chairs will take the Chair, without any announcement to the House.

**23. Leaving the Chair**

The President may leave the Chair at any time to suit the convenience of the members, without any question being put.

**24. Absence of Clerk**

In the absence of the Clerk, the Clerk's duties will be performed by the Deputy Clerk, or in the absence of both, by the next senior officer.

**25. Parliamentary secretary**

- (1) A parliamentary secretary may act as a Minister in the House in all respects, ~~except in relation to answering questions with and without notice.~~
- ~~(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 portfolio committee.
- (2) 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.

**26. Leadership of parties and groups**

After each periodic Council election and whenever changes occur, the leaders of parties or groups with two or more members in the House may announce the leadership of the parties or groups represented in the House.

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**CHAPTER 6 – SITTING, QUORUM AND ADJOURNMENT OF HOUSE**
**27. Meeting of Council**

The bells will ring for two minutes prior to the time appointed for a meeting of the Council, and the President on being announced by the Usher of the Black Rod, will then take the Chair, and acknowledge the House.

**28. Prayers**

- (1) The President, on taking the Chair each day, will read the following prayers:

Almighty God, we humbly beseech Thee to vouchsafe Thy blessing upon this Parliament. Direct and prosper our deliberations to the advancement of Thy glory, and the true welfare of the people of our state and Australia.

Our Father, who art in Heaven: Hallowed be thy name. Thy Kingdom come. Thy will be done on earth, as it is in Heaven. Give us this day our daily bread. And forgive us our trespasses, as we forgive those who trespass against us. And lead us not into temptation; but deliver us from evil: For Thine is the kingdom, and the power, and the glory, for ever and ever, Amen.

- (2) *After reading the prayers the President will read the following acknowledgement of Country:*

*I acknowledge the Gadigal clan of the Eora nation and its elders and thank them for their custodianship of this land.*

- (3) *The President may nominate another member, or request the Clerk to read the prayers or the acknowledgement of Country.*

**29. Quorum at commencement of sitting**

- (1) If there is no quorum present when the Chair is taken at the time appointed for ~~a~~ **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 ~~to~~ **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.

**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 ~~to~~ **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 ~~to~~ 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.

### 31. Adjournment of the House

- (1) Except where the Standing Orders provide for the President or Clerk to adjourn the House without putting a question, the House can be adjourned only by its own resolution.
- (2) The adjournment of the House to terminate the sitting may be moved at any time by a Minister.
- (3) The motion for the adjournment of the House to terminate the sitting may not be amended.
- (4) On any motion for adjournment to terminate a sitting:
  - (a) the question will be put no later than 30 minutes after the motion has been moved, or, when a Minister wishes to speak or is then speaking, at the conclusion of the Minister's remarks,
  - (b) any member may speak for five minutes on matters not relevant to the question, but may not refer to matters which are otherwise not in order.
- (5) If, before the days and hours of sitting have been appointed by the House, an adjournment takes place without the day and hour being fixed for meeting, the House will meet on the days and at the hour appointed in the previous session.
- (6) Whenever the House is adjourned for lack of a quorum to the next sitting day, and that day is a general holiday or public holiday, the House will stand adjourned to the following sitting day.

### 32. Interruption for adjournment

- (1) The House may appoint the time that proceedings will be interrupted ~~on Thursdays and Fridays~~ 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 a division is in progress, the vote ~~division~~ 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, if the motion for the adjournment is moved, resumption of debate on the interrupted question is to be made an order of the day for next sitting day

without any question being put,

- (c) if 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. ~~and seek leave to sit again.~~
- (3) When any business under discussion, if not disposed of, is interrupted by the operation of this standing order, the business ~~debate~~ will be set down as ~~stand adjourned and be made~~ an order of the day for a later hour of the sitting without any question being put. the next sitting day at the end of government or general business, as the case may be, fixed for that day, unless a motion is moved without amendment or debate for the adjournment of the debate to another day (to be stated).
- (4) A member speaking when proceedings are interrupted may continue speaking when proceedings are resumed.

### **32A. Hard adjournment**

- (1) If the motion for the adjournment of the House under standing order 31 has not earlier been moved, at ~~midnight~~ **10.00pm** the President is to interrupt business. ~~and propose the question "That this House do now adjourn".~~
- (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) a question is before the House, resumption of debate on the interrupted question is to be made an order of the day for the next sitting day without any question being put, and
  - (c) the House is in committee, the chair shall leave the chair and report progress to the House and further consideration of the business before the committee is to be made an order of the day for next sitting day without any question being put.
- (3) A member speaking when proceedings are interrupted may continue speaking when proceedings are resumed.
- (4) **When business is interrupted under this standing order, for not more than 30 minutes members may make statements without any question before the Chair, provided that a member shall not speak for more than 5 minutes.**
- (5) **At the conclusion of 30 minutes, the President will adjourn the House without putting a question.**

### **33. Ministerial reply to adjournment matters**

A Minister may, before the House proceeds to the business of the day, make a statement in relation to any matter raised on the adjournment at a previous sitting.

### **34. Minister to be present in the House**

~~The House will not meet unless a Minister is present in the House.~~

- (1) The House will not meet unless a Minister is present in the House, subject to paragraph (2).
- (2) On the Chair noting the absence of a minister or a parliamentary secretary in the

Review of the Standing and Sessional Orders

House, any member may move a motion without notice that the sitting of the House continue and the presence of a minister or parliamentary secretary is not required for the vote on the motion to take place.

- (3) Government business may not be considered if a Minister is not present in the House.
- (4) In the absence of a Minister, at 10 pm the President is to interrupt proceedings for a hard adjournment.

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**CHAPTER 7 – TIMES OF SITTING AND ROUTINE OF BUSINESS**
**35. Times of meeting**

The days and times of meeting of the House in each sitting week will be determined by the House from time to time.

**35A. Postponement of a scheduled meeting**

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.

**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, ~~or the 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.

**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 the business of the House.

**38. Routine of business**

The House is to proceed each day with business in the following routine:

**Formalities:**

Messages from the Governor

Messages from the Legislative Assembly

Reports tabled by President

Formal business under SO 44

Review of the Standing and Sessional Orders

Presentation of papers

Presentation of petitions

Notices of motions

**Postponements**

~~Matters of public interest~~

Ministerial statements

Ministerial replies to matters raised on the motion for adjournment

**Urgency motion under SO 201 (unless there is a matter of privilege under SO 77 on the Notice Paper)**

Motions and orders of the day, or vice versa, as set down on the Notice Paper:

**Matters concerning the privileges of the House under SO 77**

**Business of the House under SO 39**

**Matters of public interest under SO 200 (only on Government business days)**

**Government business, Private Members' Business or other business given precedence**

### **39. Business of the House**

- (1) The following business is to be placed on the Notice Paper as business of the House, and will take precedence according to standing order 38 in the following order:
  - (a) A motion for leave of absence to a member,
  - (b) A motion concerning the qualification ~~or conduct~~ of a member, or any matters arising under the members' code of conduct including any amendments to the members' code of conduct,
  - (c) A motion concerning the operations of the chamber including proposed standing, sessional and temporary orders, and sitting calendar,
  - (d) A motion for disallowance of a statutory rule under to SO 78,
  - (e) A motion to adopt a citizen's right of reply under to SO 203.
- (2) **Items given precedence under this standing order remain business of the House for six sitting days and if not moved within that time will be set down as private members or government business as applicable.**

### **40. Government and private members' ~~general~~ business**

The House must appoint the days or times on which government business and private members' ~~general~~ business is to take precedence.

#### **40A. Members' statements**

The House is to appoint the time when private members may make statements for not more than 30 minutes, without any question before that Chair, provided that a member shall not speak for more than 3 minutes.



**41. Reports of committees - precedence**

The House must appoint the day and time on which motions for the consideration or adoption of reports of committees of the House and any government responses on such reports are to take precedence.

**42. Presentation of documents**

- (1) Documents ordered to be presented, returns, reports of committees, papers and statutory instruments may be presented when no business is before the House.
- (2) Private members may only table documents by leave of the House.

**43. Government business on Notice Paper**

Ministers may arrange the order of their notices of motions and orders of the day on the Notice Paper.

**44. Formal motions**

- (1) Before the House proceeds to the business on the Notice Paper ~~each day, the President will ask whether there is any objection to notices of motions or orders of the day for the third reading of a bill being taken as a formal motion, without amendment or debate. If no objection is taken by any member, the motion is to be taken as a formal motion~~ the House will consider formal motions.
- (2) ~~Formal motions are to take precedence of all other motions and orders of the day and will be disposed of in the order in which they stand on the Notice Paper.~~ 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 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 ~~of~~ 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.

**45. Postponement of business**

- (1) Business may be postponed:
  - (a) by a member in charge of an item on the notice paper delivering to the Clerk written notification of the postponement, which list will be read by the Clerk at the time for postponements under standing order 38,
  - (b) at the time for postponements in the routine of business under standing order 38, or

(c) at the time the item is called on.

- (2) At the request of any member, the question that an item be postponed shall be put by the President without amendment or debate.

#### 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 ~~at the end of business already set down.~~
- (2) When an order of the House specifies a time for the consideration of a matter, the business then under discussion is to be interrupted.
- (3) At the time for interruption:
- (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, resumption of debate on the interrupted question is to be made an order of the day for a later hour of the sitting without any question being put,
  - (c) if the House is in committee, the Chair is to interrupt proceedings and report progress to the House. Further consideration of the business before the committee is to be made an order of the day for a later hour of the sitting without any question being put, ~~or~~ and
  - (d) if a vote is being taken, the vote will be completed and the procedures in paragraph (a) and (b) then followed as appropriate.
- (4) A member speaking when proceedings are interrupted may continue speaking when proceedings are resumed.

#### 47. Questions

- (1) The House is to appoint the time when questions without notice will be taken each sitting day.
- (2) Until a time is appointed by the House, questions will be taken at the time and day last appointed by the House.

#### 48. Ministerial statements

- (1) A Minister may make a statement regarding government policy at any time when there is no other business before the House.
- (2) The Leader of the Opposition, or a member nominated by the Leader of the Opposition, may speak to a ministerial statement, not exceeding the time taken by the Minister in making the statement.

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**CHAPTER 8 – JOURNALS AND RECORDS OF THE HOUSE****49. Records of the House Journals**

- (1) All proceedings of the House are to be recorded by the Clerk and published in the Minutes of Proceedings, ~~signed~~ **approved** by the Clerk.
- (2) A **Notice Paper** ~~business paper~~ containing notices of motions and orders of the day is to be published by the Clerk.
- (3) Publication, in written or electronic form, of the Minutes of Proceedings, Questions and Answers Paper and Notice Paper is authorised under this standing order.

**50. Custody of records**

- (1) The Clerk is to have custody of the **records of the House** ~~journals, records~~ and all documents tabled in the House. They may only be taken from the office of the Clerk by a resolution of the House, or if the House is adjourned for more than two weeks, by approval of the President.
- (2) The House is to be notified at its next sitting whenever approval is given by the President for any such removal.

**51. Hansard**

- (1) The Clerk is to ensure that a Hansard record is kept of all the debates in the House.
- (2) Publication, in written or electronic form, of the record of debate in the House or any committee, known as Parliamentary Debates and Hansard, including publication of Hansard ‘galley proofs’, is authorised under this Standing Order.



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**CHAPTER 9 – TABLING OF DOCUMENTS**
**52. Order for the production of documents**

- (1) The House may order documents to be tabled in the House.
- (2) When an order for documents is made by the House:
  - (a) the Clerk is to communicate to the ~~Premier's Department of Premier and Cabinet~~, all orders for documents held by departments and agencies subject to ministerial direction or control, and ~~made by the House~~.
  - (b) the Clerk is to communicate to the Department of Premier and Cabinet and the named entity, all orders for documents held by an entity which is not subject to ministerial direction or control.
- (3) A return under this order is to include an indexed list of all documents tabled, showing the date of creation of the document, a description of the document and the author of the document.
- (4) When returned, the documents will be laid on the table by the Clerk.
- (5) If at the time the documents are required to be tabled the House is not sitting, the documents may be lodged with the Clerk, and unless privilege is claimed, are deemed to have been presented to the House and published by authority of the House.
- (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 by the date and time required in the resolution of the House and:
    - (i) made available only to members of the Legislative Council,
    - (ii) not published or copied without an order of the House.
- (7) Any member may, by communication in writing to the Clerk, dispute the validity of the claim of privilege in relation to a particular document or documents. On receipt of such communication, the Clerk is authorised to release the disputed document or documents to an independent legal arbiter, for evaluation and report ~~within seven calendar days~~ 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) The independent legal arbiter may request, through the Clerk, additional submissions through the Department of Premier and Cabinet or directly from an independent agency and the member disputing the claim of privilege. Such submissions are:
  - (a) to be lodged with the Clerk and made available to the independent legal arbiter, and
  - (b) may be provided to the parties to the dispute but may not otherwise published.
- (10) A report from the independent legal arbiter, along with any submissions received by the Arbiter, are to be lodged with the Clerk and:

- (a) made available only to members of the House,
  - (b) not published or copied without an order of the House.
- (11) The Clerk is to maintain a register showing the name of any person examining documents tabled under this order.

#### **52A. Variation of scope or order for papers**

- (1) The Department of Premier and Cabinet or an independent agency may, by communication in writing to the Clerk at any time before the date for the return of documents, request that the scope of the order be varied.
- (2) A request to vary the scope of an order for papers must include:
  - (a) reasons why the timeframe for the production of the documents cannot be met,
  - (b) reasons why the terms of the order are likely to result in the production of a larger number of documents than are reasonably believed to be irrelevant to the intent of the order for papers.
- (3) The Clerk is to provide the request and any accompanying documents to the President and the member who moved the original order for papers.
- (4) When a request under this standing order is received:
  - (a) the original order for papers and the date for return of documents is suspended, and
  - (b) if agreement is not reached within **14 days** ~~seven days~~, the original order stands and the documents ordered are to be produced to the House by the original due date, or if that date has passed, within a further seven days.
- (5) When an agreement is reached between the member and the Department of Premier and Cabinet or agency and is certified by the President, the Clerk is authorised to advise all members and publish the terms of the agreement.
- (6) On the next sitting day the President is to report the agreement to the House and table all relevant documents.
- (7) 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.
- (8) If the question is resolved in the negative, the original order remains in force.

#### **52B. Role of the Privileges Committee when House not sitting**

That, in instances where a report of the Independent Legal Arbiter appointed under standing order 52 is received by the Clerk 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 deciding whether the report of the Independent Legal Arbiter and any documents the subject of the dispute are to be published,

- (c) any document authorised to be made public by the committee under this standing order 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.

### 53. Documents from the Governor

The production of documents concerning:

- (a) the royal prerogative,
- (b) dispatches or correspondence to or from the Governor, or
- (c) the administration of justice,

will be in the form of an address presented to the Governor requesting that the document be laid before the House.

### 54. Other methods of tabling documents

- (1) The President and Ministers may table documents at any time when there is no other business before the House.
- (2) **A member may table a committee report at any time when there is no other business before the House.**
- (3) The Clerk, under the authority of any Act or by resolution of the House, may table documents at any time when there is no other business before the House.
- (4) The publication of documents tabled by the President, a Minister, the Clerk, **and committee reports tabled by the member who signed the report or other member on their behalf**, is authorised under this standing order.
- (5) Other members may table documents by leave, and unless authorised by the House to be made public, are available for inspection by members of the House only.

### 55. Tabling of reports and documents 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) ~~Documents may not be lodged with the Clerk when the House has been prorogued~~  
**Documents required to be tabled in the House by a Minister under an Act may be lodged with the Clerk when the House has been prorogued.**

**56. Documents quoted in debate**

- (1) A document relating to public affairs quoted by a Minister may be ordered to be laid on the table, unless the Minister states that the document is of a confidential nature or should more properly be obtained by order.
- (2) An order under paragraph (1) may be made by motion without notice moved immediately on the conclusion of the speech of the Minister who quoted the document.

**57. Motion after tabling**

- (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 **published** ~~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.

**58. Amendments after tabling**

Clerical or typographical errors may be corrected, by authority of the President, in a document that has been ordered to be printed. No other amendments may be made except by authority of the House.

**~~59. Printing of tabled papers and documents~~**

- ~~(1) On the first sitting day of each month, a Minister is to table a list of all papers tabled in the previous month and not ordered to be printed.~~
- ~~(2) On tabling, a motion may be moved without notice, that certain papers on the list be printed.~~

**60. Inspection of documents**

- (1) Documents may be inspected in the offices of the Clerk at any reasonable time.
- (2) The Clerk may charge a reasonable fee for copies of extracts from documents or papers tabled in the House.



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**CHAPTER 10 – ATTENDANCE****61. Record of members**

- (1) The Clerk is to keep a roll of members which members must sign when the member takes the oath or affirmation of allegiance required by law.
- (2) The roll will also show:
  - (a) the name of each member elected to the Council,
  - (b) the date of election,
  - (c) the Parliament in which the member is elected
  - (d) the date of taking the oath or affirmation,
  - (e) the signature of the Clerk attesting.
- (3) The Clerk is to keep a register of members showing:
  - (a) the name of each member elected to the Council,
  - (b) the date of election,
  - (c) term of service,
  - (d) date of taking their seat,
  - (e) date of ceasing to be a member,
  - (f) the cause of ceasing to be a member, and
  - (g) length of service.
- (3) A list of current members is to be published by the Clerk.

**62. Attendance of members**

A record is to be kept in the Minutes of Proceedings each day of members who do not attend at some time during the sitting.

**63. Leave of absence**

- (1) The House may by motion on notice stating the cause and period of absence give leave of absence to a member.
- (2) A member who has been granted leave of absence is excused from service in the House or on a committee for the period of the absence.
- (3) A member will forfeit leave of absence by attending in the House or a committee before the expiration of the leave.



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**CHAPTER 11 – QUESTIONS SEEKING INFORMATION**
**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.
- (23) 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.
- (34) 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.
- (45) At the discretion of the President:
  - (a) one supplementary question may be immediately put by the member who asked a question to elucidate the ~~an~~ answer, and
  - (b) one further supplementary question may then be immediately put by another non-government member from a different party to elucidate the same answer.
- (5a6) The asking of each question must not exceed one minute and the answering of each question must not exceed ~~four~~ three minutes. A Minister may seek leave to extend the time for an answer by one minute.
- (5b7) The asking of a supplementary question must not exceed one minute and the answering of each supplementary question must not exceed two minutes.

**65. Rules for questions**

- (1) Questions must not contain:
  - (a) statements of fact or names of persons unless they are strictly necessary to render the question intelligible and can be authenticated,
  - (b) arguments,
  - (c) inferences,
  - (d) imputations,
  - (e) epithets,
  - (f) ironical expressions, or
  - (g) hypothetical matter.
- (2) Questions must not ask:
  - (a) for an expression of opinion, including a legal opinion.
  - (b) for a statement or announcement of the government's policy, or

- (c) ~~for a legal opinion.~~
- (3) Questions must not refer to:
    - (a) debates in the current session, or
    - (b) proceedings in committee not yet reported to the House.
  - (4) Questions must not anticipate discussion upon an order of the day or other matter on the Notice Paper, except an item of private members' business outside the order of precedence or an order of the day relating to the budget estimates.
  - (5) An answer must be **directly** relevant to a question.
  - (6) In answering a question a member must not debate the question.
  - (7) The President may direct that the language of a question be changed if it is unbecoming or not in conformity with these rules.

#### 66. Answers to questions without notice

- (1) When a Minister ~~refers a question to a Minister in the other place,~~ **takes a question on notice**, the Minister must provide the answer to the House within ~~35-21 calendar~~ **15 business** days after the question was first asked.
- (2) ~~(a)~~ If an answer to a question without notice is not provided within ~~35-21 calendar~~ **15 business** 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 ~~35-21 calendar~~ **15 business** 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 ~~(a)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.

#### 67. Written questions

- ~~(1) Notices of questions, signed by a member, must be lodged with the Clerk handed to one of the Clerks at the Table during the sitting of the House.~~
- (1) The rules for questions apply to written questions.
- (2) 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 **and the answers provided.**

- (3) ~~Notices of questions must be lodged by 4.00 pm for publication in the next Questions and Answers paper.~~ **Written questions and answers must ~~may~~ be lodged with the Clerk, whether or not the House is sitting, by email or other electronic lodgement 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.~~
- (4) Ministers must lodge answers to questions on notice within ~~35-21 calendar days~~ **15 business days** after the question is first published.
- (5) 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.
- (6) If an answer to a question on notice is not received within ~~35-21 calendar days~~ **15 business 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.
- (7) 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.
- (8) A Questions and Answers Paper is to be printed and circulated on any prorogation of the House.

#### **67A. Supplementary questions for written answer**

- (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.

**67B. Take note of answers to questions**

- (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 motion is not sooner disposed of, ~~question has not been earlier disposed of, at 3 minutes before the expiration of~~ after 30 minutes, the President is to interrupt proceedings ~~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.

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**CHAPTER 12 – PETITIONS****68. Presentation of petitions**

- (1) A petition may only be presented to the House by a member.
- (2) At the time provided a member may present a petition, including a petition for a private bill, or relating to a private bill before the House, on public or individual grievances, if it relates to a matter over which the House has jurisdiction.
- (3) When presenting a petition, a member may state:
  - (a) the petitioners,
  - (b) the number of signatures,
  - (c) the subject matter of the petition, and
  - (d) the request for action.
- (4) When presenting a petition, a member may move:
  - (a) “That the petition be received”, and
  - (b) “That the petition be read by the Clerk”.
- (5) No amendment or debate may be made on questions relating to petitions.
- (6) A member may not present a petition from that member.
- (7) The member presenting a petition must sign it at the top of the first page.
- (8) A petition may not be presented to the House once the House proceeds to the orders of the day, except by leave of the House.
- (9) The Clerk must refer a copy of every petition which is received by the House to the Minister responsible for the administration of the matter the subject of the petition.

**69. Form of petitions**

- (1) A petition must be made in ink, and written, typewritten or printed without insertion or erasure.
- (2) A petition must contain a request for action by the House or Parliament.
- (3) A petition is to be in the English language where practicable, and if not, must be accompanied by a translation, in English, certified to be correct by the member who presents it.
- (4) Signatures must be written on a page containing the petition, and must not be pasted or otherwise transferred to it. Additional signatures may be attached the petition.
- (5) A petition must be signed by the petitioners with their names. A petition may be signed by a person for another person in the case of incapacity. A person not able to write may make a mark in the presence of a witness, who must sign as a witness.
- (6) Petitions of corporations must be made under their common seal.
- (7) No letters, affidavits or other documents may be attached to a petition, except for a private bill.

**70. Content of petitions**

- (1) No reference may be made in a petition to any debate in Parliament of the same session, unless it is relevant to the petition.
- (2) A petition must be respectful, decorous and temperate in its language, and must not contain language disrespectful to the Parliament.
- (3) A member presenting a petition must be acquainted with its contents, and take care that it is in conformity with the rules and orders of the House.
- (4) A petition must not request, either directly or indirectly, a grant of public money.

**70A Government response to petitions**

- (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.



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**CHAPTER 13 – NOTICES OF MOTIONS****71. Giving of notices**

- (1) A member may give notice of a motion to initiate a subject for discussion by reading the notice of motion aloud, and
  - (a) giving the Clerk at the table a signed written copy and stating the day proposed for moving the motion.
  - (b) submitting the notice to the Clerk electronically before or at the time for giving of notices.
- (2) Notices of motions must be in the English language but where not practical they must be accompanied by a translation in English, certified to be correct by the member giving notice. Such notices will be published in the Notice Paper in English.
- (3) Lengthy notices need not be read, provided a summary of the intent of the notice is indicated to the House.
- (4) The Clerk will enter notices of motions on the Notice Paper in the order they are given.
- (5) A member may give notice of a motion for any other member not present. The names of both members are placed on the notice.
- ~~(6) Only one general business notice of motion may be given by a member on each call from the Chair.~~
- (6) A member may give notice of a motion co-sponsored by other members whose names are placed on the notice and recorded in the Notice Paper.
- (7) A notice of motion must be given before the House proceeds to the business of the day as set out in the Notice Paper, except by leave of the House.
- (8) A notice of motion may not be set down for a day later than four weeks from the day of giving notice.
- (9) A notice which is contrary to these standing orders or practice will be amended before it appears on the Notice Paper.

**72. Alterations and withdrawals of notices**

- (1) A member may by notice change the day proposed for moving a motion, but only to a later day.
- (2) A notice may be withdrawn at any time before the notice is moved.



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**CHAPTER 14 – MOTIONS**
**73. Notice required**

A motion may only be moved if notice was given at a previous sitting of the House, or by leave of the House, or as provided by the standing orders.

**74. Precedence of motions**

- (1) Motions shall be called on each day in the order shown on the Notice Paper.
- (2) Any motions on the Notice Paper each day which have not been dealt with by the adjournment on that day will be set down on the Notice Paper for the next sitting day, at the end of any business already set down for that day.
- (3) A motion ~~for a special adjournment or~~ which relates to the privileges or business of the House will take precedence ~~of all other motions or orders of the day~~ according to standing order 38 and 39.
- (4) A motion may be moved by a Minister, without notice, at any time there is no other business before the House:
  - (a) for a special adjournment of the House, or
  - (b) expressing appreciation, thanks or condolences of the House.

**75. Moving of motions**

- (1) Motions, other than the motion for the address in reply, do not require a seconder.
- (2) A member at the request of another member who has given notice may move the motion of which notice has been given.
- (3) If a motion on the Notice Paper is not moved when it is called on, it will be withdrawn from the Notice Paper.
- (4) A motion which has been moved is in the possession of the House, and may only be withdrawn by the mover by leave of the House.
- (5) A motion which has been superseded or withdrawn by leave of the House may be moved again during the same session.
- (6) Once an amendment has been proposed to a motion, the original motion may not be withdrawn, unless the amendment has been withdrawn or negatived.

**76. Leave of the House**

- (1) A motion which requires notice may be moved without notice by leave of the House.
- (2) Leave is granted when no member present objects to the moving of the motion or other course of action for which leave is sought.

**77. Raising matters of privilege**

A matter of privilege, unless suddenly arising in proceedings before the House, may only be brought before the House in accordance with the following procedures:

- (1) A member intending to raise a matter of privilege must inform the President of the details in writing.

- (2) The President will consider the matter and determine, as soon as practicable, whether a motion should have precedence of other business.
- (3) The President's decision will be notified in writing to the member, and if the President thinks it appropriate, or determines that a motion relating to the matter should have precedence, to the House.
- (4) While a matter is being considered by the President, a member must not take any action or refer to the matter in the House.
- (5) Where the President determines that a motion relating to a matter should be given precedence of other business, the member may, at any time when there is no business before the House, give notice of a motion to refer the matter to the Privileges Committee, and that motion will take precedence of all other business on the day for which notice is given.
- (6) If the President decides that the matter should not take precedence, a member is not prevented from referring to the matter in the House or taking action in accordance with the practices and procedures of the House.
- (7) If notice of a motion is given under paragraph (5), and the House is not expected to meet within one week after the day on which the notice is given, the motion may be moved at a later hour of the sitting as determined by the President.

#### 78. Motions for disallowance of statutory instruments

- (1) A notice of motion to disallow:
  - (a) a statutory instrument under section 41 of the Interpretation Act 1987, or
  - (b) any other statutory instrument or document made under the authority of any Act and which is subject to disallowance by either or both Houses of the Parliament,

is to be placed on the Notice Paper as business of the House.
- ~~(2) When the order for disallowance of a statutory instrument is called on, the House will first decide on a question proposed without amendment or debate. That the motion proceed as business of the House.~~
- ~~(3) If the question is agreed to, the House will then decide, on motion, when the matter will proceed.~~
- (4) The debate on any motion moved under this order as business of the House is to be conducted as follows:
  - (a) the member moving the motion and the Minister first speaking may speak for not more than 15 minutes,
  - (b) any other member and the mover in reply may speak for not more than 10 minutes,
  - (c) if the motion is not sooner disposed of, after a total time of one and a half hours ~~debate~~, the President is to interrupt proceedings to allow the mover of the motion to speak in reply, and ~~(d) the President will then~~ put all the questions necessary to dispose of the motion and any amendments.

- (5) When the House determines that a motion for disallowance will not proceed as business of the House, it will be set down as private members' business outside the order of precedence.

**79. Resolutions of continuing effect**

The House may adopt resolutions which have continuing effect until such time as they are amended or rescinded.



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**CHAPTER 15 – ORDERS OF THE DAY****80. Definition**

An order of the day is a bill or other matter which the House has ordered to be taken into consideration on a particular day.

**81. Disposal of orders**

- (1) Unless otherwise ordered, orders of the day will be called on and disposed of in the order in which they are shown on the Notice Paper.
- (2) Any orders of the day on the Notice Paper each day which have not been dealt with at the adjournment of the House will be set down on the Notice Paper for the next sitting day at the end of any business already set down for that day.
- (3) An order of the day may be moved or postponed by any other member in the absence of the member in charge of it or at the request of that member.
- (4) An order of the day may be discharged by motion without notice.

**82. Pre-audience**

A member who is in charge of a bill has pre-audience when the order of the day is read.





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**CHAPTER 16 – RULES OF DEBATE****83. Order maintained by President**

- (1) The President will maintain order in the House.
- (2) Whenever the President rises during a debate all members including the member speaking must sit down, and the House must be silent so that the President can be heard without interruption.
- (3) When the President is proposing a question a member may not enter or leave the chamber.

**84. Conduct of members**

- (1) A member should acknowledge the Chair on entering or leaving the chamber.
- (2) A member may not pass between the Chair and a member who is speaking, or between the Chair and the Table.
- (3) A member not addressing the House may not converse aloud or make any noise or disturbance during debate.
- (4) Any member persisting in such conduct after being called to order by the President may be dealt with for disorderly conduct.

**85. Members to address President standing**

- (1) A member who wishes to speak must rise in their place and address the President.
- (2) A member unable to stand because of sickness or infirmity may speak when seated.

**86. President or Deputy President taking part in debate**

The President or Deputy President may take part in any debate, but they must speak from the floor of the House and address the House generally.

**87. Right to speak**

- (1) Except where expressly provided, a member may only speak once:
  - (a) on any question before the House, or
  - (b) on an amendment.
- (2) In committee of the whole House members may speak more than once on a question.

**88. Personal explanations**

When there is no question before the House a member may, by leave of the House, make a personal explanation. The subject of a personal explanation may not be debated.

**89. Explanations of speeches**

A member who has spoken on a question may only speak a second time to explain a matter on which the member has been misquoted or misunderstood. The member may not introduce any new matter.

**90. Reply**

- (1) A reply is allowed to a member who has moved a substantive motion or moved the ~~first~~, second or third reading of a bill. A reply is not allowed to a member who has moved an amendment.
- (2) The reply of the mover of the original question closes any debate.

#### **90A. Extension of debate**

On a debate being interrupted to allow the mover to speak in reply, 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.

#### **91. Rules of debate**

- (1) A member may not reflect on any resolution or vote of the House, unless moving for its rescission.
- (2) A member may not refer to the Sovereign-~~Queen~~ or the Governor disrespectfully in debate, or for the purposes of influencing the House in its deliberations.
- (3) A member may not use offensive words against either House of the Legislature, or any member of either House, and all imputations of improper motives and all personal reflections on either House, members or officers will be considered disorderly.
- (4) A member may read reasonable lengths of extracts from books, newspapers, publications or documents.
- (5) When an objection is taken to the reading of a list of names of individuals or organisations who have made representations in relation to the matter the subject of the debate, without distinguishing the comments or views of those individuals or organisations, the member must confine their remarks to:
  - (a) a statement of the comments or views of those individuals or organizations, and
  - (b) the number of individuals or organizations making similar representations.

#### **92. Relevance and anticipation**

- (1) A member may not digress from the subject matter of any question under discussion; or anticipate the discussion of any matter shown on the Notice Paper, except an item of private members' business outside the order of precedence, unless, in the opinion of the President there is no likelihood of the motion or order of the day being called on within a reasonable time.
- (2) This standing order does not prevent debate of any matter on the address-in-reply.

#### **~~93. Question may be read~~**

~~A member may request that the Clerk read the question at any time during a debate, but may not interrupt a member speaking.~~

#### **94. Continued irrelevance or tedious repetition**

- (1) The President or the Chair of Committees may call the attention of the House or the committee to continued irrelevance or tedious repetition of a matter already presented in debate, and may direct a member to cease speaking.

- (2) A member directed to cease speaking may request that the question be put “That the member be further heard”. The question must be put without amendment or debate.

**95. Interruption of speaker: points of order or privilege**

- (1) A member may not interrupt another member speaking, except to call attention:
  - (a) to a point of order or privilege, or
  - (b) to the lack of a quorum.
- (2) A member may draw attention at any time to a point of order or a matter of privilege arising during the proceedings then before the House.
- (3) The President may intervene at any time when, in the President’s opinion, the speaker is in contravention of the rules and orders of the House.
- (4) On a question of order or a matter of privilege being raised, the business under consideration is suspended until the question of order or matter of privilege is determined.
- (5) On a question of order being raised, any member speaking or called to order must sit down.
- (6) The President or Chair of Committees may hear argument on the question, and may determine it immediately, or at a later time, at the President’s or Chair’s discretion.
- (7) The President or Chair of Committees may also intervene at any time to determine a point of order.

**96. Dissent from President’s ruling**

- (1) Any member may dissent from a ruling of the President by motion moved immediately “That the House dissent from the ruling of the President”.
- (2) Debate on the motion may be adjourned on motion, without amendment, until a later hour of the sitting or to the next sitting day.

**97. Motion that member be heard**

Any member may move without notice, that any member who rises to address the House “Be now heard”. The Chair must put the question immediately, without amendment or debate.

**98. Motion that member be no longer heard**

- (1) Any member, except a member who has already spoken in the debate, may move without notice that a member who is speaking “Be no longer heard”.
- (2) The motion “That the member be no longer heard” may not be debated or amended.
- (3) Before putting the question, the Chair will advise the House to consider whether:
  - (a) the member speaking has had ample opportunity to debate the question,
  - (b) the member speaking is abusing the standing orders or conventions of the House, or is obstructing business, or

- (c) the motion, if carried, would take away the rights of the minority.

#### **99. Closure of debate**

- (1) At any time during debate on a question in the House or in committee of the whole, and whether or not a member is addressing the Chair, a member may move “That the question be now put”.
- (2) A member, except a Minister, who has spoken in the debate or who has previously moved that motion, may not move a motion that the question be now put.
- (3) The motion “That the question be now put” may not be debated or amended.
- (4) Before putting the question, the Chair will advise the House to consider whether the motion, if agreed:
  - (a) is an abuse of the rules or conventions of the House,
  - (b) would deny the rights of the minority, or
  - (c) is an abuse of the standing orders.
- (5) If the motion “That the question be now put” is carried, the House or committee will vote on the question immediately before it without further debate or amendment, except for the mover in reply, where any reply is allowed, who may speak for 30 minutes before the motion is put.

#### **100. Putting of question ends debate**

A member may not speak to any question after it has been put by the President and the vote commenced.

#### **101. Adjournment of debate**

- (1) A debate may be adjourned on motion to a later hour of the same day or to a future day.
- (2) A motion to adjourn a debate may be debated or amended.
- (3) When a debate is adjourned, any member may move, without notice, that the order of the day for resumption of the debate take precedence of all other business on the Notice Paper for that day, except government business on a government day.
- (4) A member on whose motion a debate is adjourned is entitled to speak first on the resumption of the debate.
- (5) If a motion for the adjournment of the debate on a question is negatived, the member moving the motion may address the House at any time during the debate.

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**CHAPTER 17 – QUESTIONS FROM THE CHAIR**
**102. Putting of question**

- (1) When a motion has been moved, the President will propose a question on it to the House.
- (2) When the debate on a question is concluded, the President will put the question to the House.
- (3) The House may, by motion without debate, order a complicated question to be divided.
- (4) When a motion consists of more than one question, the questions should be put sequentially if any member so requests.
- (5) A question being put will be resolved in the affirmative or negative, by the majority of voices, “aye” or “no”.
- (6) The President will state whether the “ayes” or “noes” have it, and if that opinion is challenged the question will be decided by division.
- (7) All questions will be decided by a majority of the members present other than the President or other member presiding. When the votes are equal the President or other member presiding will have a casting vote.

**103. Same question**

- (1) A question may not be proposed if it is the same in substance as any question which has been determined during the same session, unless the order, resolution or vote on such question was determined more than 6 months previously or has been rescinded.
- (2) This standing order does not prevent a motion for disallowance of an instrument substantially the same in effect as one previously disallowed.

**104. Rescission of order**

A resolution, order or vote of the House may not be rescinded, during the same session, unless seven days' notice is given.

**105. Events superseding a question**

A question may be superseded by a member moving:

- (a) That the debate be now adjourned
- (b) That the House do now adjourn
- (c) That further consideration of the bill be now adjourned.

**106. Lapsed question**

- ~~(1) If the House is adjourned or committee of the whole is interrupted by the absence of a quorum, the question then under consideration lapses.~~
- ~~(2) Debate on a lapsed question may be resumed, by motion on notice, at the place where it was interrupted.~~

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

**107. Form of the previous question**

- (1) The previous question is put in the form – “That the question be not now put”.
- (2) The previous question may not be moved to an amendment, nor in committee of the whole House.
- (3) The motion “That the question be not now put” may not be amended.
- (4) In debating the previous question, the original question and any amendment may be debated.

**108. Determination of previous question**

- (1) If the previous question is carried, the original question and any amendment to it are disposed of, and the House proceeds to the next business.
- (2) If the previous question is negatived, the original question and any amendment before the House must be put immediately without amendment or debate.
- (3) When a motion consists of a series of motions which are under discussion as one motion, and the questions are to be put separately, the decision of the previous question on the first motion is conclusive for all of the motions.

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**CHAPTER 18 – AMENDMENTS****109. Moving of amendments**

- (1) A member may amend a question:
  - (a) by omitting certain words,
  - (b) by omitting certain words in order to insert or add other words, or
  - (c) by inserting or adding words.
- (2) An amendment may be moved to a proposed amendment as if the proposed amendment were the original question.
- (3) An amendment may not be moved to an earlier part of a question if a later part has been amended or has been proposed to be amended, unless the proposed amendment has been withdrawn by leave of the House.
- (4) An amendment must be relevant to the question it is proposed to amend and must not be a direct negative of the question.
- (5) A proposed amendment may be withdrawn by the mover, or in the absence of the mover with the mover's authority, by leave of the House.
- (6) The mover of a motion or a member who has already spoken in the debate may not move an amendment.
- (7) An amendment to a question must be in writing and signed by the mover, if required by the Chair.
- (8) Amendments do not require a seconder.

**110. No amendment to words agreed to**

A member may not move an amendment to words which the House or Committee has agreed should remain or be inserted or added, except to add other words.

**111. Procedure for putting of amendments**

- (1) The Chair will put the question on every amendment "That the amendment be agreed to".
- (2) When an amendment has been agreed to, the main question must be put as amended.
- (3) When an amendment has been proposed but not agreed to, the original question will be proposed.





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**CHAPTER 19 – DIVISIONS****112. Calling for divisions**

- (1) A question put by the Chair in the House or committee must be resolved by a majority of voices for the “ayes” or “noes”.
- (2) When the Chair states that the “ayes” or the “noes” have it, members may challenge that opinion.
- (3) A division may not be called for unless voices have been given both for the “ayes” and “noes”.
- (4) A division may only be called for by two or more members who have given their voices against the majority as declared by the Chair.
- (5) If only one member calls for a division, the member may ask for their vote to be recorded in the Minutes of Proceedings.
- (6) At any time before the tellers are appointed a call for a division may be withdrawn by leave of the House. The division will not be proceeded with, and the decision of the Chair will stand.

**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.** ~~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.

**114. Procedure for division**

- (1) Before a division is taken, strangers may be ordered on motion without notice, to withdraw from the House.
- (2) When a division is called for, the Clerk, by direction of the Chair, must ring the bells for five minutes as indicated by a minute glass timer.
- (3) When the bells stop ringing, the Chair will direct the doors to be locked. A member must not then enter or leave the chamber until after the division is concluded.
- (4) When successive divisions are taken and there is limited or no intervening debate, the Chair may direct that the bells be rung for one minute, if no member objects.
- (5) When the doors have been locked and members are in their places, the Chair must:
  - (a) state the question to the House,

- (b) direct the “ayes” to go to the right of the Chair and the “noes” to the left, and
  - (c) appoint two tellers for each side.
- (6) Every member present when a question is being decided by division must remain and vote.
- (7) After members have taken their seats on the side of the chamber on which they intend to vote they may not move from those seats once tellers have been appointed and until the result of the division has been declared.

**115. Counting of division**

- (1) The names and total number of members voting on each side is recorded by the tellers on each side, who must sign their respective lists, and present them to the Chair, who will announce the result to the House.
- (2) If the tellers’ cannot agree on the numbers, the Chair may appoint new tellers.
- (3) If there is only one member on a side in a division, the Chair, without completing the division, must immediately declare the decision of the House.
- (4) The Clerk will record divisions in the House in the Minutes of Proceedings.
- (5) Members paired during any division will be recorded by the tellers and printed in the Minutes of Proceedings and Hansard.

**116. Casting vote**

If the numbers voting for each side are equal, the Chair must give a casting vote. The Chair may give reasons for the casting vote and those reasons may be entered in the Minutes of Proceedings.

**117. Points of order in division**

A member taking or speaking to a point of order during a division must remain seated and be covered.

**118. Correction of divisions**

If the numbers or names of members voting in a division are incorrectly reported, the House on being informed of the error may order the record to be corrected.

**119. Divisions in committee**

Divisions in committee of the whole House are to be taken in the same manner as in the House.

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**CHAPTER 20 – ADDRESSES TO THE GOVERNOR****120. Making of address**

An address to the Governor or the Sovereign~~Queen~~, except an address-in-reply, must be proposed by motion on notice given in the usual manner.

**121. Presentation of address**

- (1) The whole House, the President or members named for the purpose, may present an address to the Governor.
- (2) An address to the Sovereign~~Queen~~, (or any member of the Royal Family,) must be transmitted to the Governor by the President requesting that it be forwarded for presentation.
- (3) When an address is ordered to be presented by the House, the President, accompanied by members, is to proceed to Government House. On being admitted to the Governor's presence, the President will read the address to the Governor.
- (4) The President must report the Governor's answer to an address as soon as practicable after receipt.



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**CHAPTER 21 – MESSAGES FROM THE GOVERNOR****122. Presentation of message**

- (1) The President must report a message from the Governor to the House as soon as practicable after receipt.
- (2) The message may be taken into consideration at once, or a future day fixed for its consideration.
- (3) If a message is received from the Governor when the House is in committee, the President may resume the Chair without any question being put. After the message has been dealt with, the President may leave the Chair and the committee resume its proceedings.



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**CHAPTER 22 – COMMUNICATIONS BETWEEN THE TWO HOUSES****123. Methods of communication**

All communications with the Legislative Assembly must be by message, conference or by committees conferring with each other.

**124. Messages from the Council**

A message from the Council to the Assembly must be in writing, signed by the President or Deputy President and delivered by one of the Clerks-at-the-Table.

**125. Communicating a resolution**

A motion may be moved, without notice, at any time when there is no business under discussion, that any resolution of the House be communicated by message to the Assembly.

**126. Messages from the Assembly**

- (1) A message from the Assembly will be received, if the House is sitting, by one of the Clerks-at-the-Table, or if the House is not sitting, by the Clerk. The Clerk is to inform the President of every message received.
- (2) The President is to report to the House every message received as soon as practicable, without interrupting any business before the House.
- (3) If any proceeding is necessary on receipt of a message, ~~a future day must be fixed for its consideration.~~ **a motion may be moved without notice, that the message be considered forthwith or at a later hour of the sitting. If that motion is not agreed to, consideration of the message will be set down for next sitting day.**

**127. Messages to be recorded**

Every message must be recorded in the Minutes, together with any answer given.





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**CHAPTER 23 – CONFERENCES****128. Requests for conference**

- (1) A conference requested by the Council with the Assembly must be by message.
- (2) In requesting a conference, the message from the Council must state the general object of the conference and the names of managers proposed to serve.
- (3) The number of members must be not fewer than five at an Ordinary Conference and 10 at a Free Conference.
- (4) A conference may not be requested by the Council on the subject of a bill or motion of which the Assembly is in possession at the time of the request.

**129. Appointment of managers**

- (1) A motion requesting a conference must contain the names of the members proposed to be the managers for the Council.
- (2) If the House requires, the managers for the Council will be selected by ballot.
- (3) The number of managers to represent the Council in a conference requested by the Assembly will be the same as the Assembly.

**130. Sitting suspended**

During any conference the sitting of the Council must be suspended.

**131. Time and place of conference**

- (1) The Council will appoint the time and place for holding a conference requested by the Assembly.
- (2) When the Council requests a conference, it will agree to it being held at the time and place appointed by the Assembly. The agreement of the Council must be communicated by message.
- (3) At a conference requested by the Assembly, the managers for the Council will assemble at the time and place appointed, and receive the managers of the Assembly.

**132. Proceedings at ordinary conference**

- (1) At ordinary conferences the reasons or resolutions of the Council will be communicated by the managers in writing. The managers will only receive communications from the managers for the Assembly in writing.
- (2) At ordinary conferences the managers for the Council will deliver the reasons or resolutions of the Council to the managers for the Assembly, or receive from the managers of the Assembly the reasons or resolutions communicated by the Assembly.

**133. Free conference under the Constitution Act**

- (1) When the Assembly, under section 5B of the Constitution Act 1902 requests a free conference, the Council must agree to the conference being held without delay. The Council must appoint the time and place for holding the free conference.
- (2) At free conferences the managers for the Council may confer both orally and in writing with the managers for the Assembly.

**134. Report of conference**

When a conference has concluded, the managers for the Council will report the proceedings to the Council in writing as soon as practicable.

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**CHAPTER 24 – BALLOTS****135. Conduct of ballot**

- (1) When the House decides that a ballot will be conducted, the bells will be rung and the doors locked as in a division.
- (2) Ballot papers will be distributed by the Clerks to all members in their places. Members must write on the ballot paper the name or names of the candidate or candidates for whom they wish to vote, and deposit it in the ballot box provided by the Clerk. If any voting paper contains a larger or lesser number of names than are to be elected, the voting paper will be rejected as informal.
- (3) When all voting papers are collected, the Clerk will ascertain and report to the President the names of the members having the greatest number of votes, who will be declared elected.
- (4) If two or more members have an equality of votes, the result of the ballot will be decided by casting vote of the President or other member presiding.



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**CHAPTER 25 – PUBLIC BILLS****136A. Selection of Bills Committee**

- (1) A Selection of Bills Committee will be appointed at the commencement of each Parliament.
- (2) The Selection of Bills Committee is to consider all bills introduced into either House, other than an appropriation bill for the ordinary annual services of the government and report as to whether any bill should be referred to a Portfolio or Subject Standing committee for inquiry and report.
- (3) A recommendation that a bill be referred to a committee must indicate:
  - (a) the committee to which the bill is referred,
  - (b) the stage in the consideration of the bill at which it should be referred to the standing committee, and
  - (c) the date by which the committee must report.
- (4) When a bill is before the Legislative Assembly, only the provisions of the bill may be referred to a committee.
- (5)
  - (a) On the tabling of a report by the Selection of Bills Committee, the Chair of the committee, or a member of the committee on behalf of the Chair, may move without notice that the House agree to the recommendations of the committee.
  - (b) The motion may be debated and amended.
  - (c) A member may not speak for more than 5 minutes on the motion, and, if the motion is not sooner disposed of, after 30 minutes the President is to interrupt proceedings to allow the mover of the motion to speak in reply for not more than 5 minutes and put every question necessary to dispose of the motion and any amendments
- (6) A motion to take note of a report under standing order 232 may not be moved to a report of the Selection of Bills Committee.
- (7) Further consideration of the bill will be set down as an order of the day for the day fixed for the tabling of the report, and if no date is fixed, on the next sitting day after the tabling of the report.
- (8) On the order of the day being read:
  - (a) a motion may be moved for consideration of the bill at the stage at which the bill was referred to the committee, or
  - (b) that the order of the day be postponed or discharged.
- (9) A report from a committee on a bill referred to it under this standing order shall be received by the House without debate, and consideration of the report deferred until the order of the day relating to the bill is called on.

**136B. Time limits to debate on government bills**

Unless the House otherwise orders, the following time limits will 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.

### 136. Initiation

- (1) A bill, other than a bill received from the Assembly, must be initiated by a motion for leave to bring in a bill.
- (2) A member having leave to bring in a bill must present a copy to the House.
- (3) The title must agree with the order of leave, and no clause may be inserted in a bill which is irrelevant to its title.
- (4) A bill not in accordance with the order of leave, or with the rules and orders of the House, will be ordered to be withdrawn.
- (5) The precise duration of every temporary bill must be expressed in a distinct clause at the end of the bill.
- (6) A second bill may only be introduced under the original order of leave when the order for the second reading or any subsequent stage of the original bill has been discharged.
- (7) When the original bill is withdrawn, the order for the introduction of the second bill may be read.
- (8) On every order for the reading of a bill the short title only will be read.

### 137. First reading

- (1) The motion for the first reading and printing will be put as one question without amendment or debate.
- (2) After the first reading of a bill introduced in the Legislative Council, subject to standing order 137A, the second reading may be moved forthwith or made an order of the day for a later hour or for a future day. Immediately following the second reading speech of the mover, debate is to be adjourned until a future day which must be at least five calendar days ahead, and
- (3) *After the first reading of a bill received from the Legislative Assembly, subject to standing order 137A:*
  - (a) *the second reading may be moved forthwith or set down for a later hour of the sitting or a future day, and*
  - (b) *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.

- (4) Whenever the President has several messages from the Legislative Assembly transmitting bills for concurrence, the President may inquire if leave is granted for procedural motions for the first reading, printing, suspension of standing orders where applicable, and fixing the day for the second reading, to be dealt with on one motion without formalities.

### 137A. Deadline for introduction and receipt of government bills

- (1) Where a government bill is introduced by a Minister or received from the Legislative Assembly within the last two sitting weeks of the Budget or Spring sessions, after the first reading, the second reading may be moved and the debate on the motion for the second reading of the bill must be adjourned at the conclusion of the Minister's second reading speech, and the resumption of the debate made an order of the day for the first sitting day in the next session.
- (2) Paragraph (1) does not apply if, after the first reading, the House agrees to a motion moved by a Minister "That the bill be considered an urgent bill". The motion may only be moved if copies of the bill have been circulated to members.
- (3) 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.

### 138. Urgent Council bills

- (1) After the first reading of a **government** bill introduced in the Legislative Council a Minister may declare the bill to be an urgent bill, provided that copies have been circulated to members.
- (2) The question "That the bill be considered an urgent bill" ~~will be put immediately, without amendment~~ 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.
- (3) When a Council bill has been declared urgent, the second reading debate and subsequent stages may proceed immediately or at any time during any sitting.

### 139. Cognate bills

- (1) Cognate bills may be introduced on one motion for leave and proceed through all subsequent stages, except committee of the whole, in a similar manner as a single bill.
- (2) At the request of any member, the motion will be put as separate motions.
- (3) In committee of the whole cognate bills will be considered separately, unless the committee agrees unanimously.

**140. Second reading**

- (1) On the order of the day being read for the second reading of a bill, the question will be proposed:
  - (a) “That this bill be now read a second time”, or
  - (b) “That the order be postponed or discharged”.
- (2) An amendment may be moved to the question for second reading:
  - (a) by omitting “now” and inserting at the end “this day six months”, which if carried will finally dispose of the bill,
  - (b) by referring the bill to a standing or select committee, or
  - (c) by moving the previous question.
- (3) A bill which has been ordered to be read “this day six months” may not be considered again in the same session.
- (4)
  - (a) The order of the day for the second reading of a bill referred to a committee by amendment to the motion for the second reading of the bill will be set down for the day fixed for the tabling of the report, or if there is no date fixed for the tabling of the report, the next sitting day after tabling.
  - (b) When the order of the day for a bill referred to a committee by amendment to the second reading is called on, the motion for the second reading is to be moved again.

**141. Committal**

- (1) After the second reading, unless the bill is referred to a standing or select committee:
  - (a) the President may inquire of the House if leave is granted to proceed to the third reading of the bill forthwith, or
  - (b) the House will immediately resolve itself into a committee of the whole for consideration of the bill, or
  - (c) a future day may be appointed on motion for consideration of the bill in committee of the whole.
- (2) After a bill has been read a second time a motion may be moved **without notice**:
  - (a) ~~without notice for referring~~ to refer the bill to a committee,
  - (b) ~~on notice~~ for an instruction to the committee of the whole.

**142. Consideration in Committee**

- ~~(1) In committee of the whole, the preamble will stand postponed without question put, and the clauses will be read in their order separately by the Chair.~~
- ~~(2) On each clause the question will be put – That the clause, as read, stand a clause of~~



~~the bill.~~

- ~~(3) In reading the clauses of a bill it will be sufficient to read the numbers only.~~
- ~~(4) The discussion must be confined to the clause or amendment before the committee.~~
- ~~(5) A clause may be postponed, whether or not it has been amended.~~
- ~~(6) In considering a bill, the committee may, by leave, consider clauses, parts, divisions or schedules together, and in the case of cognate bills, may consider a bill in whole or in part.~~
- (1) In committee of the whole, the Chair may seek the leave of the committee for the bill to be taken as a whole.
- (2) If leave is granted, the whole of the bill is considered and amendments may be put to any part of it.
- (3) If leave is not granted to take the bill as a whole, the bill is to be considered clause by clause.

#### 143. Order of consideration

- (1) When considering a bill clause by clause the order below will be followed:
  - (a) clauses as printed, and proposed new clauses,
  - (b) postponed clauses (not having been specially postponed until after consideration of other clauses),
  - (c) schedules as printed,
  - (d) proposed new schedules,
  - (e) preamble,
  - (f) title.
- (2) In re-considering a bill, the same order will be observed as far as possible.
- (3) The preamble will stand postponed without question put, and the clauses will be read in their order separately by the Chair.
- (4) On each clause the question will be put – That the clause, as read, stand a clause of the bill.
- (5) In reading the clauses of a bill it will be sufficient to read the numbers only.
- (6) The discussion must be confined to the clause or amendment before the committee.
- (7) A clause may be postponed, whether or not it has been amended.
- (8) In considering a bill, the committee may, by leave, consider clauses, parts, divisions or schedules together, and in the case of cognate bills, may consider a bill in whole or in part.

#### 144. Amendments in committee

- (1) An amendment may be made to any part of the bill, provided it is relevant to the subject matter of the bill and otherwise in conformity with the rules and orders of the House.

- (2) No new clause or amendment may be proposed which is substantially the same as one already negatived by the committee, or which is inconsistent with one that has been agreed to by the committee, unless a recommittal of the bill has intervened.
- (3) No amendment or new clause may be inserted which reverses the principle of the bill as read a second time.
- (4) **When considering a bill clause by clause**, if a clause is amended, a further question will be put “That the clause as amended, be agreed to”.
- (5) If an amendment has been made in the bill, not coming within the original title, the title will be amended, and that amendment will be specially reported to the House.
- (6) No clause, schedule or amendment in substance may be proposed in any bill, except in committee of the whole.
- (7) A clause may be negatived, even if amended, and a new clause proposed in its place.

#### **145. Uncompleted proceedings in committee**

No notice may be taken of any proceedings of a committee of the whole, or of a standing or select committee, on a bill, until those proceedings have been reported.

#### **146. Report from committee**

- (1) When the consideration of a bill in committee of the whole has been concluded the question will be put “That the Chair report the bill (or the bill as amended) to the House”, and if that question is agreed to the Chair will leave the chair and report the bill, if necessary with an amended title.
- (2) On the motion that the Chair report the bill, the reconsideration of any clauses may be moved as an amendment.
- (3) When a bill is reported, the adoption of the report may be moved immediately, or a future day fixed for that purpose.

#### **147. Recommittal of report**

On the motion for adoption of the report the bill may, on motion, be recommitted, in whole or in part.

#### **148. Third reading**

- (1) When the report of the committee of the whole is adopted, a future day may be fixed, without notice or debate, for the third reading.
- (2) When the order of the day for the third reading of a bill is called on, the question will be proposed “That this bill be now read a third time”.
- (3) An amendment may be moved to that question:
  - (a) by leaving out “now”, and adding “this day 6 months”, which, if carried, will finally dispose of the bill during the present session, or
  - (b) the previous question may be moved.

- (4) Before the bill may be read a third time, the Chair of Committees must certify in writing that the bill is in accordance with the bill as reported, which the President will announce to the House.

#### **149. Recommittal on third reading**

When the order of the day for the third reading is called on and before the motion for the third reading is carried, the bill may, on motion, be recommitted in whole or in part.

#### **150. Correction**

Amendments of a formal nature may be made, and the Chair of Committees or Clerk may correct clerical or typographical errors, in any part of a bill.

#### **151. Transmission to Assembly**

- (1) When a bill originated in the Council has been passed, the Clerk will certify at the top of the first page: "This (public) bill originated in the Legislative Council and, having this day passed, is now ready for presentation to the Legislative Assembly for its concurrence".
- (2) After the third reading a bill will be deemed to have passed and the Clerk will so certify, and the bill will be sent, with a message, to the Assembly for concurrence.

#### **152. Legislative Assembly amendments to bills originated in the Council**

- (1) When a bill has been returned from the Assembly with amendments, the message and the amendments will be printed and a time fixed for taking them into consideration in committee of the whole either forthwith, at a later time, or this day 6 months.
- (2) Amendments made by the Assembly may be agreed to with or without amendment, or disagreed to, or the consideration of them postponed, or the bill ordered to be laid aside.
- (3) An amendment may not be proposed to an amendment of the Assembly that is not relevant to it, and an amendment may not be moved to the bill unless it is relevant to, or consequent upon, the acceptance, amendment or rejection of an Assembly amendment.
- (4) When amendments made by the Assembly have been agreed to by the Council without amendment, a message will be sent informing the Assembly accordingly.
- (5) If Assembly amendments have been agreed to with amendments, the bill will be returned with a schedule of those amendments, and a message requesting the concurrence of the Assembly.
- (6) If Assembly amendments have been disagreed to, the bill may be laid aside, or it may be again sent to the Assembly, with a message requesting its reconsideration.
- (7) When a bill is returned to the Assembly with amendments made by the Assembly disagreed to, the message accompanying the bill must also contain reasons for the Council not agreeing to the amendments proposed by the Assembly.
- (8) The reasons will be drawn up by a committee appointed (on motion without notice) for that purpose when the House adopts the report of the committee of the whole disagreeing to the amendments, or may be adopted by motion at that time.

- (9) When amendments have been made by the Council on the amendments of the Assembly, a schedule of those amendments will be prepared, certified by the Clerk, and accompany the bill.

### **153. Bill again returned from the Assembly**

- (1) If the Legislative Assembly returns a bill with a message informing the House that it:
- (a) insists on its original amendments to which the Council has disagreed,
  - (b) disagrees to amendments made by the Council to the original amendments of the Assembly, or
  - (c) agrees to amendments made by the Council on the original amendments of the Assembly, with further amendments,
- the House in committee of the whole may:
- (d) agree, with or without amendment, to the amendments to which it had previously disagreed, and make, if necessary, consequent amendments to the bill,
  - (e) insist on its disagreement to such amendments,
  - (f) withdraw its amendments and agree to the original amendments of the Assembly,
  - (g) make further amendments to the bill consequent upon the rejection of its amendments,
  - (h) propose new amendments as alternative to the amendments to which the Assembly has disagreed,
  - (i) insist on its amendments to which the Assembly has agreed,
  - (j) agree, with or without amendment, to such further amendments of the Assembly making consequent amendments to the bill, if necessary, or
  - (k) disagree to the further amendments and insist on its own amendments which the Assembly has amended,

and if agreement is not reached or if the bill is again returned by the Assembly with any requirements of the Council still disagreed to, the House may order the bill to be laid aside, or request a conference.

- (2) When the Assembly's amendments have been agreed to, or a conference is requested, or when the bill is finally passed in the Council, a message will be sent informing the Assembly accordingly.
- (3) The Clerk will, at every stage, certify on the first page of the bill the action taken by the Council.

### **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.~~

- ~~(23) 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 where applicable, and fixing the day for the second reading, to be dealt with on one motion without formalities.~~

#### **155. Return of Legislative Assembly bill**

- (1) When a bill has been passed by the Council with or without amendment, it will be returned to the Assembly by message, with the Clerk's certificate that the bill has been agreed to by the Council without amendment, or with the amendments indicated by the accompanying schedule, as the case may require, requesting the concurrence of the Assembly to the amendments.
- (2) When any amendments have been made by the Council to a bill which has been first passed by the Assembly, a schedule of the amendments will be prepared containing reference to the page and line of the bill where the words are to be inserted or omitted, and describing the amendments proposed, and this schedule will be certified by the Clerk and will accompany the bill.

#### **156. Disagreement with Council amendments**

- (1) If the Assembly returns a bill with amendments made by the Council disagreed to, or further amendments made, the message returning the bill will be printed and a time fixed for taking it into consideration in committee of the whole, or the House may order that the amendments be considered immediately or "this day 6 months".
- (2) Where the Assembly:
  - (a) disagrees to amendments made by the Council, or
  - (b) agrees to amendments made by the Council with amendments,
 the Council may:
  - (c) insist or not insist on those amendments,
  - (d) make further amendments to the bill consequent upon the rejection of its amendments,
  - (e) propose new amendments as alternative to the amendments to which the Assembly has disagreed,
  - (f) agree to the Assembly amendments to its own amendments, with or without amendment, making consequent amendments to the bill if necessary,
  - (g) disagree to its amendments and insist on its own amendments which the Assembly has amended, or
  - (h) order the bill to be laid aside,
 and unless the bill is laid aside, a message will be sent to the Assembly advising of the Council's action.

#### **157. Assembly amendments to Council amendments**

- (1) When a bill is returned to the Assembly with amendments made by the Assembly to the Council's amendments disagreed to, the message returning the bill will also contain reasons for the Council not agreeing to the amendments proposed by the Assembly.
- (2) The reasons will be drawn up by a committee appointed for that purpose when the Council adopts the report of the committee of the whole disagreeing to the amendments, or may be adopted by motion at that time.
- (3) When further amendments are made by the Council to the Assembly amendments on the Council's original amendments to a bill which has been first passed by the Assembly, a schedule of the further amendments will be prepared, will be certified by the Clerk and will accompany the bill.
- (4) The Clerk will, at every stage, certify on the first page of the bill the action taken by the Council.

### **158. Amendments after disagreement**

Where the Assembly has disagreed with amendments made by the Council in a bill first passed by the Assembly, further amendments may only be made which directly arise from that disagreement.

### **159. Lapsed bills**

- (1) A bill which lapses by reason of a prorogation before it has reached its final stage may be proceeded with in the next session at the stage it has reached in the preceding session, if a periodic election for the Council has not taken place between the two sessions, under the following conditions:
  - (a) If the bill is in the possession of the House in which it originated, not having been sent to the other House, or, if sent, then returned by message, it may be proceeded with by resolution of the House in which it is, restoring it to the Notice Paper.
  - (b) If the bill is in possession of the House in which it did not originate it may be proceeded with by resolution of the House in which it is, restoring it to the Notice Paper, but such resolution may not be passed unless a message has been received from the House in which it originated, requesting that its consideration be resumed.
- (2) A bill so restored to the Notice Paper may be proceeded with in both Houses as if its passage had not been interrupted by a prorogation, and, if finally passed, may be presented to the Governor for assent.
- (3) If a motion for restoration of a bill to the Notice Paper is not agreed to, the bill may be introduced and proceeded with in the ordinary manner.

### **160. Presentation for assent**

- (1) A bill originated in the Council and finally passed by both Houses will be printed and presented by the President to the Governor for the Sovereign's ~~Her Majesty's~~ assent, having been certified by the Clerk accordingly.
- (2) On the second sitting day of each month, a Minister is to table a list of all legislation that has not been proclaimed ninety days after assent.

**161. Protest against the passing of a bill**

Any member objecting to the passing of a bill may have a protest entered in the Minutes, copies of which will be forwarded to the Governor by the President.

**162. Procedures after presentation of bills**

- (1) All public Acts assented to and public bills reserved for the signification of Her Majesty's pleasure, will be numbered by the Clerk immediately before the title, in the order of assent or reservation, with the date of assent or reservation added after the title, and commencing with a new series of numbers from the January of each year.
- (2) After numbering, the Act will be enrolled and recorded in the manner required by law.

**163. Explanation, under the Constitution Act, of a departmental bill**

- (1) Any Minister of the Crown who is a member of the Legislative Assembly may, at any time, on motion agreed to by the Legislative Council, according to section 38(A) of the Constitution Act 1902, sit in the Legislative Council for the purpose of explaining the provisions of any bill relating to or connected with any department administered by that Minister.
- (2) Such motions may be moved without notice at any time after the bill has been read a first time.
- (3) The question will be decided without debate or amendment, except for a statement, not exceeding 10 minutes, by the mover in support of the motion.
- (4) Under this standing order a Minister who is a member of the Legislative Assembly may take part in any debate or discussion in the Legislative Council, but may not vote.
- (5) Unless otherwise decided, the consent will extend only to the second reading of a bill and the proceedings in committee following the second reading.
- (6) Only one Minister of the Crown who is a member of the Legislative Assembly may sit in the Legislative Council at any one time under this standing order.





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**CHAPTER 26 – PRIVATE BILLS****164. Notice of intention**

- (1) Notice of the intention to apply for a private bill must, within three months prior to the presentation of the petition (for the private bill), be published once a week, for four consecutive weeks:
  - (a) in the Government Gazette,
  - (b) in at least one daily newspaper published in Sydney, and
  - (c) in one newspaper published in or nearest to the district affected by the bill.
- (2) The published notice must contain a true statement of the general objectives of the bill, and state what private interests, so far as they can be conveniently set forth, will probably be affected by the bill.
- (3) The production of the numbers of the Government Gazette and newspapers containing the notice will be required at the time of presenting the petition, and will be sufficient proof of such notice.

**165. Initiation**

- (1) A private bill may only be initiated in the Council by petition first presented and received, together with a printed copy of the proposed bill. The petition must be signed by one or more of the parties applying for the bill.
- (2) Every petition for a private bill will:
  - (a) commence by stating that the public notice required has been duly given,
  - (b) contain a copy of the public notice, and
  - (c) conclude with a request for leave to bring in the bill.
- (3) When the petition has been received, notice of motion for leave to bring in the bill may be given, as in the case of public bills.
- (4) When leave to bring in a private bill has been given, and before it is read a first time, it will be printed, at the expense of the parties applying for it, in the same form as public bills, and a sufficient number of copies of it will be delivered to the Clerk, for the use of the House.

**166. Payment for private bills**

- (1) Before a private bill may be read a first time, the sum of \$50 towards meeting incurred expenses, must be paid to the credit of the Legislature, and a certificate of such payment must be produced by the member moving the first reading of the bill.
- (2) Whenever the expenses incurred exceed the amount paid, as determined by the Clerk, a further sum of \$50 must be paid to the credit of the Legislature by the parties applying for the bill, and further certificates produced before the bill is further proceeded with.
- (3) Whether the bill is passed, rejected or withdrawn, the promoters must pay any additional sum which may be required to fully pay any expenses incurred. In the event

of a balance remaining in favour of the promoters the Clerk will issue a certificate of the actual expenses incurred and arrange for the refund of any unexpended amounts.

#### **167. Form of the bill**

Every private bill must contain a preamble, reciting the circumstances on which the bill is founded, and the matters in reference to, or by reason of which the legislation is required.

#### **168. Reference to select committee**

- (1) When a private bill has been read a first time, it will be referred to a select committee, to be appointed upon notice of motion, and such committee will require proof of the allegation contained in the preamble.
- (2) Every petition for or against a private bill will, if received, be referred without motion to the select committee on the bill, and any petition against a bill must distinctly specify the grounds of opposition.
- (3) The select committee may hear counsel if it is desired, take evidence as required, and decide on matters in issue between the persons conducting and opposing the bill.
- (4) The select committee will determine whether the preamble, with or without amendment, will stand part of the bill. If decided in the affirmative, the several clauses of the bill, together with any amendments, will be considered. If determined in the negative it will be fatal to the bill.

#### **169. Report of the Select Committee**

When a select committee reports in favour of a private bill, a future day will be appointed for the second reading, and the bill will be proceeded with in the same manner as public bills.

#### **170. Private bills originating in the Assembly**

Private bills originating in the Assembly, if accompanied by printed copies of the reports and proceedings of the select committee to which they were referred, will be proceeded with in all respects as public bills, unless the House determines otherwise.

#### **171. Lapsed private bills**

- (1) A private bill, originated in the Council and having been reported by a select committee, which lapses in either house by reason of a prorogation before it has reached its final stage may, upon receipt of a petition by the promoters for leave to proceed, be introduced again, including any amendments already agreed to in the Council, and read a first time without notice or debate.
- (2) Such private bill may also, on motion agreed to, be passed through all subsequent stages through which it had passed in a previous session without further notice or debate.
- (3) If a motion for such proceedings is negatived then the bill may be proceeded with in the ordinary way.
- (4) If a private bill having been read a first time and referred to a select committee, lapses by reason of a prorogation before the committee has reported, it may, upon receipt of

a petition from the promoters, and by order of the House, be read a first time and referred to a select committee together with the minutes or evidence taken before, together with all papers, petitions and instructions previously referred or given. When the committee reports on the bill, it may be proceeded with in the ordinary way.

- (5) In the case of every private bill the standing orders will be held to be satisfied in all respects, where they have been complied with in a previous session.



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**CHAPTER 27 – COMMITTEE OF THE WHOLE HOUSE****172. Appointment of committee**

- (1) A committee of the whole House will be appointed by a resolution that the House resolve itself into a committee of the whole immediately or at a future time.
- (2) When an order of the day is read for the House to resolve itself into a committee of the whole the President will leave the Chair without putting any question, and the House then resolve itself into committee, unless a ~~motion notice~~ for an instruction to the committee is ~~proposed~~ **moved**.

**173. Proceedings in committee**

- (1) A committee may consider only the matters referred to it by the House.
- (2) A question in committee will be decided in the same manner as in the House.
- (3) A motion contradictory to the previous decision of a committee may not be entertained in the same committee.
- (4) A motion for the previous question may not be made in committee.
- (5) In committee members may speak more than once on the same question, and, when a question has been proposed from the Chair, must confine themselves to that question.
- (6) Motions “That the question be now put” and “That the Chair report progress and ask leave to sit again” must be moved without debate and immediately put and determined, but neither of those motions may be repeated within 15 minutes after either of them has been moved, unless debate on the matter has concluded.
- (7) Except as otherwise provided by the standing orders, the same rules of the conduct of members and of debate, procedures, and the conduct of business will be observed in committee as in the House, the Chair of Committees having the same authority as the President for the preservation of order, but disorder in a committee may be censured only by the House, on receiving a report.

**174. Appointment of acting Chair**

If the Chair wishes to leave the Chair any Temporary Chair may take the Chair, and if no Temporary Chairs are present, then the Chair may appoint any other member to take the Chair, such member having the same powers as the Chair.

**175. Disorder in committee**

- (1) The Chair may name a member for being guilty of a wilful or vexatious breach of any of the standing orders or for interrupting the orderly conduct of the business of the committee.
- (2) When the Chair names a member, the Chair will leave the Chair and report such action to the President.
- (3) After the House has dealt with the named member the Committee will resume.

- (4) If disorder arises in Committee, the President may resume the Chair without any question being put, and may leave the Chair in the same manner, after which the committee will resume its proceedings.

#### **176. Quorum**

- (1) The quorum in committee of the whole will be the same as for the House.
- (2) If notice is taken of the absence of a quorum in committee, the Chair will count the committee, and if after the bells have been rung for five minutes a quorum is not formed, or if it appears on a division (by which division no decision will be taken to have been arrived at) that a quorum is not present, the Chair will leave the Chair and report to the House.
- (3) When the Chair reports an absence of a quorum in committee to the President, the President will count the House, and if a quorum of members is then present, the House will again resolve itself into a committee of the whole without any question being put.
- (4) If the proceedings of a committee are interrupted by lack of a quorum and consequent adjournment of the House, the resumption of the committee will be an order of the day for the next day of sitting, and when the order is called on the proceedings will be resumed at the point where they were interrupted.

#### **177. Report of the committee**

- (1) When all matters referred to a committee have been considered, the Chair will be directed to report to the House, and when the consideration of those matters has not been concluded, the Chair may be directed to report progress and ask leave to sit again.
- (2) A motion may be made at any time during the proceedings of a committee that the Chair report progress and ask leave to sit again.
- (3) Resolutions reported from a committee may be agreed to or disagreed to by the House, or agreed to with amendments, recommitted to the committee, or the further consideration of them postponed.
- (4) A motion may be made “That the Chair do now leave the Chair”, which if carried will terminate the proceedings of the committee.
- (5) Any committee whose proceedings have been so terminated may be revived by order on motion.

#### **178. Objection to Chair’s ruling**

If objection is taken to a decision of the Chair of Committees, such objection must be stated at once in writing. If the committee decides, the Chair will then leave the Chair, and the House resume. When the matter has been laid before the President and disposed of, the committee will resume proceedings where they were interrupted.

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**CHAPTER 28 – INSTRUCTIONS BY THE HOUSE TO COMMITTEES****179. Effect of instructions**

- (1) An instruction may give a committee of the whole House authority to consider matters not otherwise referred to it, or extend or restrict its authority.
- (2) An instruction may be given to a committee on a bill to divide a bill into two or more bills or to consolidate several bills into one.
- (3) An instruction may be given to a committee on a bill to amend an existing Act or consider amendments which are not relevant to the subject matter of the bill but are relevant to the subject matter of the Act it is proposed to amend.

**180. Notice required; when moved**

- (1) ~~Except as provided in paragraph (2), an instruction may only be moved by motion on notice.~~ A motion for an instruction is to be moved
  - (a) before the House resolves itself into a committee of the whole House, or
  - (b) ~~when on the order of the day is 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.

**181. Debate on instructions**

Debate on a motion for an instruction:

- (a) must be relevant to the instruction,
- (b) may not refer to the objects of the bill to which the instruction relates, and
- (c) may not anticipate discussion of a clause in the bill.

**182. Instruction to select or standing committees**

An instruction may be given to a select or standing committee to extend or restrict its terms of reference. Any instruction must be moved before the committee reports.





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**CHAPTER 29 – PRIVATE MEMBERS' BUSINESS****183. Notice given**

Any member may give notice of an item of private members' business for debate during the session.

**183A. Private members' business committee**

- (1) A Private Members' Business Committee will be appointed at the commencement of each Parliament.
- (2) The committee is to be Chaired by the Government Whip, or in his or her absence, the Deputy Government Whip.
- (3) Every party is entitled to be represented at each meeting of the committee by one member nominated by the Leader of the Government, the Leader of the Opposition, the Government and Opposition Whips, and Cross Bench Members, as applicable.
- (4) Every independent is entitled to participate in each meeting.
- (5) The committee is to determine the order of items of private members' business and debate on committee reports and government responses to be taken when such business has precedence.
- (6) The committee may determine the duration for each debate and for each member speaking.
- (8) The Clerk is to publish the committee's determinations on the Parliament's website and in the Notice Paper for the next sitting day.

**184. ~~Consideration of~~**

~~On days set apart for general business, the House is to consider items of private members' business in the sequence established by a draw conducted by the Clerk at the beginning of the session and from time to time.~~

**185. ~~Conduct of the draw~~**

- ~~(1) The Clerk is to conduct a random draw of 12 members' names from items of private members' business already placed on the Notice Paper, to establish the order of precedence.~~
- ~~(2) To the extent that there is a sufficient number of notices on the Notice Paper, the draw is to be conducted from the names of members with notices in the following order:~~
  - ~~(a) Opposition members,~~
  - ~~(b) Cross bench members,~~
  - ~~(c) Government members.~~
- ~~(3) The names of members with notices will be drawn separately in the sequence shown in paragraph (2) to determine their relative position in the order of precedence for the first 12 items.~~

- ~~(4) A member is ineligible to be included in the random draw of names if that member has previously been selected in a draw and had an item of business disposed of, when there are other members in the same group in paragraph (2) with notices who have not previously been selected in the draw.~~
- ~~(5) A member whose name is drawn in the ballot may transfer their turn to another member who does not have an item of private members' business inside the order of precedence. Where this occurs both the member whose name was drawn and the member who received the transfer are ineligible to be included in the draw until all other members in the same group in paragraph (2) with notices have been selected in the draw.~~
- ~~(6) The items drawn will appear in numerical sequence from 1 to 12 on the Notice Paper under "Items in the Order of Precedence". Those items not drawn in the order of precedence will appear on the Notice Paper under "Items outside the Order of Precedence".~~
- ~~(7) The Clerk is to notify the members involved of the date, time and place of the draw no later than one day prior to the conduct of the draw.~~
- ~~(8) The order of precedence must not contain more than 12 items at any time.~~
- ~~(9) Any member whose name has been drawn and who has more than one notice of motion on the Notice Paper, must advise the Clerk as soon as possible following the draw which notice of motion is to be placed in the order of precedence. If a member fails to advise the Clerk within two working days, the first motion standing on the Business Paper Notice Paper in the name of the member will be included in the order of precedence.~~
- ~~(10) Further random draws will be conducted as necessary to determine items in the order of precedence, up to a maximum of 12 items.~~

## 186. Debate on motions

- (1) The debate of 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 five minutes,
  - (b) any other member may speak for not more than three minutes,
  - (c) if the motion is not sooner disposed of ~~a total time of~~ after 30 minutes the President is to interrupt proceedings to allow the mover of the motion to speak in reply for not than three minutes, and ~~(d) the President will then~~ put all the questions necessary to dispose of the motion and any amendments.
- (2) On a notice of motion being called on under this standing order, the member with carriage of the matter may, prior to moving the motion, **move that the motion be considered in long form as follows:**
- (a) the mover of the motion may speak for not more than 20 minutes, ~~and~~
  - (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 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.

- ~~(3) 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).~~

### 187. Debate on bills

- (1) Where there is debate on the question for leave to bring in a bill the following time limits will apply:
  - (a) a maximum of one hour debate,
  - (b) the mover of the motion, and any other member, may speak for not more than 10 minutes, and
  - (c) 10 minutes before the end of the time for debate, the President is to interrupt proceedings to allow the mover of the motion to speak in reply for not more than 10 minutes.
- (2) On any motion being agreed to for leave to bring in a bill, the question on the first reading and printing will be taken together as one motion, and put without amendment or debate.
- (3) Where there is debate on the question for the second or third reading of a bill the following time limits will apply:
  - (a) the mover may speak for not more than 30 minutes, and
  - (b) any other member and the mover in reply may speak for not more than 20 minutes.
- (4) After the second reading speech of the mover, debate on the bill must be adjourned for at least five calendar days, ~~while retaining its position in the order of precedence.~~

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

~~An item of private members' business listed in the order of precedence may be postponed. However, an item which is postponed for a third time will be removed from the order of precedence and set down at the end of private members' business outside the order of precedence unless the House otherwise orders, on motion moved without notice.~~

### 189. Time limits to apply

When an item of private members' business is dealt with on days set aside for government business the time limits in this chapter apply.

**189A. Expiry of private members' 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.

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**CHAPTER 30 – CONDUCT OF MEMBERS AND STRANGERS****~~190.—Disorderly conduct by~~****190. Member called to order**

If the President or Chair of Committees calls a member to order three times in the course of any one sitting for any breach of the standing orders, or a member conducts themselves in a grossly disorderly manner, that member may, by order of the President or Chair of Committees, be removed from the chamber by the Usher of the Black Rod for a period of time as the President or Chair may decide but not beyond the termination of the sitting.

**~~191.—Suspension of member~~****191. Disorderly conduct by members**

- (1) If a member, after warning by the President:
  - (a) continues to obstruct the business of the House, or
  - (b) continues to abuse the rules of the House, or
  - (c) refuses to comply with an order of the Chair, or
  - (d) refuses to comply with the standing orders, or
  - (e) continues to disregard the authority of the Chair, or
  - (f) otherwise obstructs the orderly conduct of business of the House,the President may name the member and report the member's offence to the House.
- (2) If an offence indicated in paragraph (1) is committed by a member in committee of the whole, the Chair is to suspend the proceedings of the committee and report the offence to the President.
- (3) A member who has been reported as having committed an offence may make an explanation or apology, as the member thinks fit, and then, if required by the Chair, withdraw from the Chamber. A motion may then be moved without notice that the member be suspended from the service of the House. No debate or amendment is allowed on the motion, which must be put immediately by the President.

**~~192.—Member called to order~~****192. Suspension of member**

- (1) A member found guilty of an offence under the standing orders may be suspended from the service of the House by motion moved without notice for any period of time that the House decides.
- (2) Any suspension may have effect:
  - (a) until the House terminates the suspension,
  - (b) until the submission of an apology by the offending member, or
  - (c) both of the above.

- (3) A member who is suspended from the service of the House is excluded from the chamber and galleries, and may not serve on or attend any proceedings of a committee of the House during the period of suspension. If a member enters the chamber during the member's suspension, the President will order the Usher of the Black Rod to remove the member from the chamber.

**193. President may suspend sitting or adjourn House**

In cases of serious disorder in the House or in committee of the whole House, the President may suspend the sitting of the House for a time to be stated or adjourn the House until the next sitting day without any motion.

**194. Powers of House not affected**

Nothing in this chapter affects any power of the House to proceed against any member for any conduct unworthy of a member of the House.

## CHAPTER 31 – VISITORS

### 195. Distinguished visitors

Distinguished visitors may be admitted to a seat on the floor of the House, by motion without notice.

### 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** ~~an infant~~.
- (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.

### 197. Removal of strangers for disorderly conduct

If a person, not being a member:

- (a) interrupts the orderly conduct of the business of the House,
- (b) obstructs the approaches to the House, or
- (c) creates a disturbance within the precincts of the House,

the President or Chair of Committees may order the Usher of the Black Rod to remove that person from the precincts of the House and to exclude them from the House for the period directed by the President or Chair.





## CHAPTER 32 – EFFECT AND SUSPENSION OF STANDING ORDERS

### 198. Suspension of standing orders

- (1) Except as provided in paragraph (2), in ~~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 a 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.
- (23) On a motion for the suspension of a standing or other order, with the exception of motions referred to in paragraph (4),
  - (a) a member may not speak for more than five minutes, and
  - (b) if the ~~debate motion~~ is not concluded ~~sooner disposed of~~ after the expiration of 30 minutes ~~the President will interrupt proceedings and put all questions necessary to dispose of the motion and any amendments 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 5 minutes each.

### 199. Effect of suspension

The suspension of a standing or other order is limited in its operation to the particular purpose for which the suspension has been sought.



## CHAPTER 33 – MATTERS OF PUBLIC IMPORTANCE AND MOTIONS OF URGENCY

### 200. Proposal for debate

- (1) A member may give notice of a motion – That the following matter of public importance should be discussed forthwith: [specifying the matter].
- (2) Consideration of the motion is to take precedence of all other business set down on the Notice Paper for that day, except for ~~business taking precedence under standing order 74 (3)~~ a matter of privilege under SO 77 and business of the House under SO 39.
- (3) When the motion has been made, the question is to be decided without amendment or debate, except a statement by the mover and a statement by a Minister not exceeding 10 minutes each.
- (4) If the question is agreed to, subsequent discussion of the matter may not exceed one hour thirty minutes, whether on the same or subsequent sitting days, excluding the reply of the mover.
- (5) The following time limits on speeches will apply:
  - (a) member proposing the matter – 15 minutes,
  - (b) any Minister first speaking – 15 minutes,
  - (c) Leader of the Opposition or member nominated by the Leader of the Opposition, when the matter is proposed by a member of the government – 15 minutes;
  - (d) any other member – 10 minutes,
  - (e) proposer in reply – 10 minutes.
- (5) After one hour and thirty minutes, the President will interrupt proceedings to allow the mover to speak in reply.
- (6) If discussion of a matter is adjourned to another sitting day, the order of the day for its resumption is to take precedence as provided in paragraph (2).
- (7) Only one matter of public importance may be proceeded with on any sitting day, but this is not to preclude the resumption of an adjourned discussion on the same day.
- (8) Matters of public importance will only be considered on days on which government business has precedence.

### 201. Urgency motions

- (1) A member may move a motion, without notice – That the House now adjourn to discuss the following matter of urgency: [specifying the matter].
- (2) The member proposing the motion to debate the matter of urgency must hand to the President, prior to the commencement of the sitting on the day to which the proposal relates, a written statement of the proposed matter of urgency.
- (3) The President will inform the House at the conclusion of formal business that a motion has been received, at which time the President will put the question on urgency without amendment or debate, except a statement by the mover and a statement by a Minister not exceeding 10 minutes each.
- (4) If urgency is agreed to, the following time limits on speeches will apply:

- (a) member proposing the matter – 15 minutes,
  - (b) any Minister first speaking – 15 minutes,
  - (c) Leader of the Opposition or member nominated by the Leader of the Opposition, when the matter is proposed by a member of the government – 15 minutes;
  - (d) any other member – 10 minutes,
  - (e) proposer in reply – 10 minutes.
- (5) At the conclusion of the debate the motion will lapse, with no question being put.
- (6) No second motion for the adjournment of the House to discuss a matter of urgency may be made on the same day.

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## CHAPTER 34 – CITIZEN'S RIGHT OF REPLY

### 202. Person referred to

- (1) Any person who has been referred to in the House by name, or in such a way as to be readily identified, may make a submission in writing to the President, on any one or more of the following grounds, claiming:
  - (a) that they have been adversely affected:
    - (i) in reputation,
    - (ii) in respect of dealings or associations with others,
  - (b) that they have been injured in occupation, trade, office or financial credit, or
  - (c) that their privacy has been unreasonably invaded, and requesting that they should be able to include an appropriate response in the parliamentary record.
- (2) Where a person makes a submission to the President, the President must, as soon as practicable, consider the submission and decide whether:
  - (a) to refer the submission to the Privileges Committee for inquiry and report, or
  - (b) it is inappropriate to be considered by the committee on the grounds that the subject matter of the submission is trivial, frivolous, vexatious or offensive in character.
- (3) The President must inform the person in writing of the decision.

### 203. Reference to committee

- (1) Where a submission is referred to the Privileges Committee, the committee may decide not to consider a submission referred to it if, in the opinion of the committee, the subject matter of the submission is not sufficiently serious or is frivolous, vexatious or offensive in character. The committee must report its decision to the House.
- (2) Where the committee decides to consider a submission, the committee may confer with, but not take evidence from any person, including:
  - (a) the person who made the submission, and
  - (b) any member who referred to the person in the House.
- (3) In considering any submission, the committee:
  - (a) must meet in private,
  - (b) must not consider or judge the truth of any statements made in the House or in the submission,
  - (c) must not make public:
    - (i) any minutes of proceedings,
    - (ii) any evidence, or
    - (iii) any submissions, either in whole or in part, except in its report to the House.
- (4) In reporting to the House on a submission, the committee may recommend:
  - (a) that no further action be taken by the House or by the committee in relation to the submission, or

- (b) that a response by the person who made the submission, in a form of words agreed to by the person and the committee and specified in the report of the committee, be published in the Minutes of the Proceedings or incorporated in Hansard, and must not make any other recommendation.
- (5) Any response by a person who made a submission and which is included in a report to the House:
- (a) must be succinct and strictly relevant to the questions in issue,
  - (b) must not contain anything offensive in character,
  - (c) must not contain any matter where publication would have the effect of:
    - (i) unreasonably adversely affecting or injuring a person, or unreasonably invading a person's privacy, in the manner referred to in paragraph 1, or
    - (ii) unreasonably adding to or aggravating any adverse effect, injury or invasion of privacy suffered by a person.
- (6) In this order, person includes an unincorporated association, a corporation and a body corporate.
- (7) A notice of motion to adopt a report from the Privileges Committee on a citizen's right of reply:~~(a) —is to be placed on the Notice Paper as business of the House for six sitting days following the giving of the notice of motion,~~ **with precedence according to standing order 39.**  
~~(b) —if not dealt with at the conclusion of six sitting days, the motion will be placed on the Notice Paper as general business.~~

## CHAPTER 35 – COMMITTEES

### 204. Sessional committees

- (1) The House may establish sessional committees at the commencement of each session of Parliament to consider matters relating to the provision of services to members.
- (2) The functions and composition of any sessional committee will be as determined by the House from time to time.

### 205. Procedure committee

- (1) A Procedure Committee will be appointed at the commencement of each Parliament.
- (2) The committee may:
  - (a) consider on its own initiative any amendments to the standing orders,
  - (b) propose to the House changes in practice and procedures of the House, and
  - (c) consider any matter relating to the procedures referred to it by the House or the President.
- (3) The President, Deputy President, **Assistant President**, Leader of the Government, **Deputy Leader of the Government**, ~~and~~ Leader of the Opposition, **Deputy Leader of the Opposition**, **the Government Whip and the Opposition Whip** are to be among the members of the committee.
- (4) The composition of the committee will be determined by the House but must ensure representation of all parties and independent members.
- (5) Members may be appointed to the committee as substitutes for a member of the committee, by notice in writing to the Chair of the committee.
- (6) Nominations may be made by the Leader of the Government, the Leader of the Opposition, the Government and Opposition Whips, and Cross Bench Members, as applicable.

### 206. Standing committees

- (1) The House may establish standing committees which have power to sit during the life of the Parliament.
- (2) The functions, source of references and composition of any standing committee will be as determined by the House in the resolution appointing the committee.

### 207. Select committees

- (1) The House may appoint select committees to consider matters referred by the House. A select committee has power to sit during the life of the Parliament. When the committee completes its inquiry and presents its final report to the House, the committee ceases to exist.
- (2) The composition of any select committee will be as determined by the House.

## General Committee Provisions

### 208. Powers

**In addition to any power conferred by order of the Council or by law, a ~~A~~ committee has power:**

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

#### **209. Must not sit while the House is sitting**

- ~~(1) A committee may sit during any adjournment of the House.~~
- (12) A committee must not sit while the House is sitting, unless the House otherwise orders.
- (2) The restriction on meetings of committees in paragraph (1) does not apply:
  - (a) after the adjournment of the House,
  - (b) during the suspension of the House,
  - (c) during lunch or dinner breaks when no other business is being conducted by the House.
- (3) A committee is authorised to conduct meetings by electronic communication without members of the committee or witnesses being present in the one place, provided 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.

#### **210. Membership**

- (1) The composition of each committee is to be determined by the House in the resolution appointing the committee.
- (2) Government members are to be nominated by the Leader of the Government.
- (3) Opposition members are to be nominated by the Leader of the Opposition.
- (4) Cross bench members are to be nominated by agreement between cross bench members.
- (5) In the absence of any agreement the representation on a committee is to be determined by the House.
- (6) Nominations for membership of the committees are to be in writing to the Clerk within seven days of the passing of the resolution appointing the committee.
- (7) Members may also at any time, by motion on notice, be discharged by the House from



attending a committee, and other members appointed or added.

- (8) The President may not be elected to any committee other than one of which the President is an ex officio member.
- (9) If the Deputy President is elected to serve on a committee and declines to do so, another member is to be elected.
- (10) ~~No member may take part in a committee inquiry where the member has a pecuniary interest in the inquiry of the committee.~~ 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.

## 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 Chair presides at meetings and has the powers necessary to conduct the Committee's proceedings in an orderly and expeditious manner.**
- (32) The member nominated as Deputy Chair is to act as Chair when the Chair is absent from a meeting.
- (43) 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.
- (54) 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.
- (65) 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.
- (467) 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.

## 212. Priority of references

The priority to be accorded to a reference received by a committee may be determined by the Chair of the committee, unless the committee decides otherwise.

## 213. First meeting

- (1) The Clerk is to fix the time and place for the first meeting of each committee in such a manner as the Clerk thinks fit.

- (2) At the first meeting, before proceeding to any other business the Chair and Deputy Chair are to be elected, unless the resolution of the House appointing the committee provides otherwise.

#### **214. Quorum**

- (1) Unless otherwise ordered, the quorum of a committee is three members.
- (2) If, after 15 minutes from the time appointed for the meeting of a committee, a quorum is not present, the meeting is adjourned and the Chair of the committee will fix the next meeting of the committee.
- (3) The clerk of the committee is to record the names of the members present.

#### **215. Loss of a quorum during a meeting**

If, during the sitting of a committee, the loss of a quorum is brought to the attention of the Chair by another committee member, after ten minutes has elapsed the Chair will suspend the proceedings of the committee to a later hour. If a quorum is not then present, the committee will be adjourned to another day, to be fixed by the Chair.

#### **~~216. Member attendance~~**

- ~~(1) A member must seek leave of the committee in order to be absent from four or more consecutive committee meetings.~~
- ~~(2) If a member fails to attend four consecutive meetings of a committee without leave of the committee, the absence is to be reported by the Chair to the House.~~
- ~~(3) If the member fails to attend the next meeting without leave of the committee, the Chair is to again inform the House. This procedure is to continue until the member attends a committee meeting.~~
- ~~(4) These requirements do not apply to those committees for which the House has made provision for substitute members.~~

#### **216A. Substitute Members**

- (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.

#### **217. Sub-committees**

- (1) Where the resolution appointing a committee makes provision for sub-committees, a committee has power to appoint sub-committees consisting of two or more of its members:
  - (a) to assist the committee in the exercise of any of its functions, or
  - (b) to investigate and report on any matter referred to the committee.

- (2) A sub-committee has the same powers as the committee appointing it.
- (3) The committee is to appoint one of its members to act as Chair of any sub-committee and the member appointed has a deliberative vote and, in the event of an equality of votes, a casting vote.
- (4) Unless otherwise ordered, the quorum of a sub-committee is two, of whom one must be a government member and one a non-government member.
- (5) A sub-committee is to report to the committee on any matter referred to it by the committee. The committee may adopt the report, reject the report, or adopt the report with variations.
- (6) A sub-committee is to conduct its meetings and business in the same manner as the committee appointing it.

### 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 and, once they have formally communicated their intention to participate in the inquiry, **have access to all committee evidence and documents** 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 ~~attend a public meeting of a committee, but will not~~ **only** attend a private meeting ~~except by express invitation~~ by resolution of the committee, and will always be excluded when the committee is deliberating.

### 219. Meeting or joining with other committees

A committee or any sub-committee may:

- (a) join together with any other committee of the House or the Legislative Assembly to take evidence, deliberate and make joint reports on matters of mutual concern, and
- (b) meet with any other State or Commonwealth parliamentary committees to inquire into matters of mutual concern.

### 220. Joint committees

- (1) A proposal for a joint committee of the House and Legislative Assembly must contain the names of the members of the House appointed to serve on the committee.
- (2) Any such proposal agreed to by the House will be forwarded to the Legislative Assembly by message.
- (3) The proceedings of a joint committee will be reported to the House by one of the members appointed to serve on the committee.
- (4) At least three members of the House must be present at any meeting of a joint committee.
- (5) If the House agrees to a proposal from the Legislative Assembly to appoint a joint committee, the House **must, as soon as practical, will** ~~advise the Legislative Assembly by message of~~ **determine** the time and place of the first meeting of the committee.

### 221. Submissions

Any person or body may make written or recorded submissions to a committee with respect to any inquiry being conducted by the committee.

## 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.~~ **typographical errors or the duplication or omission of words.**
- (4) Corrections in substance can only be made by further giving of evidence.

## 223. Publishing submissions and evidence

- (1) A committee has power to authorise publication, before presentation to the House, of submissions received and evidence taken.
- (2) Evidence taken in camera may be published by resolution of the committee where it is in the public interest to do so.
- (3) A committee:
  - (a) may make available to any member of the public a copy of:
    - (i) any written submissions made to it,
    - (ii) the report of any inquiry carried out by it, or
    - (iii) the record of any evidence taken in public, and
  - (b) may charge a reasonable sum for making copies available.
- (4) A committee or sub-committee may authorise the ~~tape~~ recording of its public hearings.

## 224. Unauthorised disclosure of evidence and documents

- (1) The evidence taken by a committee and documents presented to it, which have not been reported to the House, may not, unless authorised by the House or committee, be disclosed to any person other than a member or officer of the committee.
- (2) Paragraph (1) does not apply to:
  - (a) any proceedings of the committee that are open to the public and ~~news media~~ **media**,
  - (b) any member of the committee or officers of the House or committee in the exercise or performance of their duties,
  - (c) ~~press~~ **media releases** or statements made by a member of the committee on the authority of the committee,
  - (d) written submissions presented to a ~~select~~ committee and authorised to be published by the committee,
  - (e) any submission or document of the committee referred to any person for comment to assist the committee in its inquiry, and
  - (f) any document authorised to be published by the committee.

- (3) Any person committing a breach of this standing order may be reported to the House.

## 225. No representation of witnesses

A person or body is not entitled or permitted to be represented by ~~counsel or a solicitor~~ **an adviser** at a hearing of a committee unless the committee decides otherwise.

## 226. Reports

- (1) A committee, **including a select committee**, has leave to report to the House from time to time its proceedings, evidence taken in public, and recommendations as it deems fit.
- (2) A committee may include in any report made to the House a draft bill to give effect to the recommendations of the committee.
- (3) For the purposes of preparing a draft bill for incorporation in a report to the House, a committee may, with the consent of the relevant Minister, make use of the services of any staff of the Parliamentary Counsel's Office.
- (4) A committee may publish discussion papers for the purpose of any inquiry.

## 227. Consideration of reports

- (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.
- (2) The draft report is to be considered at a meeting convened for that purpose and may be amended as the committee thinks fit. A report may be reconsidered and amended.
- (3) The report of a committee, as agreed to by the committee, must be signed by the Chair, or in the event of the Chair refusing, any other member appointed by the committee.

## 228. Members' opinions to be reflected

- (1) The report of a committee is, as far as practicable, to reflect a unanimity of opinion within a committee.
- (2) It is the responsibility of a committee Chair and all members of a committee to seek to achieve unanimity of opinion.
- (3) Where unanimity is not practicable, a committee's report should be prepared so as to reflect the views of all members of the committee.
- (4) Where unanimity is not practicable, any member may append to the report a brief statement of dissent, provided that:
  - (a) the member has sought to have their opinions included in the report agreed to by the committee,
  - (b) the statement of dissent is relevant to the committee's report and the terms of reference of the inquiry,
  - (c) the statement does not contain any matter which would unreasonably adversely affect or injure a person, or unreasonably invade a person's privacy,
  - (d) the statement of dissent is signed by the member or members making it,

- (e) the statement of dissent is no more than 1,000 words in length.

## 229. Chair's foreword

A committee Chair's foreword must be approved by the committee prior to tabling of the committee's report in the House, if the committee so resolves.

## 230. Tabling reports

The report of a committee, with accompanying documents, is to be tabled in the House by the member signing the report, or in the absence of the member, by some other member of the committee, within ten calendar days of the report being adopted by the committee.

## 231. Tabling out of session

- (1) If the House is not sitting when a committee wishes to report to the House, **including when the House is adjourned or suspended**, the committee is to present copies of its report to the Clerk.
- (2) A report presented to the Clerk is:
  - (a) on presentation, and for all purposes, deemed to have been laid before the House,
  - (b) to be printed by authority of the Clerk,
  - (c) for all purposes, deemed to be a document published by order or under the authority of the House, and
  - (d) to be recorded in the Minutes of the Proceedings of the House.

## 232. Debate on committee reports

- ~~(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) At the conclusion of the speech of the mover, the debate is to be adjourned to the next day on which committee reports have been given precedence. **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) Unless otherwise ordered, the order of the day for the resumption of debates on committee reports is to be set down on the Notice Paper in the order in which the reports were presented. **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 response, and when moved, the debate must be immediately adjourned to a later hour or the next sitting day.**~~
- ~~(4) The debate on committee reports on any day on which the debate has precedence is to be interrupted after one hour. The interrupted debate is to stand adjourned and be set down on the business paper for the next day on which it has precedence. **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 response takes precedence.**~~
- ~~(5) An interrupted debate is to stand adjourned and be set down on the business paper Notice Paper for the next day on which it has precedence.~~

- ~~(56) Each speaker in the debate on committee reports and government responses is to be limited to 10 minutes, except the mover committee Chair who is allowed 15 minutes and a further 10 minutes in reply.~~
- (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) The mover may speak to the motion forthwith but further debate is to stand adjourned until debate on committee reports take precedence.
  - (3) On tabling of a government response to a committee report,
    - (a) if debate on the committee's report is an order of the day, the government response is to be debated concurrently with the debate on the report and any member who has already spoken in debate may speak a second time to the government response,
    - (b) if debate on the committee's report is not on the notice paper, a motion may be moved without notice "That the House take note of the government response"
    - (c) debate on a motion "That the House take note of the government response" is to be set down as an order of the day when committee reports next take precedence.
  - (4) Each speaker in the debate on a committee report or government response is to be limited to 10 minutes, except the mover who is allowed 15 minutes and a further 10 minutes in reply.
  - (5) When debate on committee reports takes precedence, the House will debate committee reports and government responses according to the order published on the Notice Paper or a determination of the Business Committee.

### 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) ~~A response is required notwithstanding prorogation of the House or the expiry of the Legislative Assembly.~~
- (5) The President is to report to the House when any government response has not been received within the six month deadline.
- (6) 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.

- (7) 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.

#### 234. Resources

- (1) A committee is to be provided with the resources necessary to carry out its functions.
- (2) A committee may, with the consent of the appropriate Minister, make use of the services of any staff or facilities of a government department, administrative office or public body.
- (3) A Chair of a committee may report to the President on any matter relating to the administration, functioning or operation of the committee.
- (4) The Clerk is to appoint an officer of the Council to act as clerk to the committee.
- (5) **The committee minutes are the official record of each committee meeting.**
- (6) The clerk to a committee must record and include in the committee's report to the House:
- (a) the names of the members attending each meeting of a committee **and apologies received,**
- ~~(b) the proceedings of the committee and every motion or amendment moved and the name of the mover,~~
- ~~(c) the names of the members voting on each side in a division, and~~
- (b) **the votes and proceedings of the committee.**



## Appendix 3: Discussion Paper

### PROCEDURE COMMITTEE REVIEW OF THE STANDING AND SESSIONAL ORDERS

#### DISCUSSION PAPER OCTOBER 2021

#### Introduction

On Wednesday 9 June 2021 the House referred to the Procedure Committee an inquiry to review the standing and sessional orders as follows:

- (1) That the Procedure Committee inquire into and report on:
  - (a) whether the current sessional orders should be adopted as standing orders,
  - (b) whether any current standing orders require amendment, and
  - (c) whether any additional standing orders should be adopted.
- (2) That the committee propose a draft revised set of standing orders for consideration by the House.
- (3) That the committee report by the first day of the second sitting week of 2022.
- (4) That, in the event that the Procedure Committee fails to report by the due date, the President be authorised to table a draft revised set of standing orders for consideration by the House and subsequent approval by the Governor.

#### *Sub committee*

On 23 June 2021, the House resolved that the resolution appointing the Procedure Committee be amended to authorise the committee to appoint sub-committees and, for the purposes of the review of the standing orders, that Mr Searle be appointed as a member of the Procedure Committee in place of Ms Sharpe.

At a meeting on 23 June 2021 the Committee resolved to appoint a sub-committee consisting of the President, the Deputy President, the Assistant President, Mr Borsak, Mr Searle, two additional Government members and one additional cross bench member. Ms Hurst, Mr Mallard and Mr Tudehope were subsequently appointed to the sub-committee.

The Committee also resolved that the secretariat be authorised to prepare an issues paper for consideration by the sub-committee and report to the committee.

### *Categories of standing orders for review*

In order to facilitate the review by the committee, the current standing and sessional orders are separated into four categories:

**Category 1** - There are eight standing orders varied by sessional order, and three new procedures established by sessional order in this category. These rules have been in place for many years and have not been the subject of discussion in the House of any controversy for being unclear, out of date or otherwise requiring review. It will be recommended that these be adopted without amendment as standing orders. These sessional orders are not outlined in this discussion paper but can be seen in the appendix, shaded green.

**Category 2** – There are 10 standing orders varied by sessional orders, seven new procedures established by sessional order and two resolutions in this category. These rules have been adopted in recent years, mostly since 2019. Although more recent than Category 1 sessional orders, there has been no discussion in the House concerning the need to review these rules. This review will provide a forum for that discussion. These sessional orders can be seen in the appendix, shaded grey.

**Category 3** – The standing and sessional orders in this category have been identified as requiring review because they should be modernised, they have been subject of discussion in the House or raised by members as requiring review, or they overlap or contradict other standing and sessional orders thereby creating unnecessary confusion or complexity. The standing and sessional orders in this category are considered in this discussion paper with options to consider. In the appendix these sessional orders or proposed sessional orders are shaded pink.

**Category 4** - The vast majority of standing orders fall into category 4. These standing orders have not been subject of discussion in the House as being unclear, out of date or otherwise requiring review. These appear in the appendix without any colour shading.

Temporary orders responding to the COVID-19 pandemic are not included in these categories.

The options presented in this discussion paper are essentially to determine the scope of drafting for this review for **Category 3** standing or sessional orders. If the option “leave unchanged” is chosen by the sub committee the standing order will be placed in Category 4 (no changes required). If a different option is chosen a proposed new standing order will be drafted for future consideration by the sub committee.

**Category 2** sessional orders - the 2019 sessional orders which have been used regularly without suggestions for amendment – are considered to be in scope and will be part of the standing orders review. For that reason session orders such as “direct relevance”, “take note of questions and answers”, “members statements” and others are not included in this discussion paper as no new drafting will be required, the sub-committee will instead need to decide whether to recommend adoption as a standing order or to remain as a sessional order.

## Changes identified to standing and sessional orders

### Standing order 3 – Practice notes

Standing order 3 provides that the President may issue practice notes to provide clarity on matters that are otherwise not provided for under the standing orders, or are not clear. The House may disallow a practice note in whole or in part.

Standing order 3 has never been used and if repealed would not impact on the operations of the House.

*Options:*

Leave unchanged or repeal the standing order.

### Standing Order 4 – Rights of House not restricted

Standing order 4 was first adopted in 2004 in terms similar to Senate standing order 208 which states:

Except so far as is expressly provided, these standing orders do not restrict the mode in which the Senate may exercise and uphold its powers, privileges and immunities.

As noted in the *Annotated Standing Orders of the Legislative Council*, it is likely that SO 4 was adopted as a safeguard against a hostile majority amending or adopting a standing order that could take away the rights of the minority or inhibit the accountability of the government. An amendment to the provision to make the expression of the principle clearer would not change the intent or authority of the standing order.

*Option:*

Leave unchanged or provide a clearer expression of this principle.

### New standing order – Opening of Parliament

Standing order 5 sets out the proceedings for an opening of Parliament by the Governor and standing order 6 provides the proceedings for an opening by commissioners. Historically commissioners would open a new session after an election as the Houses had not elected their President and Speaker and the Government may not have been in the position to prepare a speech for the Governor.

In the four openings of Parliament since 2011, a hybrid version of a Governor's and commissioners' opening has been conducted. Under the hybrid version commissioners have officially opened Parliament on behalf of the Governor and sworn in new members, the House has then elected its new President following which the Governor has attended Parliament for a ceremonial opening and to give an opening speech.

A standing order, incorporating aspects of both standing order 5 and standing order 6, would complement the existing rules and provide a third alternative for the proceedings on the opening of a new session of Parliament.

*Option:*

The adoption of rules for the hybrid version of an opening would not restrict the House from following the traditional procedures but would give clarify and give authority to the proceedings.

**Standing order 9 – Opening of Parliament by the Queen (and standing orders 10, 120, 121 and 160)**

Currently standing order 9, 10, 120, 121 and 160 refer to Her Majesty the Queen.

It is proposed that, in line with the reference to Her Majesty the Queen in section 12 of the Constitution Act 1902, that the reference in the standing orders be amended to “Her Majesty Queen Elizabeth II, Her heirs and successors”.

*Option:*

Leave until change required or amend the standing orders to provide for any future changes in the Sovereign.

**Standing order 13 – Ballot**

During proceedings for the election of the President in 2021 the terms of the standing order were subject of debate and legal advice. The debate concerned whether, if two members are proposed, a member needs an absolute majority of the votes of members present to be elected. One advice also argued that informal votes were not a “vote” for the purposes of determining an absolute majority.

*Option:*

Leave unchanged or consider what changes to the standing order should be made.

**Standing order 15 – Election of Deputy President**

Paragraph (1) of standing order 15 states that the House is to elect a Deputy President “by motion without notice”. However paragraph (2) states that “The Deputy President and Chair of Committees will be elected in a similar manner as the President...”

The rules for election of the President do not stipulate a "motion without notice" but require a motion “that the member take the Chair of the House as President”. To remove any doubt as to the procedures for electing the Deputy President it is proposed to omit the words “by motion without notice” and insert instead a motion for the election.

This amendment would not change the intent or purpose of the standing order.

*Option:*

Leave unchanged or amend the standing order to make it clearer that the election of the Deputy President is to be the same procedure as the election of the President except that the President conducts the election.

**Standing order 28 – Prayers***Acknowledgement of Country*

As a matter of convention, immediately following the prayers the President acknowledges the traditional owners of the land on which the Parliament meets. This practice first originated during the Presidency of the Honourable Dr Meredith Burgmann, who acknowledged each sitting Tuesday that the House was meeting on Eora land. Since 29 May 2007, the statement made on the first sitting day of each week,

and is recorded in the Minutes.

This practice has been continued by each President since, with the current President acknowledging Country each sitting day.

*Options:*

Leave the standing order as is, without reference to the Acknowledgement of Country or:

- adopt a provision for the President to acknowledge the traditional owners of the land on which Parliament meets or allow each President to determine the frequency of acknowledgement of country
- adopt the words of the acknowledgement in the standing orders (consistent with the prayers) or allow the President to determine the terms of the acknowledgement of Country
- adopt a provision for the acknowledgement of Country to be given in language.

**Standing order 31 - Adjournment of the House**

The terms of SO 31 (2) can be interpreted to mean that while a Minister can move the adjournment at any time, it is possible for a private member to move the adjournment but not “at any time”.

*Options:*

Leave the standing order unchanged or clarify that the adjournment of the House is the prerogative of the Government (subject to the provisions of standing order 34).

**Interruptions of business - Standing orders 32 and 46 and the sessional order for the interruption at midnight**

These standing orders need to be considered together to ensure consistency in approach when proceedings are interrupted. Currently there are inconsistencies with each.

***Standing order 32 - Interruption for adjournment***

Standing order 32 provides that time be set for the interruption of business on Thursday and Friday to allow a motion for the adjournment of the House to be moved by a Minister if the Government so wishes. Since 2011 a time for interruption for adjournment has been made for each sitting day by sessional order.

*Options:*

Leave the standing order as applying to “Thursday and Friday” or change to “on any sitting day”.

***Sessional order varying SO 32(2)(b)***

A sessional order adopted since 23 November 2011 allows the Chair, at the time appointed by sessional order, to interrupt proceedings in Committee of the Whole to ask if the Minister wants to move the adjournment of the House. The purpose of the sessional order is to avoid the need for the Chair to report progress to the House in order for the President to ask if the Minister wants to move the adjournment. If the adjournment was not moved the House would then resolve back into committee of the whole or proceed to other business.

*Option:*

Adopt the practice set by the sessional order as a standing order.

The sessional order also omits the requirement for the Chair to report progress and “seek leave to sit again”. This amendment does not change procedure but simply makes it clear that if committee of the whole is interrupted under standing order 32, and the House then adjourns, further consideration is automatically set down as an order of the day for a future time.

*Option:*

Adopt the amendment to the standing order to make it clear that when committee of the whole is interrupted by standing order 32, and the House then adjourns, there is no requirement for the Chair to seek leave for the committee to sit again.

### ***Standing order 46 – Interruption of business***

Standing order 46 provides for the interruption of business to allow another category of business to proceed, for example, question time, or for committee reports to take precedence. The sessional order adopted in 2019 clarifies that when an item of business is interrupted by standing order 46 the further consideration of the item is set down for a future time and if the House is in committee of the whole at the time of interruption, there is no need to seek leave to sit again.

Paragraphs (2) (a), (b) and (c) were also reordered by the sessional order for clarity.

*Option:*

Adopt the amendment to the standing order to clarify that an item interrupted by standing order 46 is automatically set down for a future time and if the House is in committee of the whole at the time of interruption there is no need to seek leave to sit again.

### ***Sessional order – Interruption for adjournment at midnight***

The sessional order for the interruption of proceedings at midnight was introduced in May 2019 to address the very late sitting nights experienced during the previous session. Under the sessional order at midnight the President is to interrupt and to propose the Question “That this House do now adjourn”. Debate on the question followed the terms of the adjournment under standing order 31 (30 minutes of debate with each member speaking for up to five minutes).

The sessional order was necessarily drafted to stand on its own. However, if adopted as a standing order, the provision could be incorporated into standing orders 31 and 32 to make the provisions consistent and complementary.

*Options:*

If the procedure is to be adopted as a standing order, adopt either as a stand-alone standing order or as an amendment to SO 32.

### **Standing order 34 – Minister to be present in the House**

The requirement of standing order 34 that a Minister be present in order for the House to meet has been a matter of controversy with the House rising on a long bell in 2009 due to the absence of a Minister and again on 14 September 2021 when notice was taken that there was an absence of a Minister in the House and, following debate, the President left the Chair until the ringing of a long bell.

*Option:*

Consider the appropriateness of the principle, repeal, amend or leave unchanged.

## **Precedence of items of business on the Notice Paper (Standing orders 38, 39, 74 and 200)**

### ***Standing order 38 – Routine of business***

Standing order 38 is intended to set out the order in which categories of business are to proceed each sitting day prior to the motions and orders of the day on the Notice Paper. However, standing order 38 is not conclusive and does not include these other matters referred to in the standing orders:

- o Postponement of business (SO 45)
- o Messages from the Governor (SO 122)
- o Messages from the Legislative Assembly (SO 126)
- o The order in which categories of business including business of the House; matters of privilege and matters of public importance are placed on the notice paper.

Amendments to the standing order, based on provision in the relevant standing orders, together with precedents from the House, would clarify the order in which these other items of business are taken each sitting day.

### ***Standing order 39 - Business of the House***

Standing order 39 provides that certain matters be placed on the Notice Paper as business of the House. Like standing order 38, SO 39 is not comprehensive and does not cover all items that are referred to as business of the House in the standing orders. Expanding the provisions of SO 39 would clarify the scope and order of business placed on the notice paper as business of the House.

#### *Option:*

Leave unchanged or amend standing orders 38 and 39 to clarify the order of the business to be placed on the Notice Paper.

## **General business and Private Members' Business**

Standing order 40 requires the House to appoint the days and times on which government business and general business will take precedence. The term “general business” is also used in a number of standing orders to refer to the precedence given to motions and bills proposed by private members.

Chapter 29 is titled “private members’ business”. The term “private members’ business” is also used in standing orders 65 and 92 in relation to the rule of anticipation in regard to private members motions, in standing order 78 when regard to the precedence of a disallowance motion when the question that the motion proceed as business of the House is negatived.

A distinction can be made that “general business” refers to the category of business and “private members’ business” to individual items proposed by private members. However the terms “general business” and “private members’ business” are somewhat interchangeable and it may be clearer to use one term or the other throughout the standing orders.

#### *Option*

Leave unchanged and accept the terms are interchangeable or use either “general business” or “private members’ business” consistently throughout the standing orders when referring to both the category and individual items of business.

### **Standing order 45 – Postponement of business**

Standing order 45 provides for the postponement of a notice of motion or order of the day "at the time when it is called on".

According to practice, once the Clerk has read the order of the day for resumption of debate the item has resumed, even though no words have yet been spoken. Consequently the member with carriage of the matter, or another member on their behalf, cannot seek the call to postpone it. The only way to defer debate in that circumstance is to adjourn.<sup>8 1</sup>

Awkwardness arises, mainly during debate on committee reports, when members agree that an item should be deferred, but it is not postponed before the Clerk reads the order of the day and the member speaking is not in the chamber to adjourn it and retain the call.

*Option:*

Leave unchanged or clarify the consequence of adjourning and postponing orders of the day for resumption of debate.

### **Standing order 49 – Journal**

Standing order 49 requires and authorises the Clerk to publish the Minutes of Proceedings of the House, a business paper referred to as the "Notice Paper", and a Questions and Answers paper containing written questions and corresponding answers.

Traditionally, the individual papers were bound and together formed the "Journals" of the Legislative Council. However since May 2011<sup>2</sup> only the Minutes of Proceedings, along with an index to the minutes and statistical and procedural reports have been collated into a small number of bound journals held by the Council and the Parliamentary Library.

With the increased reliance on the Internet for access to chamber documents, the number of copies of the minutes and the Notice Paper printed each day has significantly reduced. The Question and Answer Paper

has not been printed for many years, the questions and answers tracking database available online being the main source of access by members, their staff and the public.

*Options:*

1. Change the name of the standing order to "Records of the House" or leave as "Journals"
2. Refer to the business paper consistently throughout the standing orders either as "Business Paper" or "Notice Paper" or accept that the terms are interchangeable.
3. Continue the requirement for the Clerk to sign the minutes of proceedings or replace with a requirement to "approve" the minutes of proceedings.
4. Continue the requirement for a compiled Questions and Answers paper or replace with a requirement to publish written questions and answers.

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<sup>8</sup> Adjourning an item in the order of precedence rather than postponing it was important when the sessional order for the one postponement rule was in operation (currently suspended) as members sought to avoid the items being sent to the end of private members business outside the order of precedence.

<sup>9</sup> *Annotated Standing Orders of the Legislative Council*, p 147



### **Standing order 52 – Orders for the production of documents**

The number and the complexity of orders and returns, disputes as to the validity of claims of privilege and the arbiter’s evaluations have led the adoption of the following sessional orders:

- a sessional order currently provides for the scope of an order to be changed by agreement between the Department of Premier and Cabinet and the member moving the motion;
- a sessional order for the Clerk to communicate directly with state agencies not subject to the direction of a minister;
- sessional orders providing for a role for the Privileges Committee in considering an arbiter’s report and the publication of privileged documents during lengthy recesses of the House.

Requests have also been made for new rules to be drafted to define “privilege” in standing order 52 and to allow personal information to be identified and remain confidential to members of the Legislative Council only;

*Option:*

That a comprehensive new suite of rules for orders for papers be drafted for discussion or the order be left unchanged.

### **Standing order 54 – Other methods of tabling documents**

Standing order 54 authorises the publication of any document tabled by the President, Ministers and the Clerk under authority of the House or an Act. All other documents tabled by other members, including committee reports are not automatically made public. However a committee report tabled out of session with the Clerk is authorised to be made public under standing order 231.

Standing order 54 could be amended to authorise the publication of committee reports on tabling in the House.

*Option:*

Leave unchanged or amend the standing order to provide for the the publication of committee reports on tabling.

### **Standing order 57 – Motion after tabling**

Standing order 57 provides for a motion to be moved without notice that a document tabled in the House be printed.

The motion to print is the historic mechanism for printing and disseminating documents tabled in the House. Only those documents ordered to be printed became part the Parliamentary Papers Series held by the legal deposit libraries - the State Library of NSW, the University of Sydney Library and the NSW Parliamentary Library.

As outlined in the *Annotated Standing Orders of the Legislative Council*, ordering a document to be printed was also considered necessary to authorise the publication and distribution of a document to the public.

*Option:*

Leave or change the title of standing order 57 and provide for the “publication” of documents rather than printing of documents.

Standing order 57 is also subject to a sessional order providing the procedures for debate on a document.

**Standing order 59 - Printing of tabled papers and documents**

Standing order 59 requires a minister to table a list of all papers tabled in the previous month and not ordered to be printed. On tabling a motion can be moved without notice that any papers on the list be printed.

The standing order was adopted in 2004 to replace the previous provision for a Printing Committee which had the remit of recommending to the House whether any document tabled ought to be “printed” in full or in part.

However the need to authorise the *printing* of documents is now considered redundant. The publication of a tabled document under the authority of the House or an Act of Parliament is considered sufficient to attract the necessary immunities and the need for SO 59 is considered obsolete.

*Options:*

Leave unchanged or repeal the standing order

**Standing order 61 – Record of members**

The Clerk has maintained both a roll and a register of members of the Legislative Council since at least 1856.

The Roll records the name and signature of each member, the date of the member’s election, the Parliament in which the member’s term is due to expire, the date on which the member was sworn and the signature of the attesting Clerk.

The Register records the name of each member, the date of each member’s election, the Parliament in which each member’s term is, or was, due to expire, the date on which each member took his or her seat, the date on which each member ceased to be a member, the cause of ceasing to be a member and the total length of the member’s service.

*The Annotated Standing Orders of the Legislative Council* records the history of standing orders relating to the role and the register.

*Options:*

Leave unchanged or amend the standing order to clarify the purpose and requirement for both documents.

**Sessional order - Supplementary questions and written answers, next sitting day**

Under the current sessional order it would be possible for a Minister to give part of an answer and take the question on notice for written answer within 21 days and for a member to also ask a supplementary question on the same question for written answer by 10.00am the following day.

*Option:*

If adopted as a standing order the provisions could remain the same or be amended to prevent an question taken on notice also being subject to a supplementary question for written answer.

### **Standing order 65 – Rules for questions**

Paragraph (2)(b) makes clear that a question asking a minister to announce new policy is out of order. The rule has been interpreted broadly so as not to unduly prevent questions being put to Ministers about government policy. The provision also serves to prevent Ministers from making lengthy policy statements which should more appropriately be made by way of a Ministerial Statement to which the Opposition can respond.

Numerous questions without notice concerning government policy have been put to ministers and answered without points of order taken. However, in regard to written questions on notice, the rule has been interpreted more strictly and ministers have declined to answer a written question on grounds that it would require the announcement of a policy.

*Option:*

Leave or amend the provision to make it clear that a question can be asked in relation to the government's intentions regarding a policy but not for a statement of policy.

Standing order 65 is also subject to a sessional order which requires answers to be directly relevant, which will be considered as part of the Category 2 sessional orders as part of the review.

### **Standing order 66 - Answers to questions without notice**

The provision in this standing order that questions taken on notice must be answered within 35 calendar days (21 calendar days under the sessional order) only relates to questions referred to a minister in the other House. The provision could apply to all questions taken on notice.

*Option:*

Leave as “refers a question to a Minister in the other place” or amend to “takes a question on notice”.

Standing order 66 is also subject to a sessional order requiring answers to questions within 21 days which will be considered as part of the Category 2 sessional orders as part of the review.

### **Standing order 67 – Written questions**

The sessional order providing for questions on notice on each working day, if adopted, could include deadline for submission of questions and *answers*, and to provide for the Christmas closure of government departments and agencies.

*Option:*

If adopted as a standing order, the provision could remain the same or be amended to include a deadline for submission of both questions and answers and to provide for the Christmas closure.

Standing order 67 is also subject to a sessional order requiring answers within 21 days and lodgement of questions by 4pm. This will be considered as part of the Category 2 sessional orders as part of the review.

**Standing order 71 – Notices of motions**

In recent years there have been a number of issues of public policy that have been the subject of cross party collaboration. In the absence of a provision for members to co-sponsor motions or bills, members have acknowledged the collaboration by each member giving identical notices, or by referring in debate to the combined effort of a number of members.

Senate standing order 76(4) provides an option for members to co-sponsor motions and bills.

*Option:*

Adopt a provision to allow members to cosponsor motions and bills.

*Notices not in English*

In line with the provisions for petitions it is also proposed standing order 71 could be amended to provide that notices of motions be in the English language where practical but where not practical they must be accompanied by a translation in English, certified to be correct by the member giving notice.

*Option:*

Provide for notices to be given in English or certified translation in English.

**Standing order 72 – Alterations and withdrawal of notices**

In recent years a significantly greater number of motions have been moved as formal business. Many of these motions have been amended before moving, new terms having been negotiated amongst members.

In order to minimise the risk that members will not be given leave to move their motion as amended, an amendment to standing order 71 in line with Senate standing order 77 would allow a new version of a notice to be submitted to the Clerk for publication in the Notice Paper. Under the Senate provision new notices must be submitted on the day prior to the motion being moved.

*Option:*

Leave unchanged or provide for notices to be substituted prior to publication in the Notice Paper.

**Standing order 77 – Raising matters of privilege**

The standing order states that a matter of privilege unless suddenly arising in proceedings before the House may only be brought before the House in accordance with the standing order. Under the standing order the President may give precedence to a notice of motion raising a matter of privilege over all other business.

However, matters of privilege have mostly been considered on motion on notice or motion moved by leave. Motions moved on notice or by leave are not given precedence as “matters of privilege”.

*Option:*

Leave unchanged or amend the standing order to make the procedure for raising a matter of privilege more accessible.

### **Standing order 78 – Motions for disallowance of statutory instruments**

Standing order 78 makes clear the consequence of the House disagreeing to the motion that the disallowance proceed as business of the House but does not make clear the consequence of the House disagreeing to the motion as to when the disallowance will proceed. An amendment to SO 78 (5), to also provide that when a motion to determine when the disallowance will proceed is disagreed to the disallowance motion will be set down as private members' business. The amendment would not change the procedures currently set out in the standing orders.

*Option:*

Leave unchanged or amend the standing order to provide a practice for when the House disagrees to the motion as to when the disallowance will proceed.

### **Standing order 93 – Question may be read**

As this standing order has been seldom used it could be repealed with no impact on the operations of the Chamber.

*Option:*

Leave unchanged or repeal the standing order.

### **Standing order 105 – Events superseding a question**

A superseding motion seeks to prevent a decision and any further discussion on a question currently before the House.

Standing order 105 provides that a question may be superseded by a motion being agreed to "That the debate be now adjourned." If a motion moved under SO 105 is agreed to the House proceeds to the next item of business and the substantive motions lapses.

Superseding motions are also provided in relation to the consideration of bills:

- a motion for the Chair to report a bill considered in committee of the House to the House can be superseded by a motion to reconsider clauses or amendments made in a bill (SO 146);
- a motion to adopt the report from committee of the whole can be superseded by a motion to recommit the bill (SO 147)
- a motion for the third reading of a bill can be superseded by a motion to recommit the bill (SO 149). There are precedents for two additional superseding motions that are not prescribed by standing orders:
  - 'That further consideration of the bill/amendments to the bill be now adjourned'
  - 'That the House do now adjourn'

If the House agrees to the motion "That further consideration of the bill/amendments to the bill be now adjourned" the House proceeds to the next item of business and the substantive motions lapses. If the House agrees to the motion "That the House do now adjourn" is that the House must adjourn, although debate under SO 31(4) still applies.

*Option:*

Leave unchanged or adopt two additional superseding motions be included in SO 105.

**Standing order 117 – Points of order in division**

The provision in the standing order that a member taking a point of order in division must be “covered” was adopted in 2004, although the requirement to ‘be covered’ is longstanding. When a members wishes to take a point of order but cannot stand-up to do so, the practice is for a member to place a sheet of white paper on their head in order to get the attention of the Chair.

*Option:*

Leave unchanged or modernise the provisions for taking a point of order during a divisions by allowing a point of order to be taken and debated while members are seated.

**Standing order 126 – Message from the Assembly**

Standing order 126 provides that if proceedings are required on a message from the Assembly, not on bills, the message must be set down for consideration on the next sitting day. In recent times, leave has been granted to allow a message to be considered forthwith, usually based on the foreknowledge that the matter will be received and that a response is required as soon as possible.

*Option:*

Leave or amend the standing order to allow messages to be considered forthwith when required.

**Standing orders for bills – Standing orders 136, 137, 138, 140, – Committee of the whole; standing order 187 for debate on private members’ bills**

Since the adoption of the standing orders in 2004, a number of sessional orders have amended provisions for the passage of bills through the Legislative Council including:

- cut off dates for Governments bills at the end of a sitting period,
- the provision for a motion to suspend standing orders to allow bills from the Assembly to proceed through all stages in one sitting
- the appointment of a Selection of Bills committee to consider the referral of bills to standing committees for inquiry and report.

In addition, practice in committee of the whole has also developed with almost all bills now taken as a whole providing more flexible yet streamlined consideration of amendments to bills. These rules have significantly changed the procedures for bills since the adoption of the standing orders in 2004.

*Option:*

The standing orders for bills including rules for bills be redrafted to ensure that all the interacting rules are consistent and complementary.

Specific changes to the rules current rules for the Selection of Bills Committee and the passage of bills in the Legislative Council are:

***Selection of bills committee***

The Council’s Selection of bills Committee process is loosely based on the Senate provisions. One of the major deviations from the Senate practice is that in the Council a bill must be restored to the Notice Paper after the Standing Committee has reported, whereas in the Senate, the further consideration of a bill referred to a committee is set down on the Business Paper either for the date set for tabling of the report, or if there is no date, on the day after the report is tabled.

The Council's procedure is based on the longstanding practice of the order of the day for the second reading of a bill referred to a committee by amendment to the second reading. Under that procedure, as the second reading has been superseded and is no longer before the House, it is necessary to restore it to the Notice Paper. In contrast, the second reading of a bill referred by the Selection of Bills Committee remains on the notice paper. Applying the restoration requirement to both procedures has proven awkward and has resulted in bills being listed on the Notice Paper at varying stages.

Removing the requirement for restoration of all bills referred to a committee by whichever means and instead adopting the Senate practice would simplify the process. As a result the only bills that need to be restored are those that lapse on prorogation and which are restored under SO 159.

*Options:*

If the Selection of Bills Committee is adopted as a standing order, revised provisions for the further consideration of bills referred to standing committees via Selection of Bills Committee procedure could be adopted.

***Expedited passage of bills – Standing order 138 and standing order 154***

*Standing order 138 – Urgent bills*

Standing order 138, providing for a Minister to declare a bill urgent, was first adopted by sessional order in 1988 and then by standing order in 2004. The provision seems to have been adopted as a mechanism for expediting the passage of Council bills although the provision has rarely been used. Although there is nothing in the standing order that would prevent the provision applying to Assembly bills, the House has instead preferred the practice of suspending standing orders to allow the bill to pass through all stages in one sitting (see below)

There is no debate on a question of urgency under standing order 138 but there may be debate on a question of urgency under the sessional order for cut-off dates of government bills.

Standing order 138 provides that a Minister may declare a bill urgent provided that copies have been circulated to members, whereas the sessional order for cut-off dates provides that the question of urgency be determined after the first reading and printing.

***Standing order 154 – Bills received from the Legislative Assembly***

Historically contingent notices were given to allow a motion to be moved for the suspension of standing orders on bills.

In May 2015 the House adopted a sessional order to provide that on the receipt of a bill from the Legislative Assembly a motion could be moved without notice for the suspension of standing orders to allow the bill to pass through all stages in one sitting thereby overcoming the need for contingent notice.

*Options:*

Leave unchanged or redraft the rules for expediting the passage of bills to consolidate the rules in standing order 138, the sessional order varying standing order 154 and the cut-off dates for government bills at the end of a sitting period.

***Provision for temporary bills***

Standing order 136 provides that the precise duration of every temporary bill must be expressed in a distinct clause at the end of the bill has no application for the House when considering a bill. The Assembly does not have an equivalent standing order.

*Option:*

Leave unchanged or repeal the provision for the duration of a temporary bill.

***Debate and reply on the First reading of a bill – Standing orders 90 and 137***

The provisions in the standing orders for debate on the first reading of a bill are currently unclear. Standing order 137 states that the first reading and printing of a bill is to be determined without amendment or debate yet standing order 90 allows a reply on the first reading of a bill. As stated in the Annotated Standing Orders, read in conjunction with rulings of President over time have, it can be interpreted that a first reading debate is possible on a Council bill but not on an Assembly bill.

Given that the first reading and printing of a bill has virtually become a formality, an amendment to standing order 90 to remove the provision for a reply on the first reading would clarify the issue. This is consistent with both the rules in the Legislative Assembly and the Senate.

*Option:*

Leave unchanged or clarify the provision for debate the first reading of bills.

***Standing order 142 – Consideration in Committee, Standing order 143 – Order of Consideration, Standing order 144 – Amendments in Committee***

Standing orders 142, 143 and 144 prescribe the procedures for consideration of a bill in committee of the whole. Since 2014 the new practice of taking a bill as a whole in committee of the whole has been the predominant way of considering bills.

*Option:*

Incorporate in the standing orders provisions for taking a bill as a whole or leave as practice and precedent.

**Chapter 26 – Private Bills**

The last private bill passed by the Council was the Tamworth Tourist Information Centre Bill in 1992. Since then governments have routinely assisted local community organisations, such as churches and clubs, in the passage of ostensibly private bills through Parliament as public bills. In addition, changes to the *Local Government Act 1993* removed the need for private bills to be introduced to sell or exchange public lands.

The provisions for private bills could be considered obsolete and omitting them would not prevent the House from adopting temporary rules in order to consider a private bill.

It is noted that the Legislative Assembly has similar provisions.

*Option:*

Leave unchanged or repeal the provisions in the standing orders for private bills and adopt temporary rules when required.

**Standing orders for private members business – standing order 184, 185, 186, 188 and sessional order for short form motions**

In the context of the conduct of business motion moved by the Government Whip becoming the preferred practice for scheduling business on private members' days, in June 2020 standing orders 184



and 185 for the conduct of the draw to determine the precedence of private members business and the sessional order for substituting items in the order of precedence were suspended.

Standing order 188, amended by sessional order to allow only one postponement before an item in the order of precedence is removed to the end of private members business is similarly not currently applicable.

*Options:*

Leave or adopt new provisions for the scheduling of private members business such as the whips conduct of business motion or other procedure.

***Standing order 186 – Debate on motions***

Standing order 186 which regulates debate on private members' motions is currently varied by two sessional as follows:

- The time for overall debate and for each speaker has been reduced to two hours since 2011.
- A provision for a motion to extend debate time on the interruption of the debate.

***Sessional order - short form motions***

In May 2019 provision was made for private members to move that a motion standing in their name on the notice paper be considered in a shortened timeframe of 30 minutes with corresponding limits on individual speakers. The sessional order, resulting in a significant increase in the number of private members' motions being considered by the House.

*Options:*

- Adopt the shorter times for debate on private members motions
- Adopt short form motions as a standing order
- Adopt short form motions as the default and longer debates to be agreed by the House on motion without notice.
- Adopt a provision for extension of timed debates be subject to a separate order that applies to all timed debates.

**Chapter 30 – Conduct of members and strangers**

The most common procedure is for the President or the Chair of Committees to call a member to order under standing order 192. On three calls to order the member may be removed from the chamber until the end of the sitting. Standing order 190 and 191 provide for a member to be named and reported by the President and suspended by motion without notice. SO 191 deals with the duration of suspension.

*Options:*

Leave or change the order of standing orders 190, 191 and 192 to clarify that standing order 192 relates to less serious breaches of the standing orders and 190 and 191 are for more serious conduct by members.

## **Standing order 198 – Suspension of standing orders**

Standing order 198 (1)(b) provides for standing orders to be suspended by a motion moved either on notice or by leave of the House. Consistent with practice and precedent the standing order could be amended to clarify that standing orders can be suspended either by motion moved on notice, or on motion moved by leave.

*Option:*

Leave or clarify that a motion to suspend standing orders can be moved on notice or by leave.

Standing order 198 is also currently amended by sessional order to:

- Limit debate on a motion for suspension of standing orders to call on an item relating to standing order 52 or 53
- to call on forthwith a particular item on the notice paper to call on forthwith a particular item on the notice paper to be moved without notice.

These latter amendments are considered as Category 1 would be incorporated unchanged into any redrafted standing order.

## **Chapter 34 – Citizen’s Right of Reply**

### **Standing order 203 – Reference to committee**

The provision that a notice for adoption of a report of the Privileges Committee on a Citizen’s Right of Reply be set down for six sitting days can be interpreted to mean either that a motion for adoption cannot be moved until six days has passed or that a motion not moved within six days will be set down as private members’ business. The intention of the standing orders was the latter interpretation.

*Option*

Leave unchanged or adopt a minor drafting change to clarify the intention of the provision.

## **Chapter 35 – Committees**

### ***Standing order 204 – Sessional committees***

As no sessional committees have been appointed in many years consideration could be given to repealing the standing order.

*Option:*

Leave unchanged or repeal the standing order.

### ***Standing order 208 – Powers***

Standing order 208 purportedly sets out the powers of Legislative Council committees, however the powers and the source of committee powers could be more clearly expressed by setting out the power conferred by statute or common law (such as the power to send for and examine persons, papers, records and things) and those conferred by the House (authority to travel).

*Options:*

Leave unchanged or clarify the source of committee powers.

***Standing order 209 - Must not sit while the House is sitting***

Standing order 209 can be interpreted very strictly to provide that committees can only meet with the House stands adjourned. This interpretation is no longer realistic or practical with committees frequently meeting during the lunch and dinner adjournments of the House. A practical amendment could make it clear that committees can meet during a suspension or adjournment of the House.

*Option:*

Leave unchanged or amend the standing order to provide that committees can meet during a suspension or adjournment of the House.

***Standing order 211 – Chair and Deputy Chair***

Standing order 211 provides for the appointment or election of the Chair and Deputy Chair. A sessional order currently clarifies the provisions for the absence of the Chairs and provides for the circumstances of chairing a virtual meeting. The standing orders do not prescribe the role of the Chairs, unlike the standing orders of the Western Australian Legislative Council

*Option:*

Leave unchanged or adopt a similar provision to express the role of the Chair and Deputy Chair.

Standing order 211 is also subject to a sessional order providing for committee to appoint a member to act as chair when Chair and Deputy Chair not present.

***Standing order 216 – Member attendance***

Standing order 216 outlines what action can be taken if a member of a committee is absent from four or more consecutive meetings. There have been no instances of a member's absence being reported to the House under standing order 216(3). In practice the standing order does not apply as the House has made provision for substituting members according to SO 216(4). The sessional order adopted in May 2019 applies to all committees, except the procedure committee.

Given the standing order is obsolete, its repeal would have no practical impact on the operation of committees.

*Options:*

Leave unchanged or adopt the sessional order as a standing order and repeal standing order 216.

***Standing order 218 – Participation by members of the House and others***

Standing order 218 has been the subject of a long standing sessional order that amends the provisions to clarify that unless a committee decides otherwise, a member not a member of the committee may take part in public or private proceedings and question witnesses but may not vote, move any motion or be counted for the purpose of quorum or division.

A remaining point of uncertainty and interpretation is the extent to which participating members have access to committee documents.

*Option:*

Leave or adopt the sessional order and clarify the extent to which participating members have access to committee documents.

Standing order 218 is also subject to a sessional order clarifying that unless a committee decides otherwise, a member not a member of the committee may take part in public or private proceedings and question witnesses but may not vote, move any motion or be counted for the purpose of quorum

or division. This is a Category 1 sessional order and would be incorporated into any standing order.

### ***Standing order 220 – Joint Committees***

Standing order 220 provides that if the House agrees to a proposal from the Legislative Assembly to appoint a joint committee, the House will determine the time and place of the first meeting of the Committee. The Legislative Assembly has a correspondence standing order which explicitly states that the House originating the message for the appointment of a joint committee shall not nominate the time and place for the first meeting.

The standing order ensures that one House cannot purport to order the other House to attend a meeting at a set time and place. Rather the provisions ensure that comity is respected and that the Houses agree on the appointment of the committee first, and then the time and place for the first meeting.

In practice, it has not always been possible to determine the time and place for the first meeting before the message is returned to the Assembly agreeing to the appointment of the committee.

#### *Option:*

Leave unchanged or amend the standing order to make it clear that the Council can agree to the appointment of a joint committee but is not required to immediately determine the time and place for the first meeting in order to set the meeting by return message to the Legislative Assembly.

### ***Standing order 222 – Evidence***

Witnesses before a committee are to be given the opportunity of correcting their transcript of evidence, but corrections must be confined to “verbal inaccuracies or explanations of answers”. An amendment to clarify that witnesses are restricted to making “typographical errors or the duplication or omission of words” would make it clear that corrections in substance can only be made by giving further evidence.

#### *Option:*

Leave unchanged or amend the standing order to make it clear that corrections in substance can only be made by giving further evidence.

Standing order 222 is also subject to a sessional order requiring answers to questions to be directly relevant. This will need to be considered in the review as a Category 2 (2019) sessional order.

### ***Standing order 223 – Publishing submissions and evidence***

Standing order 223, which authorises committees to publish submissions and evidence before presentation to the House is somewhat outdated.

#### *Options:*

Leave as is or modernise the standing order by:

- omitting standing order 223(3) as the provision is covered by 223(1).
- omitting the provision for a committee to charge a reasonable sum for making copies available is outdated.
- omitting reference to “tape recordings” in standing order 223(4).

### ***Standing order 224 – Unauthorised disclosure of evidence and documents***

Standing order 224 would benefit from updating “press release” to “media release” and removing the reference ‘select’ committees rather than all committees.

#### *Option:*

Leave unchanged or update the standing order.

***Standing order 225 – No representation of witnesses***

Standing order 225 prohibits a person or body from being represented by "counsel or solicitor" whereas the Procedural Fairness Resolution refers to "legal advisor".

*Options:*

Leave unchanged or make the references to legal representation in the standing order and the Procedural Fairness Resolution consistent.

***Standing order 226 – Reports***

Historically a select committee ceased to exist on the tabling of a report. In recent years select committees have tabled interim reports and discussion papers before making a final report. Clarifying the power and right of a select committee to table interim reports without ceasing to exist would remove any doubt.

*Option:*

Leave unchanged or amend the standing order to clarify that select committees have the power to table interim reports.

***Standing order 231 – Tabling out of session***

The terms of standing order 231(1) do not make it clear that a committee can table a report with the Clerk when the House is suspended – for instance during a lunch break or on a long bell.

*Option:*

Leave unchanged or amend the standing order to make it clear that a committee can table a report with the Clerk when the House is adjourned or suspended

***Standing order 232 – Debate on committee reports***

Under a sessional order varying standing order 232, on a government response to a committee report being presented to the House a motion may be made without notice that the House take note of the government response. These are set down as orders of the day when debate on committee reports have precedence.

A separate sessional order provides for committee reports and the government response to the report to be debated together. The purpose of the sessional order is to facilitate the timely consideration of committee reports and responses and to reduce the number of separate items on the Notice Paper.

Improvements could be made to the drafting of the sessional orders to incorporate the provisions and streamline the procedures.

*Options:*

Leave unchanged or draft so the terms of the rules should be simplified and integrated.

***Standing order 233 – Government Response***

Standing order 233 does not make it clear that the requirement for a government response applies regardless of the prorogation of the House or the expiry of the Legislative Assembly.

In addition, reducing the time frame within which the government must respond from six months to, say, three months, would better harness the momentum of an inquiry.

*Option:*

Leave unchanged or amend the standing order to make it clear that government responses are

required notwithstanding prorogation; and/or reduce the timeframe for a response from six months.

## **Possible additional rules**

### **Sessional orders**

In the standing orders adopted in 1895, a provision was made for the House to adopt specific sessional orders, being the appointment of sessional committees and the days on which the House would meet “for the despatch of business” (SO 281). The authority to adopt sessional orders was not carried over into the 2004 standing orders. Despite the limited scope of sessional orders under SO 281 and the absence of the provision since 2004, numerous standing orders have been adopted over time. The adoption of a new standing order to authorise the adoption of sessional orders would clarify the scope and purpose of sessional orders.

### **Times for debate and speeches**

A number of the debate and speaker times for procedures in the Council are set by standing order. In recent years, sessional orders have been adopted to vary these times, for example private members’ motions have been reduced from three to two hour debates (SO 186) and answers to questions without notice (SO

64) have been reduced from four minutes to three minutes. Adopting debate times by sessional order rather than in standing order provides more flexibility and ability to adapt rules when necessary.

### **Extension of timed debates**

A sessional order was first adopted in 2011 to allow a motion to be moved at the end of debate on a private members’ motion to extend the debate (SO 198). Other timed debates do not have the same provision. A generic provision to allow timed debates to be extended on motion could provide consistency and certainty around these procedures.

### **Rules for joint sittings**

The rules for the conduct of joint sittings to fill a casual vacancy in the Legislative Council were set out in clause 12 of schedule 4 to the *Constitution and Parliamentary Electorates and Elections (Amendment) Act 1978*. Clause 12 was expressed to have effect until standing orders governing the proceedings of joint sittings were adopted by both Houses and approved by the Governor. The *Constitution and Parliamentary Electorates and Elections (Amendment) Act 1978* was repealed in 2007 without the Houses having adopted standing orders. Nevertheless, clause 12 of schedule 4 remains in force under section 30(2)(d) of the *Interpretation Act 1987*, which provides that the repeal of an act does not affect the operation of any transitional provision contained in the act. Consequently, joint sittings to fill casual vacancies in the Legislative Council have continued to be conducted under the rules set out in Clause 12. Any proposed new rules would either need to be adopted by the Legislative Assembly as standing orders or adopted by each Joint Sitting in a manner similar to the adoption of rules for Joint Sittings to fill a Senate vacancy.

## Appendix 4: Standing and sessional orders and resolution in category 3

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38	Routine of business
39	Business of the House
40	Government and general business
45	Postponement of business
46	Interruption of business
49	Journals
52	Orders for papers
54	Other methods of tabling documents
57	Printing of tabled papers and documents
59	Printing of tabled papers and documents
61	Record of members
65	Rules for questions
66	Answers to questions without notice
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185	Conduct of the draw
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190	Disorderly conduct by members
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- 225 No representation of witnesses
- 226 Reports
- 231 Tabling out of session
- 232 Debate on committee reports
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**Sessional orders**

- Interruption at midnight
- Supplementary questions and written answers, next sitting day
- Cut-off dates for government bills in the Budget and Spring sitting periods
- Suspension of standing orders 184 and 185
- Substituting an item in the order of precedence – SO 185
- Short form motions

**Resolution of continuing effect**

- Selection of Bills Committee

**Proposed new rules**

- Rules for joint sittings
- Time limits on debate
- Extension of debate
- Party representative
- Hybrid opening of parliament



## Appendix 5: Standing orders in category 4

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6	Proceedings on opening of Parliament by commission
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11	Term of office
14	Presentation to Governor
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18	Temporary Chairs
19	Title
20	Absence of President
21	Absence of President and Deputy President
22	Relief of President
23	Leaving the Chair
24	Absence of Clerk
26	Leadership of parties and groups
27	Meeting of Council
33	Ministerial reply to adjournment matters
35	Times of meeting
41	Reports of committees – precedence
42	Presentation of documents
43	Government business on Notice Paper
47	Questions
48	Ministerial statements
50	Custody of records
51	Hansard
53	Documents from the Governor
56	Documents quoted in debate
58	Amendments after tabling
60	Inspection of documents
62	Attendance of members
63	Leave of absence
68	Presentation of petitions
69	Form of petitions
70	Content of petitions
73	Notice required
75	Moving of motions
76	Leave of the House
80	Definition
81	Disposal of orders
82	Pre-audience
83	Order maintained by President
84	Conduct of members
85	Members to address President standing
86	President or Deputy President taking part in debate
87	Right to speak
88	Personal explanations
89	Explanations of speeches
91	Rules of debate
92	Relevance and anticipation
94	Continued irrelevance or tedious repetition
95	Interruption of speaker: points of order or privilege

96	Dissent from President's ruling
97	Motion that member be heard
98	Motion that member be no longer heard
99	Closure of debate
100	Putting of question ends debate
101	Adjournment of debate
102	Putting of question
103	Same question
104	Rescission of order
107	Form of the previous question
108	Determination of previous question
109	Moving of amendments
110	No amendment to words agreed to
111	Procedure for putting of amendments
112	Calling for divisions
114	Procedure for division
115	Counting of division
116	Casting vote
118	Correction of divisions
119	Divisions in committee
122	Presentation of message
123	Methods of communication
124	Message from the Council
125	Communicating a resolution
127	Messages to be recorded
128	Requests for conference
129	Appointment of managers
130	Sitting suspended
131	Time and place of conference
132	Proceedings at ordinary conference
133	Free conference under the Constitution Act
134	Report of conference
135	Conduct of ballot
139	Cognate bills
144	Amendments in committee
145	Uncompleted proceedings in committee
146	Report from committee
147	Recommittal of report
148	Third reading
149	Recommittal on third reading
150	Correction
151	Transmission to Assembly
152	Legislative Assembly amendments to bills originated in the Council
153	Bill again returned from the Assembly
155	Return of Legislative Assembly bill
156	Disagreement with Council amendments
157	Assembly amendments to Council amendments
158	Amendments after disagreement
159	Lapsed bills
161	Protest against the passing of a bill
162	Procedures after presentation of bills
163	Explanation, under the Constitution Act, of a departmental bill
173 – 178	Committee of the Whole House
179	Effect of instructions
181	Debate on instructions
182	Instruction to select or standing committees
183	Notice given
187	Debate on bills

189	Time limits to apply
193	President may suspend sitting or adjourn House
194	Powers of House not affected
195	Distinguished visitors
197	Removal of strangers for disorderly conduct
199	Effect of suspension
201	Urgency motions
202	Person referred to
206	Standing committees
207	Select committees
212	Priority of references
213	First meeting
214	Quorum
215	Loss of a quorum during a meeting
217	Sub-committees
219	Meeting or joining with other committees
221	Submissions
228	Members' opinions to be reflected
229	Chair's foreword
230	Tabling reports



## Appendix 6 Minutes

### Minutes No. 6

Wednesday 23 June 2021

Jubilee Room, 1.35 pm

#### 1. Members

Mr Mason-Cox (Chair)  
 Mr Borsak  
 Mr Buttigieg  
 Ms Faehrmann  
 Mr Harwin  
 Ms Hurst  
 Mr Mallard  
 Mrs Mitchell  
 Revd Mr Nile  
 Mr Roberts  
 Ms Sharpe  
 Mr Tudehope

#### 2. Apologies

Mr Khan, Mr Tudehope

#### 3. Draft minutes

Resolved, on the motion of Ms Sharpe: That draft minutes no. 5 be confirmed.

#### 4. Outstanding matters before the committee

The Clerk, at the invitation of the Chair, updated the committee on outstanding matters before the committee.

##### *Inquiry into broadcasting resolution*

The committee agreed that a draft report be prepared and updated once sufficient time had passed for the new video-on-demand service and other technical developments to have been tried and any issues resolved.

##### *Inquiry into the impact of the sessional order varying the scheduling of business and sitting days*

The committee agreed that rather than a separate report the changes to the scheduling of business should be incorporated into the committee review of the standing and sessional orders.

##### *Consultation on highly contentious bills*

The committee noted that the House had resolved, on 20 June 2019, that, until the end of 2020, the newDemocracy Foundation be commissioned to facilitate community participation, such as a citizens panel or jury, in committee inquiries into highly contentious bills, and for the Procedure Committee to report on the trial. The committee further noted that in relation to the only bill referred to a committee during the trial period, and following extensive consideration and negotiations between the Foundation and the relevant committee, newDemocracy were not commissioned to facilitate community participation.

The Chair advised that a draft report would be prepared for the committee's consideration.

The Committee agreed that the issue could be further considered during the review of the standing and sessional orders.

## 5. Inquiry into the standing and sessional orders

The Chair tabled the resolution of the House of Wednesday 9 June 2021 referring the matter to the committee:

- (1) That the Procedure Committee inquire into and report on:
  - (a) whether the current sessional orders should be adopted as standing orders,
  - (b) whether any current standing orders require amendment, and
  - (c) whether any additional standing orders should be adopted.
- (2) That the committee propose a draft revised set of standing orders for consideration by the House.
- (3) That the committee report by the first day of the second sitting week of 2022.
- (4) That, in the event that the Procedure Committee fails to report by the due date, the President be authorised to table a draft revised set of standing orders for consideration by the House and subsequent approval by the Governor.

The committee noted the resolution of the House this day: That the resolution appointing the Procedure Committee be amended by inserting after paragraph (4):

- (1) That the committee have the power to appoint sub-committees.
- (2) That, notwithstanding anything to contrary in the resolution appointing the committee, Mr Searle be appointed as a member of the Procedure Committee in place of Ms Sharpe for the purposes of the committee's review of the standing and sessional orders.

Resolved on the motion of Mr Graham: That the members of the sub-committee for the inquiry into the standing and sessional orders be the Chair, Mr Borsak, Mr Roberts, Mr Searle, two additional Government members and one additional cross bench member.

Resolved on motion of Ms Mitchell: That the secretariat be authorised to prepare an issues paper, in the form of annotations to the current standing and sessional orders, for consideration by the sub-committee and report to the committee.

## 7 Other business

Mrs Mitchell noted that a member had filmed in her office without her consent. The Committee agreed that filming on members' floors and in offices be a matter for future discussion.

## 8 Next meeting

To be advised.

## **9 Meeting adjourned at 2.07pm**

The Hon Matthew Mason-Cox MLC

**President (Chair)**

### **Minutes No. 7**

28 March 2022

President's Dining Room, 10.00 am

#### **1. Members**

Mr Mason-Cox (Chair)  
Mr Borsak  
Mr Buttigieg  
Mr Frang  
Mr Farlow  
Mr Graham  
Ms Hurst  
Mr Mallard (via webex)  
Mrs Mitchell  
Revd Mr Nile  
Mr Roberts  
Ms Sharpe  
Mr Tudehope

#### **2. Apologies**

Ms Faehrmann  
Ms Hurst

#### **3. Participating**

Mr Searle

#### **4. Minutes of meeting no. 6 of the Procedure Committee meeting of 23 June 2021**

Resolved on the motion of Revd Nile: That the minutes of meeting no. 6 be adopted.

#### **5. New inquiry – Auslan interpretation for broadcasting**

The Chair tabled the terms of reference for the inquiry referred by the House on Wednesday 23 February 2022:

- (1) That the Procedure Committee inquire into and report on:
  - (a) the merits of varying the standing orders to introduce live Auslan interpretation in the broadcasting of all or part of the Legislative Council's proceedings,
  - (b) alternative mechanisms for ensuring the Legislative Council acts in accordance with the United Nations Convention on the Rights of Persons with Disabilities requiring equal access to information and communications (including through live sign language interpretation) signed by Australia in 2007, and
  - (c) any other related matter.

The committee discussed whether the inquiry should be incorporated into the existing inquiry into the broadcasting resolution.

Mr Graham noted the Senate approach to photography in the chamber and requested it be considered during the inquiry into the broadcasting resolution.

Mrs Mitchell noted the issue she had raised in the past concerning the live stream of House and committee proceedings on social media and requested it be considered during the inquiry into the broadcasting resolution.

Resolved on the motion of Ms Sharpe: That the committee secretariat prepare a draft time line for the inquiry into AUSLAN Interpretation of Council proceedings to be considered at the next meeting.

Resolved on the motion of Mr Borsak: That the draft report on the committee's inquiry into the broadcasting resolution be updated to include video on demand, live captioning and issues raised by Mr Graham and Mrs Mitchell.

## **6. Review of standing and sessional orders**

The Chair submitted his draft report which contained the sub-committee's report and a draft set of new standing orders. The Chair's draft report, having been circulated, was taken as being read.

The committee considered items in the sub-committee report which were not resolved by the sub-committee. The committee agreed that if consensus was not reached on these items, that the sessional order, or the standing order as varied by a sessional order, would remain unchanged and any outstanding issues able to be resolved by the House.

### **Standing order 25 – Parliamentary Secretaries**

The committee noted the sub-committee's proposal that the provision in the sessional order preventing a parliamentary secretary from chairing a committee be limited to those committees with a remit that relates to the parliamentary secretary's portfolio responsibilities. However, the matter was referred to the Procedure Committee for a decision as to whether the provision should be adopted in the standing orders.

Resolved, on the motion of Revd Nile: That standing order 25 be amended to include the provision in the current sessional order that prohibits a parliamentary secretary from chairing any select,



standing or portfolio committee.

### **Standing order 52 – Orders for the production of papers**

The committee noted that the sub-committee considered whether to include in standing order 52 the standard provision in orders for the production of any legal or other advice created as a result of the order of the House.

As there was no consensus the proposed provision is not included in the draft new rules proposed to the House.

#### ***Varying the scope of an order for papers***

The committee noted that the sub-committee had agreed that the provision in a current sessional order for the variation of a scope of an order for papers should be adopted as a standing order but a proposal to extend the timeframe within which a request to vary the scope of an order for papers must be resolved from seven days to 14 days was left to the Procedure Committee to determine.

Resolved on the motion of Mr Fang: That the timeframe within which a request to vary the scope of an order for papers must be resolved, be extended from seven days to 14 days.

#### ***Role of the Privileges Committee in disputed claims of privilege***

The committee noted that the sub-committee had agreed that the role of Privileges Committee in disputed claims of privilege should be adopted as a standing order. However, the sub-committee did not resolve whether there should be a delay between the tabling of the Arbiter's report and the consideration of whether documents considered not privileged by the Arbiter should be made public, are referred to the Procedure Committee.

The committee discussed whether there should be an automatic delay for, say, seven days, between the publication of the arbiter's report and the consideration by the Privileges Committee as to whether any documents considered not to be privileged by the independent legal arbiter should be published.

As there was no consensus, no amendments are proposed to the sessional order providing for the role of the Privileges Committee in disputed claims of privilege.

#### ***Returns to orders containing personal information***

The committee noted that the sub-committee had considered a number of options for a new provision for dealing with claims that documents should not be made public because they contain personal or private information but had not reached agreement. The sub-committee presented two options in its report for consideration of the Procedure Committee.

The Clerk noted the decision to be made will have an impact on the e-returns project.

As there was no consensus, a provision for claiming that documents should not be made public because they contain personal or private information is not included in the draft new rules proposed to the House.

***Definition of privilege***

The committee noted that the sub-committee had discussed whether there was value in defining the meaning of "privilege" under standing order 52. While agreement was not reached, the subcommittee provided a definition in its report for consideration by the Procedure Committee.

As there was no consensus a definition of privilege is not included in the draft new rules proposed to the House.

***Outstanding matters relating to orders for the production of document under standing order 52***

The committee notes that there are outstanding matters raised during this inquiry and during the 2021 Roundtable which have not been resolved.

Resolved on the motion of Mrs Mitchell:

- (4) That the Procedure Committee recommend in its report to the House that a further inquiry be established to consider outstanding issues relating to orders for papers, including those outstanding issues identified in the 2021 Roundtable.
- (5) That the procedures be considered in the context of the development of a system for electronic returns to orders.
- (6) That consideration be given to whether a practice note issued by the President could put in place procedures for managing outstanding issues relating to orders for papers.

**Standing order 64 – Questions to ministers and other members**

The committee noted that the sub-committee had not decided whether the provision in sessional orders for questions without notice to be put to parliamentary secretaries should be adopted as a sessional order.

The committee also noted that a proposal that a second supplementary question, as provided for in sessional order, may only be asked by a member of a different party.

Resolved on the motion of Mr Borsak:

- (1) That the provision for questions without notice to be put to parliamentary secretaries be adopted in the standing order.
- (2) That the second supplementary question, as provided for in current sessional order, be adopted in the standing order with the variation that it may only be asked by a member of a different party.

***Standing order 117 - Points of order in division***

The committee noted that the sub-committee considered whether to modernise the practice by removing the need to be covered but did not reach agreement but did resolve the matter.

As there was no consensus the requirement in the standing order for a member to "be covered" when taking a point of order in a division will not be amended in the draft new rules proposed to the House.

***Selection of bills committee***

The committee notes that the sub-committee recommended that the provisions for a Selection of Bills Committee be adopted as a standing order.

An outstanding issue which the sub-committee did not resolve, was a proposal that the Selection of Bills Committee report to the House any bill, other than an appropriation bill for the ordinary annual services of the government, that is not accompanied by a completed Statement of Public Interest (a proposal promoted by the Evidence-Based Policy Research Project).

The committee considered that the proposal might be better aligned with the functions of the joint Legislative Review Committee.

The committee considered the merits of the proposal but as there was no consensus, the proposal will not be included in the draft new rules proposed by the House.

### ***Standing order 138 – Urgent bills***

The committee noted that the sub-committee had considered whether the provision in standing order 138 for a Minister to declare a Council bill urgent should apply only to Government bills or also apply to private members' bills, and whether the motion should be restricted to a Minister.

Resolved on the motion of Mr Tudehope: That standing order 138 be amended to clarify that a motion to declare a bill urgent under the standing order can only be moved by a minister in relation to a government bill introduced in the Council.

### ***Standing order 205 – Procedure Committee***

The committee noted that the sub-committee had agreed that standing order 205 should be amended to include as ex-officio membership of the committee to include the Assistant President, the Deputy Leader of the Government and Deputy Leader of the Opposition and the Government and Opposition Whips but referred the question as to whether the membership of the committee should be further amended to ensure representation of all parties and independent members to the Procedure Committee for determination.

Resolved on the motion of Revd Nile: That standing order 205 be further amended to ensure representation of all parties and independent members on the Procedure Committee.

### ***Standing order 233 – Government response***

The committee noted that the sub-committee had considered whether to reduce the time frame within which the government must respond to a committee report from six months to three months but had not resolved the matter.

The committee considered that as there was no consensus the standing order should remain unchanged.

Resolved, on the motion of Revd Nile:

- (1) That the draft report, as amended, be the report of the committee and that the committee present the report to the House.
- (2) That the committee secretariat correct any typographical, grammatical and formatting errors prior to tabling.
- (3) That the committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations or new recommendations resolved by the committee.

Mr Tudehope noted the committee's thanks to the Secretariat.

The President also thanked members and the Secretariat for their work on the inquiry.

**7. Next meeting**

The President to circulate possible dates for the next meeting

**8. Meeting closed at 11.25 am.**

The Hon Matthew Mason-Cox MLC

**President (Chair)**



