



LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

Standing Orders Committee

Fifth Report of the 11th Assembly
including

Report to the Assembly on the Reference to the Committee
dated 18 August 2010 relating to Estimates Committee Process for 2011
Report on Right of Reply
Amendment to Notice Paper and Standing Order 90—Routine,
Amendment to Standing Order 118—Replies

October 2010

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the Northern Territory
October 2010

LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

Standing Orders Committee

Office of the Clerk
Legislative Assembly of the Northern Territory
Parliament House
Darwin NT 0800
Telephone: (08) 8946 1450
Email: ian.mcneill@nt.gov.au
URL: <http://www.nt.gov.au/lant/parliament/committees/so/>

Members of the Committee as at October 2010

Dr Chris Burns MLA - Chairman
The Honourable Jane Aagaard MLA
Mr Matt Conlan MLA
Mr Michael Gunner MLA
Mr Peter Styles MLA
Mr Gerry Wood MLA

Committee Secretariat

Mr Ian McNeill, Secretary
Ms Jane Gunner, Research/Administrative Officer

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Membership of the committee at the time of tabling of the Report:

Dr Chris Burns MLA

Appointed 10 February 2009
Australian Labor Party
Member for Johnston: First elected 18 August 2001
Leader of Government Business
Minister for Education and Training
Minister for Public and Affordable Housing
Minister for Public Employment
Other Committees: Members' Interests

The Honourable Jane Aagaard MLA

Appointed 9 September 2008
Australian Labor Party
Member for Nightcliff: First elected 18 August 2001
Speaker of the Legislative Assembly
Other Committees: Members' Interests, House, Legal and Constitutional Affairs

Mr Matthew Conlan MLA

Appointed 9 September 2008
Country Liberal Party
Member for Greatorex: First elected 28 July 2007
Other Committees: Members' Interests

Mr Michael Gunner MLA

Appointed 9 September 2008
Australian Labor Party
Member for Fannie Bay: First elected 9 August 2008
Government Whip
Other Committees: Public Accounts, Legal and Constitutional Affairs, Subordinate Legislation and Publications, Environment and Sustainable Development

Mr Peter Styles MLA

Appointed 9 September 2008
Country Liberal Party
Member for Sanderson: First elected: 9 August 2008
Other Committees: Members' Interests, Environment and Sustainable Development

Mr Gerry Wood MLA

Appointed 20 August 2009
Independent
Member for Nelson: First elected 18 August 2001
Other Committees: Public Accounts, Environment and Sustainable Development and The Council of Territory Cooperation

RECOMMENDATIONS

1. The Standing Orders Committee recommends the following changes to the conduct of Estimates Committee and Government Owned Corporation Committee hearings.

- (a) A global time limit of 60 hours with allocation of time within that 60 hours of a maximum of eight hours for the Chief Minister and for the Treasurer and a maximum of seven hours for each other Minister for the Estimates Committee hearings and the Government Owned Corporation Committee; and
- (b) for the allocation of those appearance times be determined by the Public Accounts Committee.
- The hearings to be held over two weeks on Tuesday, Wednesday and Thursday.
- The number of proposed sitting days of the Assembly be reduced to reflect any additional days and hours allocated for the Estimates Committee.
- The Portfolio Minister and the Shareholding Minister appear during the time of the Government Owned Corporation appearance in addition to the Chairman and Chief Executive Officer.

2. The Standing Orders Committee recommends a Right of Reply be adopted by the Legislative Assembly and the Right of Reply be the same as that in place in the House of Representatives and guidelines to be closely based on the House of Representatives guidelines and to be reviewed in 12 months.

The Right of Reply of persons referred to in the Legislative Assembly and the Guidelines are as follows:

Right of Reply of persons referred to in the Legislative Assembly

That:

- (1) Where a person who has been referred to by name, or in such a way as to be readily identified, in the Assembly, makes a submission in writing to the Speaker:
 - (a) claiming that the person has been adversely affected in reputation or in respect of dealings or associations with others, or injured in occupation, trade, office or financial credit, or that the person's privacy has been unreasonably invaded, by reason of that reference to the person; and
 - (b) requesting that the person be able to incorporate an appropriate response in the parliamentary record;

and if the Speaker is satisfied:

- (c) that the subject of the submission is not so obviously trivial or the submission so frivolous, vexatious or offensive in character as to make it inappropriate that it be considered by the Standing Orders Committee; and
- (d) that it is practicable for the Standing Orders Committee to consider the submission under this resolution,

the Speaker shall refer the submission to that Committee.

- (2) The Committee may decide not to consider a submission referred to it under this resolution if the Committee considers that the subject of the submission is not sufficiently serious or the submission is frivolous, vexatious or offensive in character, and such a decision shall be reported to the Assembly.
- (3) If the Committee decides to consider a submission under this resolution, the Committee may confer with the person who made the submission and any Member who referred in the Assembly to that person.
- (4) In considering a submission under this resolution, the Committee shall meet in private session.
- (5) The Committee shall not publish a submission referred to it under this resolution or its proceedings in relation to such a submission, but may present minutes of its proceedings and all or part of such submission to the Assembly.
- (6) In considering a submission under this resolution and reporting to the Assembly the Committee shall not consider or judge the truth of any statements made in the Assembly or of the submission.
- (7) In its report to the Assembly on a submission under this resolution, the Committee may make either of the following recommendations:
 - (a) that no further action be taken by the Assembly or by the Committee in relation to the submission; or
 - (b) that a response by the person who made the submission, in terms specified in the report and agreed to by the person and the Committee, be published by the Assembly or incorporated in the *Parliamentary Record*,

and shall not make any other recommendations.

- (8) A document presented to the Assembly under paragraph (5) or (7):
 - (a) in the case of a response by a person who made a submission, shall be succinct and strictly relevant to the questions in issue and shall not contain anything offensive in character; and

- (b) shall not contain any matter the publication of which 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 such adverse effect, injury or invasion of privacy suffered by a person.
- (9) The Committee may agree to guidelines and procedures, not inconsistent with this resolution, to apply to the consideration by it of submissions.
- (10) This resolution shall continue in force unless and until amended or rescinded by the Assembly in this or a subsequent Assembly.

Right of Reply Guidelines

Submissions from persons referred to in debate

A person who has been referred to in a debate in the Assembly may make a submission, claiming that he or she has been adversely affected in reputation or in respect of dealings or associations with others, or injured in occupation, trade, office or financial credit, or that his or her privacy has been unreasonably invaded, by reason of that reference, and requesting that an appropriate response be incorporated in the parliamentary record.

Submissions must be sent to the Speaker. If the Speaker is satisfied that the matter is not obviously trivial, or frivolous, vexatious or offensive, and that it is practicable for the committee to consider the submission under the procedure, he or she must refer it to the Standing Orders Committee.

The Standing Orders Committee may decide not to consider a submission if it considers that the submission is not sufficiently serious or that it is frivolous, vexatious or offensive. Such a decision must be reported to the Assembly.

When it considers a submission, the Standing Orders Committee:

- may confer with the person who has lodged it, and the Member(s) who referred to the person;
- may meet in private session;
- may not consider or judge the truth of any statements made in the Assembly or in the submission;
- may not publish the submission or its proceedings in relation to the submission, but may present minutes of its proceedings and all or part of the submission to the Assembly.

In a report under the procedure the committee can only recommend that a response by the person, in terms agreed by the person and the committee and specified in the report, be published by the Assembly and incorporated in Hansard, or that no further action be taken by the Assembly or the committee. The committee may not make

any other recommendation. A recommended response must be succinct and strictly relevant to the questions in issue and must not contain anything offensive in character. A recommended response must not contain any matter the publication of which would unreasonably adversely affect or injure a person, or unreasonably invade a person's privacy; nor may it contain material which would unreasonably add to or aggravate any such adverse effect.

The Standing Orders Committee is authorised to agree to guidelines and procedures, not inconsistent with the resolution establishing the procedure, to apply to the consideration of submissions.

Guidelines provide that:

- an application must be received within 3 months of the making of the statement to which the person wishes to respond unless, because of exceptional circumstances, the committee agrees to consider an application received later;
- applications should only be considered from natural persons, they should not be considered if lodged by or on behalf of corporations, businesses, firms, organisations or institutions;
- applications should only be considered from persons who are Australian citizens or residents;
- an application must demonstrate that a person, who is named, or readily identified, has been subject to clear, direct and personal attack or criticism, and has been damaged as a result;
- applications must be concise, be in the character of a refutation or explanation only and must be confined to showing the statement complained of and the person's response and must not contain any offensive material;
- applications should not be considered from persons who wish to respond to a statement or remarks made in connection with the proceedings of a standing or select committee—such persons should contact the committee direct on the matter; and
- in considering applications, the committee will have regard to the existence of other remedies that may be available to a person referred to in the Assembly and whether they have been exercised.

3. The Standing Orders Committee recommends amendment to the Notice Paper to include a separate category to consider Committee Reports, Auditor-General's Reports and Government Responses and a Standing Order be agreed to as follows:

New Standing Order 93A - Consideration of committee reports and government responses and Auditor-General's reports

1. Where on any sitting day there are orders of the day for the resumption of debate on motions for the consideration or adoption of reports of committees, reports of the Auditor-General or government responses to such reports:

at the time provided in Standing Order 90, orders of the day relating to reports of committees or government responses presented to the Assembly or Auditor-General's reports shall be called on, in the order in which the respective reports or government responses were presented;

4. The Standing Orders Committee recommends amendments to Standing Order 90 to read as follows:

Standing Order 90—Routine

The Assembly shall proceed each day with its ordinary business in the following routine:—

(a) Monday, Tuesday and Thursday:

1. Prayers
2. Petitions
3. Government Business – Notices and Orders of the Day
4. At 2 p.m. Notices
5. Questions
6. Government Business – Notices and Orders of the Day
7. Papers
8. **Consideration of Committee Reports and Government Responses and Auditor-General's Reports**
9. Ministerial Statements
10. Discussion pursuant to Standing Order 94 (Matter of Public Importance)
11. Automatic Adjournment of the Assembly proposed at 9pm.

(b) Wednesday

1. Prayers
2. Petitions
3. Government Business – Notices and Orders of the Day
4. At 2 p.m. Notices
5. Questions
6. Government Business – Notices and Orders of the Day
7. Papers
8. **Consideration of Committee Reports and Government Responses and Auditor General's Reports**
9. Ministerial Statements
10. Discussion pursuant to Standing Order 94 (Matter of Public Importance)
11. General Business – Notices and Orders of the Day - 5.30pm to 9pm *
12. Automatic Adjournment of the Assembly proposed at 9pm.

5. **The Standing Orders Committee recommends amendments to Standing Order 118 to read as follows:**

Standing Order 118—Replies

- (1) The reply to a written question on the Question Paper shall be given by delivering the same to the Clerk. A copy thereof shall be supplied to the Member who has asked the question, and the question and reply shall be printed in the Question Paper and **the Question Paper to be tabled in the Assembly and/or included in the Parliamentary Record.**
- (2) A Minister should respond to a Written Question within 30 days of receipt by the Minister. If a Minister does not answer a written question asked by a Member within 30 days of the asking of that question the Minister is to provide an explanation to the Member asking that question.

REFERENCE TO THE STANDING ORDERS COMMITTEE TO REVIEW THE ESTIMATES COMMITTEE PROCESS FOR 2011

Introduction

The 4th Report of the Standing Orders Committee included a reference to review the Estimates Committee process for 2011 and report back to the Legislative Assembly no later than November 2010. The Report was adopted by the Assembly on 6 May 2010.

The terms of the reference are as follows:

The Standing Orders Committee agreed to undertake a review of the Estimates Committee process for 2011 with specific consideration and report no later than November 2010 on the specific matters of:

1. Extending the 2011 Estimates Committee to run over 2 weeks.
2. The hours of operation of the Estimates Committee, including Government Owned Corporations be set.
3. The number of sitting days be reduced to reflect any additional hours provided to Estimates Committee.
4. The option for generic questions be included in the Estimates Committee review process.

Submissions on the Estimate process were received from:

- Mr Peter Styles MLA and Mr Matt Conlan MLA on behalf of the Country Liberals
- Mr Gerry Wood MLA

A copy of the submissions are at Attachment A.

The Standing Orders Committee considered the reference at meetings on 10 June, 18 August and 7 October. The Committee agreed to the following Recommendations.

A minority report, submitted by the Opposition Members of the Committee, Mr Peter Styles MLA and Mr Matt Conlan MLA. A copy of the Minority Report is at Attachment B.

Recommendations

- (a) A global time limit of 60 hours with allocation of time within that 60 hours of a maximum of eight hours for the Chief Minister and for the Treasurer and a maximum of seven hours for each other Minister for the Estimates Committee hearings and the Government Owned Corporation Committee; and
- (b) for the allocation of those appearance times be determined by the Public Accounts Committee.

- The hearings to be held over two weeks on Tuesday, Wednesday and Thursday.
- The number of sitting days of the Assembly to be reduced to reflect any additional days and hours allocated for the Estimates Committee.
- The Portfolio Minister and the Shareholding Minister appear during the time of the Government Owned Corporation appearance in addition to the Chairman and Chief Executive Officer.

RIGHT OF REPLY

The Standing Orders Committee at its meetings on 18 August and 7 October 2010 considered adopting a Right of Reply in the Northern Territory Legislative Assembly.

Committee members were provided with options for procedures and guidelines for the operation of a Right of Reply process for persons referred to in the Assembly.

Particular reference was made to the Resolutions of Continuing Effect for the Protection of Persons and the Right of Reply of Persons referred to in the Australian Senate and the House of Representatives of the Commonwealth Parliament.

The Right of Reply was first introduced in the Australian context as one of the Privilege Resolutions of 1988 of the Australian Senate which provided for an opportunity for a person who has been adversely referred to in the Senate to have a response incorporated in the Parliamentary Record. The House of Representatives adopted a similar Resolution in August 1997 which was subsequently amended in February 1998. Copies of those Resolutions which provide for formal procedure for making a claim and submission and the process by which such submission is dealt with by Committees of the respective Houses and the Presiding Officers are contained in the attachment to these notes (Attachment C).

A summary of Senate Committee of Privileges Reports in respect of such submissions from September 2008 to date are provided at the attachment (Attachment D).

During the period of its operations the House of Representatives Committee of Privileges has developed a set of guidelines and procedures consistent with the Resolution to apply to the consideration of submissions.

Recommendation

A Right of Reply be adopted by the Legislative Assembly to mirror the Right of Reply in the House of Representatives and guidelines based on the House of Representatives Guidelines be adopted and reviewed in 12 months.

AMENDMENT TO NOTICE PAPER TO INCLUDE BUSINESS RELATING TO COMMITTEE REPORTS

The Standing Orders Committee at its meeting on 18 August 2010 considered background and options for alternative arrangements for the consideration of Committee reports and Government responses to Committee reports.

The issue was raised as the Assembly Standing Orders do not have any provision for the giving of precedence to the discussion and consideration of Assembly Committee reports and Government responses to Committee reports or Reports of the Auditor-General.

This issue has been of only minor concern as most such items having had Government Members chairing Assembly Committees, motions to take note of reports automatically became a province of Government Business and the Order of consideration of Government Business was a matter for the Government.

More recently a possible issue of concern has been raised in respect of the Council of Territory Co-operation, which chaired by an Independent Member means that a motion to take note of the report and further discussion becomes an item of General Business and subject to the limitations and provided for consideration under that heading.

Recommendation

The Notice Paper be amended to include a separate category to consider Committee Reports, Auditor-General Reports and Government Responses and a new Standing Order 93A.

AMENDMENT TO STANDING ORDER 118 TO ALLOW QUESTION PAPER TO BE TABLED IN THE ASSEMBLY AND/OR INCLUDED IN THE PARLIAMENTARY RECORD

The Standing Orders Committee at its meeting on 18 August 2010 were advised that with the recent increased number of Written Questions the 'green' *Parliamentary Record* for June would extend to 695 pages if the Written Questions and Answers were included.

Committee members agreed that the Written Questions and Answers that would normally have been included in the June *Parliamentary Record* be tabled as a deemed paper and be made available electronically.

At its meeting on 7 October 2010 Committee members considered the option to allow the Question Paper to be tabled in the Assembly and/or included in the Parliamentary Record. The Question Paper is available electronically.

Recommendation

Standing Order 118 be amended to allow the Question paper to be tabled in the Assembly and/or included in the Parliamentary Record.

Attachment A—Submissions to Estimates Committee Review Process for 2011

SUBMISSIONS RECEIVED

1.	Mr Gerry Wood MLA
2.	Mr Terry Mills MLA on behalf of Opposition Members – 6 October 2010
3.	Mr Terry Mills MLA on behalf of Opposition Members – 6 August 2010



Legislative Assembly of the Northern Territory

GERRY WOOD MLA
Independent Member for Nelson

PO Box 120 Howard Springs NT 0835
Nelson Electorate Office
Shop 5 Howard Springs Shopping Centre
Howard Springs NT 0835
Email: electorate.nelson@nt.gov.au

Nelson office telephone: 08 8983 1302
Fax: 08 8983 1638
Mobile: 0428 698 037
Parliament House: 08 8946 1591
Home: 08 8983 1237

SUBMISSION TO STANDING ORDERS COMMITTEE

REVIEW OF EXSTIMATES PROCESS

I would like to submit the following:

- Overall I think the 2010 Estimates was an improvement on the previous year.
- Scheduling the Treasurer first proved correct and more appropriate because estimates is the opportunity to question the budget which is the Treasurer's responsibility.
- The extended time allowed better coverage of the portfolios.
- The scheduling of portfolios allowed departmental staff to appear during the allocation time slots and did not waste their time waiting to appear and then being told they were not required.
- Being able to direct follow up questions to departmental staff is beneficial and I think next year will be used more effective.

Issues put forward for further consideration:

- The extension of time to 2 weeks will further enhance the process and allow for more efficient hours.
- Allocation of time allocation to portfolios needs to be considered on the importance of the portfolio and current issues not the seniority of the Minister responsible.
- I question why the Budget papers list Essential Services under the Minister for Essential Services but the committee is not able to question him.
- Could some consideration be given to placing all power, water and sewerage portfolios together eg. GOC Power Water, Essential Services and Indigenous Essential Services.

GERRY WOOD

6 August 2010

From: Greg Charter <Greg.Charter@nt.gov.au>
Date: 6 October 2010 4:23:26 PM ACST
To: Chris Burns <Chris.Burns@nt.gov.au>
Cc: Peter Styles <Peter.Styles@nt.gov.au>, Matt Conlan <Matt.Conlan@nt.gov.au>
Subject: FW: Estimates

Dear Dr Burns,

Please find the Opposition's submission on proposed changes to Estimates in 2011.

Sincerely

Greg Charter
Chief of Staff
Leader of the Opposition

Dear Standing Orders Committee Chair:

RE: Country Liberals Proposed Changes to the Estimates Hearings for 2011

Last year the Country Liberals entered negotiations with the Government and the Member for Nelson regarding Estimates. As a result there were some changes made to the processes around Estimates. The negotiations resulted in modest improvements to the efficacy of Estimates. It is our understanding that further, much needed, improvements would be considered for Estimates in 2011.

As part of those negotiations the Country Liberals agreed to set times, with some room to move, for each of the Ministers and for agencies. Those times were to be published so as to enable the agencies and Ministers to prepare accordingly.

The Country Liberals agreed to put in place time restrictions for Opposition members, thereby enabling independent members and backbench government members to ask questions. For the most part we believe this worked well. Some further refinement of this process will be needed in the future but we believe this has merit.

However, it is important to note that in doing this we gave up as much time as was actually gained from the increase in the hours for Estimates this year. Consequently we wish to see those hours lift to between 68 and 70 for next year.

Direct Questioning of Public Servants

The Country Liberals also sought an enhanced capacity to question senior public servants directly on budget matters, but not on matters of policy. We accepted a less prescriptive wording in the Estimates motion with the intention as assessing the outcomes.

We are of the view that the wording put in place did not meet the intent of less time wasted on ministerial waffle and more time effectively questioning senior public servants. Thus we will be pursuing a strong and unambiguous wording to give

Committee members the ability to ask direct questions on non-policy matters to the senior public servants.

Time for Estimates

All the allocated time for Estimates was used - indeed during the hearings the Country Liberals identified several areas to where questioning had to be limited. Our post Estimates review found that more time is essential.

Hence the Country Liberals support the position that Estimates be extended over two weeks and to between 68 to 70 hours, including the GOC and the Legislative Assembly.

The Country Liberals propose approximately 10 hours each for the Chief Minister and the Treasurer, with other senior Ministers being allocated 9 hours each and junior Ministers approximately 5 hours.

The Legislative Assembly and Government owned corporations should appear for a minimum of 2 hours.

Power and Water Minister

The Country Liberals also recommend that the Minister responsible for Power and Water sit with Power and Water during the hearing and be required to answer questions in regard to the operations of Power and Water.

Reduction in the Number of Sitting Days

In exchange for extra hours during Estimates the Country Liberals would not oppose a reduction of 3 sitting days during next financial year. However we believe the option of restoring the lost 3 sitting days should be reconsidered at the end of that financial year.

Estimates in the Chamber

The Country Liberals also hold the view that Estimates could and should occur in the Parliamentary Chamber. The Chamber offers the space needed to undertake this activity with the facilities already in place. Earlier this year the Leader of the Opposition wrote to the Chief Minister with this suggestion, unfortunately the arrangements for the existing committee room were well underway.

Our view is that Estimates would function more effectively in the Chamber and the support staff in particular would appreciate access to the adjoining facilities for preparation.

Estimates Review

Page 1 of 2

Jane Gunner

From: Greg Charter
Sent: Friday, 6 August 2010 12:21 PM
To: Ian McNeill
Subject: Estimates Review.doc

G'day Ian,

Please find the opposition submission on Estimates.

Sincerely

Greg Charter
Terry Mills Office

Estimates Review

The Opposition supports extending the Estimates Committee to 2 weeks in 2011. Other Australian Parliaments devote more time to the Estimates process than is currently the case in the NT. New South Wales, Victoria and South Australia's Estimates run over 2 weeks. It makes no sense for the jurisdiction with some of the deepest social and economic problems in the nation to have a truncated Estimates process. The extension of time granted for this year's Estimates highlighted the value of providing greater time for the questioning of Ministers. Government operates more efficiently under effective scrutiny.

The Opposition does not believe the extension of Estimates should come at the expense of other Parliamentary sitting days. Applying the principle that greater scrutiny produces better government outcomes and recognising that the Territory Parliament already sits fewer hours than any other in the country – there is no case for a reduction in the number of normal parliamentary sitting days. Indeed the recent truncating of the hours Parliament can sit on any given day has already reduced the operating hours of the Territory Parliament. The Opposition believes the additional days for Estimates should be added to the existing parliamentary schedule.

Overall the response from the Opposition was that the timetabled approach enabled clarity in respect to the allocation of time and that this led to a more efficient use of time.

There was a view expressed that the amount of time allocated to Independent, Labor and Country Liberals members was out of balance. It was noted in some responses that the time allocated to the Independents was disproportionate to their representation in parliament. This is in fact the case. The Independents were allocated 25% of the time for questions whilst they represent 2/25ths of the members of Parliament. But it needs to be considered that Ministers are excluded, by convention, from asking questions during Estimates. Hence the number of parliamentarians to undertake questioning is 17 of which the Independents represent 2/17ths. Under this formula the Independents are receiving around twice the time they would on a proportional basis. That said the Government was allocated 5 minutes in each hour or 1/12 the time, despite representing 4/17ths of the members permitted to ask questions. However convention is again important to understanding this division – Estimates is essentially the time for non-government members to question Ministers. Government backbenchers have direct access to Ministers, something denied to non-government members.

After considering the above, the Opposition has decided it supports the allocation of time for Opposition, Independent and Government members that was employed during the 2010 Estimates process.

6/08/2010

The Opposition also believes there should be the possibility of Opposition members returning to an output group after questions have been put by Independents. It would necessitate some negotiation between Opposition and Independent members but such an arrangement would lead to potentially the most effective level of questioning and hence better outcomes for Territorians.

The Opposition are also in favour of allowing questions to be put to the Ministers responsible for government owned corporations. eg the Minister for Essential Services should be able to be questioned about operational matters concerning Power and Water. It is an anomaly that the Ministers directly responsible for the operations of government owned corporations are not available to answer questions about those corporations.

Regarding generic questions, the Opposition believes the process was less than satisfactory during the 2010 Estimates. Often the answers from Ministers did not arrive until the last moment, and in some cases not at all. To avoid a repeat of this failure next year the Opposition proposes that a specific times be set by which generic questions need to be provided to the Government and another time by which they need to be answered. Requiring questions to be submitted 60 days prior to the beginning of Estimates 2011 and written answers provided no later than 7 days prior to the beginning of Estimates is fair and reasonable.

6/08/2010

**Attachment B— Minority Report submitted by Country Liberal MLA's
Mr Matt Conlan MLA and Mr Peter Styles MLA**

20 October 2010

Reduction in Sitting Hours

The Opposition do not believe that there should be any reduction to the number of sitting days as a result of a second week being allocated to Estimates Committee.

While an extra week for Estimates Committee is welcome the decision to make the expansion at the expense of normal sitting days has simply retained the status quo rather than delivering genuine improvement to the Territory's Parliamentary process.

The Territory Parliament already has the fewest number of sitting days of any Parliament in Australia and the intention behind the request to extend Estimates Committee operating days was to address this imbalance. The Committee's failure to embrace this opportunity is an opportunity lost. Greater scrutiny of Government is the only way to create a more effective, efficient and robust Government.

Questions on Notice

The process of questions on notice specifically for Estimates Committee desperately needs reform.

The Opposition believes that by submitting generic questions to Agencies 60 days before sitting days with responses to be returned no later than 7 days before Estimates Committee will improve the process for both Parliamentary members and Departmental Staff.

Generic questions are an important part of scrutinising the operation of Departments and provide a valuable picture about the operations of different Departments through their responses to a consistent set of questions. Time for questioning Ministers during Estimates is a finite resource and should be used to explore the intricacies of how the Budget will impact each Agencies unique and complex operations and services.

This motion is about balancing the necessity of routine generic questions with the responsible interrogation of budgetary process within Departments. It is not a motion to amend the current operating practices of routine Questions on Notice, although some Departments do need to improve the expediency of their replies.

Estimates Committee Hours of Operation

The Opposition believe the global hours of operation for the Estimates Committee be extended to 70 hours and that the division of hours be divided to weighted to reflect the importance of a Minister's portfolio.

Division of hours must be proportionate to the complexity each Minister's responsibilities entail. A maximum 7 hours to question a Minister regardless of their responsibilities does

not allow proper scrutiny of senior Ministers' responsibilities and represents a potential waste of time if the 7 hours allocated to a junior Minister is not fully utilised.

The Opposition believe these matters should be revisited after the completion of the 2011 Estimates Committee.

Attachment C—Resolutions of the House of Representatives and Senate

The Senate Standing Orders, June 2009 p109-110

Protection of persons referred to in the Senate

1. Where a person who has been referred to by name, or in such a way as to be readily identified, in the Senate, makes a submission in writing to the President:
 - a. claiming that the person has been adversely affected in reputation or in respect of dealings or associations with others, or injured in occupation, trade, office or financial credit, or that the person's privacy has been unreasonably invaded, by reason of that reference to the person; and
 - b. requesting that the person be able to incorporate an appropriate response in the parliamentary record,

if the President is satisfied:

- c. that the subject of the submission is not so obviously trivial or the submission so frivolous, vexatious or offensive in character as to make it inappropriate that it be considered by the Committee of Privileges; and
- d. that it is practicable for the Committee of Privileges to consider the submission under this resolution,

the President shall refer the submission to that Committee.

2. The Committee may decide not to consider a submission referred to it under this resolution if the Committee considers that the subject of the submission is not sufficiently serious or the submission is frivolous, vexatious or offensive in character, and such a decision shall be reported to the Senate.
3. If the Committee decides to consider a submission under this resolution, the Committee may confer with the person who made the submission and any Senator who referred in the Senate to that person.
4. In considering a submission under this resolution, the Committee shall meet in private session.
5. The Committee shall not publish a submission referred to it under this resolution or its proceedings in relation to such a submission, but may present minutes of its proceedings and all or part of such submission to the Senate.
6. In considering a submission under this resolution and reporting to the Senate the Committee shall not consider or judge the truth of any statements made in the Senate or of the submission.
7. In its report to the Senate on a submission under this resolution, the Committee may make either of the following recommendations:
 - c. that no further action be taken by the Senate or by the Committee in relation to the submission; or
 - d. that a response by the person who made the submission, in terms specified in the report and agreed to by the person and the Committee, be published by the Senate or incorporated in Hansard,

and shall not make any other recommendations.

8. A document presented to the Senate under paragraph (5) or (7):

. in the case of a response by a person who made a submission, shall be succinct and strictly relevant to the questions in issue and shall not contain anything offensive in character; and

a. shall not contain any matter the publication of which 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 such adverse effect, injury or invasion of privacy suffered by a person.

***House of Representatives, Standing and Sessional Orders
as at 1 December 2008, p 125-126***

Right of reply of persons referred to in the House

Resolution adopted 27 August 1997, amended 13 February 2008 a.m.

That:

- (1) Where a person who has been referred to by name, or in such a way as to be readily identified, in the House, makes a submission in writing to the Speaker:
 - (a) claiming that the person has been adversely affected in reputation or in respect of dealings or associations with others, or injured in occupation, trade, office or financial credit, or that the person's privacy has been unreasonably invaded, by reason of that reference to the person; and
 - (b) requesting that the person be able to incorporate an appropriate response in the parliamentary record;

and if the Speaker is satisfied:

- (c) that the subject of the submission is not so obviously trivial or the submission so frivolous, vexatious or offensive in character as to make it inappropriate that it be considered by the Committee of Privileges and Members' Interests; and
 - (d) that it is practicable for the Committee of Privileges and Members' Interests to consider the submission under this resolution,the Speaker shall refer the submission to that Committee.

- (2) The Committee may decide not to consider a submission referred to it under this resolution if the Committee considers that the subject of the submission is not sufficiently serious or the submission is frivolous, vexatious or offensive in character, and such a decision shall be reported to the House.

- (3) If the Committee decides to consider a submission under this resolution, the Committee may confer with the person who made the submission and any Member who referred in the House to that person.

- (4) In considering a submission under this resolution, the Committee shall meet in private session.

- (5) The Committee shall not publish a submission referred to it under this resolution or its proceedings in relation to such a submission, but may present minutes of its proceedings and all or part of such submission to the House.

- (6) In considering a submission under this resolution and reporting to the House the Committee shall not consider or judge the truth of any statements made in the House or of the submission.

(7) In its report to the House on a submission under this resolution, the Committee may make either of the following recommendations:

- (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 terms specified in the report and agreed to by the person and the Committee, be published by the House or incorporated in *Hansard*,

and shall not make any other recommendations.

(8) A document presented to the House under paragraph (5) or (7):

- (a) in the case of a response by a person who made a submission, shall be succinct and strictly relevant to the questions in issue and shall not contain anything offensive in character; and
- (b) shall not contain any matter the publication of which 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 such adverse effect, injury or invasion of privacy suffered by a person.

(9) The Committee may agree to guidelines and procedures, not inconsistent with this resolution, to apply to the consideration by it of submissions.

(10) This resolution shall continue in force unless and until amended or rescinded by the House in this or a subsequent Parliament.

Extracted from the House of Representatives Standing Orders (Dec. 2008).

Attachment D—Summary of Senate Committee of Privileges Reports in respect of such submissions from September 2008 to date

Odgers Australian Senate Practice, 12th Edition, p648

APPENDIX COMMITTEE OF PRIVILEGES REPORTS

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REPORT	DATE MATTER REFERRED	REFERRED BY	DATE REPORT TABLED	FINDINGS/ RECOMMENDATIONS	ACTION BY SENATE
Persons referred to in the Senate – certain persons on behalf of the Exclusive Brethren Christian Fellowship (No.135) PP No. 338/2008	17/09/2008	President	24/09/2008 (J.940)	Recommendation <ul style="list-style-type: none"> That the response by certain persons on behalf of the Exclusive Brethren be incorporated in <i>Hansard</i> 	Report adopted 24/09/2008 (J.940)
Persons referred to in the Senate – Mr Barry Williams, President of the Lone Fathers Association of Australia Inc. (No. 136) PP No. 4/2009	3/02/2009	President	10/02/2009 (J.1579)	Recommendation <ul style="list-style-type: none"> That the response by Mr Barry Williams be incorporated in <i>Hansard</i> 	Report adopted 10/2/2009 (J.1579)
Persons referred to in the Senate – Mr Anthony and Mrs Brenda Bird, members of the Exclusive Brethren (No. 137)	17/09/2008	President	10/02/2009 (J.1579)	Recommendation <ul style="list-style-type: none"> That the response by Mr and Mrs Bird be incorporated in <i>Hansard</i> 	Report adopted 10/2/2009 (J.1579)

Attachment D

PP No. 5/2009					
Persons referred to in the Senate – The Medical Council of Tasmania (No.138) PP No. 176/2009	26/8/2009	President	14/09/2009(J.2467)	Recommendation <ul style="list-style-type: none"> ▪ That response be incorporated in <i>Hansard</i> 	Report adopted 14/09/2009(J.2467)
Persons referred to in the Senate – Mr Alan Cummine (No.139) PP No. 192/2009	16/10/2009	President	26/10/2009(J.2579)	Recommendation <ul style="list-style-type: none"> ▪ That response be incorporated in <i>Hansard</i> 	Report adopted 26/10/2009(J.2579)
Persons referred to in the Senate – Mr Richard Stanton (No.140) PP No. 301/2009	16/10/2009	President	29/10/2009(J.2693)	Recommendation <ul style="list-style-type: none"> ▪ That response be incorporated in <i>Hansard</i> 	Report adopted 29/10/2009(J.2693)
Possible interference with, or imposition of a penalty on, a witness before the Legal and Constitutional Affairs References Committee (No.141) PP No. 318/2009	10/09/2009	Senate:President determined precedence 9/09/2009 (J.2419). Motion moved by Senator Barnett and agreed to	23/11/2009(J.2817)	No contempt should be found but Chairs' Committee to consider adequacy of information provided to witnesses	Motion relating to findings and recommendation still before Senate
Matters arising from the Economics Legislation Committee hearing on 19 June 2009 (referred 24 June and 12 August 2009) (No.142) PP No. 396/2009	24/06/2009 and 12/08/2009	Senate:President determined precedence 23/06/2009 (J.2161-2) and 11/08/2009 (J.2221-2). Motions moved by Senator Heffernan and Senator Evans and agreed to	25/11/2009(J.2873)	Extensive findings on two references including that Mr Grech's state of health prevented an assessment of his culpability, necessary for a finding of contempt. Matters arising to be considered by the President and the Chairs' Committee	Motion relating to findings and recommendations still before Sena

Attachment E—House of Representatives Guidelines for Citizen’s Right of Reply

House of Representatives Practice, 5th edition p751-753

CITIZEN’S RIGHT OF REPLY

Submissions from persons referred to in debate

A person who has been referred to in a debate in the House may make a submission, claiming that he or she has been adversely affected in reputation or in respect of dealings or associations with others, or injured in occupation, trade, office or financial credit, or that his or her privacy has been unreasonably invaded, by reason of that reference, and requesting that an appropriate response be incorporated in the parliamentary record. Submissions must be sent to the Speaker.²⁷² If the Speaker is satisfied that the matter is not obviously trivial, or frivolous, vexatious or offensive, and that it is practicable for the committee to consider the submission under the procedure, he or she must refer it to the Committee of Privileges. The Committee of Privileges may decide not to consider a submission if it considers that the submission is not sufficiently serious or that it is frivolous, vexatious or offensive. Such a decision must be reported to the House.

When it considers a submission, the Committee of Privileges:

- may confer with the person who has lodged it, and the Member(s) who referred to the person;
- may meet in private session;
- may not consider or judge the truth of any statements made in the House or in the submission;
- may not publish the submission or its proceedings in relation to the submission, but may present minutes of its proceedings and all or part of the submission to the House.

In a report under the procedure the committee can only recommend that a response by the person, in terms agreed by the person and the committee and specified in the report, be published by the House and incorporated in Hansard, or that no further action be taken by the House or the committee. The committee may not make any other recommendation. A recommended response must be succinct and strictly relevant to the questions in issue and must not contain anything offensive in character. A recommended response must not contain any matter the publication of which would unreasonably adversely affect or injure a person, or unreasonably invade a person’s privacy; nor may it contain material which would unreasonably add to or aggravate any such adverse effect.²⁷³

The Committee of Privileges is authorised to agree to guidelines and procedures, not inconsistent with the resolution establishing the procedure, to apply to the consideration of submissions. Guidelines adopted in 1997,²⁷⁴ revised in October 2003,²⁷⁵ provide that:

- an application must be received within 3 months of the making of the statement to which the person wishes to respond unless, because of exceptional circumstances, the committee agrees to consider an application received later;

- applications should only be considered from natural persons, they should not be considered if lodged by or on behalf of corporations, businesses, firms, organisations or institutions;
- applications should only be considered from persons who are Australian citizens or residents;
- an application must demonstrate that a person, who is named, or readily identified, has been subject to clear, direct and personal attack or criticism, and has been damaged as a result;
- applications must be concise, be in the character of a refutation or explanation only and must be confined to showing the statement complained of and the person's response and must not contain any offensive material;
- applications concerning statements made in the Main Committee may be considered;
- applications should not be considered from persons who wish to respond to a statement or remarks made in connection with the proceedings of a standing or select committee—such persons should contact the committee direct on the matter; and
- in considering applications, the committee will have regard to the existence of other remedies that may be available to a person referred to in the House and whether they have been exercised.

The first committee recommendation for the incorporation of a response in Hansard was made in November 2003 and adopted by the House.²⁷⁶ Neither the recommendation, nor the agreement of the House to the question 'That the report be adopted' and the subsequent incorporation, can be taken as implying that either the committee or the House agrees with the content of the response.